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on
Bulgaria's
progress towards accession

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A. INTRODUCTION

1. Preface

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

The Luxembourg European Council in December 1997 decided that:

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

Consequently, the Commission has published a series of yearly Regular Reports on Bulgaria covering the years 1998 to 2003.

The Brussels European Council in June 2004 reiterated the Union’s common objective to welcome Bulgaria and Romania as members of the Union in January 2007 if they are ready, and concluded that:

“The European Council looks forward to the Commission 2004 Regular Report, which will assess the two countries’ ability to assume all the obligations of membership by accession.”

The Commission has prepared this Regular Report with a view to the Brussels European Council in December 2004.

It is therefore appropriate to produce another Regular Report this year on Bulgaria’s progress towards accession, on the same basis as in previous years.

The structure followed for this Regular Report is largely the same as that used in previous years. The Report:

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

- addresses the question of Bulgaria’s capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union. In this part, special attention is paid to nuclear safety standards, which were emphasised by the Cologne and Helsinki European Councils. This part includes not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*. The European Council stressed the importance of this latter aspect at its meeting in Madrid in 1995 and on a number of subsequent occasions, most recently in Brussels in June 2004. At Madrid, the European Council stressed that the candidate countries must adjust their administrative structures, so as to create the conditions for the harmonious integration of these States. The Brussels European Council underlined that particular attention should be paid by Bulgaria and Romania of to improving their judicial and administrative capacity, in order to be ready for membership by January 2007.

This Report takes into consideration progress since the 2003 Regular Report. It covers the period until 31 August 2004. In some particular cases, however, measures taken after that date are mentioned. It looks at whether planned reforms referred to in the 2003 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides an overall assessment of the situation for each of the aspects under consideration, setting out for each of them the main steps still to be taken by Bulgaria in preparing for accession.

Furthermore, in view of the fact that the Regular Report will provide the basis on which the Commission assesses Bulgaria’s readiness for membership criteria by its expected date of accession, this Report includes an evaluation of Bulgaria’s track record since the 1997 Opinion. As regards the economic criteria, the report also provides a dynamic, forward-looking evaluation of Bulgaria’s economic performance.

For each of the negotiating chapters, this Report provides a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted. Where Bulgaria has committed itself to completing specific measures by the time of accession, the Commission assesses the relevant preparatory processes. Depending on further progress in complying with the membership criteria, the objective is to welcome Bulgaria as a member in January 2007. The time scale for the implementation of commitments made by Bulgaria takes account of this perspective.

The Report contains a separate section examining briefly the extent to which Bulgaria has addressed the Accession Partnership priorities.

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

The Report draws on numerous sources of information. Bulgaria has been invited to provide information on progress made in preparations for membership since the publication of the last Regular Report. The information it has provided within the

framework of the Association Agreement and the negotiations, and various peer reviews that have taken place to assess its administrative capacity in a number of areas, have served as additional sources. Council deliberations and European Parliament reports and resolutions have been taken into account in the preparations.¹ The Commission has also drawn on assessments made by various international organisations, in particular the contributions of the Council of Europe, the OSCE, the international financial institutions, and non-governmental organisations.

2. Relations between the EU and Bulgaria

Recent developments in bilateral relations

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

The Association Council met in December 2003. An Association Committee meeting was held in June 2004. The system of sub-committees continues to function as a forum for technical discussions.

The Joint Parliamentary Committee comprising representatives of the Bulgarian and the European Parliament met in March 2004. The Joint Consultative Committee with the Economic and Social Committee met in May 2004. The Joint Consultative Committee with the Committee of the Regions met in April 2004.

A revised Accession Partnership was adopted by the Council in May 2003. More details on this instrument can be found in Part D of this Report.

The share of the European Community in Bulgaria's foreign trade has stabilised in 2003. Turnover in trade with the EU-15 in 2003 was 7.0% up on 2002 and accounted for 52.4% of Bulgaria's overall trade. In 2003, exports to the EU-15 were 3.1% up on 2002, accounting for 56.5% (€3.61 billion) of Bulgaria's total export sales. Its main industrial exports to the EU-15 were textiles and clothing, iron and steel. Bulgaria's main agricultural exports to the EU-15 were cereals, oil seeds and oleaginous fruit, and meat. In 2003, imports from the EU-15 were up by 10.5% on 2002, accounting for 49.6% (€4.7 billion) of Bulgaria's total imports. Its main industrial imports from the EU-15 were textiles and clothing. Its main agricultural imports from the EU-15 were meat, fats and oils, fruits and nuts.

A new round of trade liberalisation for agricultural products between the Community and Bulgaria was concluded at technical level in June 2004. The new Agreement incorporates existing CEFTA concessions between Bulgaria and the new Member States into the Europe Agreement. However, the Agreement goes further, granting Bulgaria unlimited duty-free access to the EU25 market for non-sensitive products and covering traditional, and in some cases potential, Bulgarian exports of sensitive products, such as live bovines, dairy and cereals, within duty-free tariff quotas.

¹ For the European Parliament the rapporteur during the reporting period was Mr Geoffrey van Orden.

In parallel, traditional EU exports to Bulgaria have to a large extent been covered by a duty-free regime, either through complete liberalisation or through duty-free tariff quotas. A new Additional Protocol to the Europe Agreement implementing these new concessions is likely to be adopted by the Council in late autumn 2004.

In March 2004, trade negotiations for a “double zero” agreement in the sector of processed agricultural products (PAPs) were concluded at technical level between Bulgaria and Commission representatives. The main objective of the negotiations was to progressively prepare Bulgaria for accession to the EU. The new trade arrangements provide for the immediate or progressive abolition of import duties and the abolition of export refunds in the PAPs sector. In the case of sensitive products, if not excluded, duty-free quotas are provided, covering traditional trade. The two parties agreed to implement the new trade arrangements by autonomous measures before the end of 2004.

Currently, there is one trade defence measure in place against imports originating in Bulgaria: anti-dumping measure on imports of urea.

No new anti-dumping or anti-subsidy measures have been imposed or investigations initiated against Bulgaria since October 2003 till present.

In April 2004, the EU adopted definitive safeguard measures on imports of preserved citrus fruits and in August 2004, provisional safeguard measures were imposed on imports of farmed salmon.

On the basis of a Council Decision of May 1997, modified in September 2002, the Commission was mandated to open formal negotiations with Bulgaria on a PECA (Protocol to the Europe Agreement on Conformity Assessment and Acceptance of Industrial Products). Such negotiations are still continuing.

Community assistance

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

For the years 2000-2004, total financial assistance to Bulgaria amounts to around €178 million annually from Phare, €57.6 million from SAPARD, and between €93 and €127 million from ISPA.

Phare provides support for institution building, investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis*, and investment in economic and social cohesion. Phare also helps the candidate countries develop the mechanisms and institutions that will be needed to implement the Structural Funds after accession; it is supported by a limited number of measures (investment and grant schemes) with a regional or thematic focus.

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

units 1 to 4 of the Kozloduy nuclear power plant. The agreement makes provision for additional Phare funding of €200 million over the period 2000-2006, subject to certain conditions being met. The funds are used for nuclear decommissioning and associated measures in the energy sector, and are largely managed by the EBRD through the Kozloduy International Decommissioning Support Fund, to which other donors also contribute. Close to €110 million has already been committed to several projects under the Kozloduy International Decommissioning Support Fund and other projects are under preparation. A further €140 million will be made available over the period 2004-2006, in line with the principle of EU solidarity with regard to efforts to decommission certain nuclear installations and their consequences (*see Chapter 14 – Energy*).

The Phare programme allocated commitments of €1.54 billion to Bulgaria during the 1992-2003 period, including €188.92 million in 2003.² The **2004 Phare Programme** for Bulgaria consists of an allocation of €208.3 million for the National Programme complemented by an allocation for nuclear decommissioning.

The 2004 Phare programme focuses on the following priorities:

- Political criteria: projects for strengthening the public administration at all levels and the judiciary (€36 million); projects to improve transparency, financial control and the fight against corruption and fraud (€8 million); projects for ethnic minorities, vulnerable groups and civil society (€13 million).
- Economic criteria: projects to promote economic growth and competitiveness and social cohesion (€35 million).
- Meeting the obligations of membership: projects to enhance the administrative and judicial capacity to implement and enforce legislative measures and assume the obligations of EU membership (€42 million); projects to improve the strategic planning and effective utilisation of EU funds and prepare for structural funds (including implementation of EDIS) (€12 million).

In addition, €36 million of the programme will be devoted to cross-border cooperation programmes on Bulgaria's borders with Greece (€20 million), Romania (€8 million), Turkey (€3 million), Serbia & Montenegro (€3 million) and the Former Yugoslav Republic of Macedonia (€2 million).

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

Bulgaria currently participates in the following Community programmes and agencies: Civil Protection Mechanism, Culture 2000, Customs 2007, e-Content, Enterprise and Entrepreneurship, Fiscalis 2007, IDA II, Incentive Measures in the field of employment, Leonardo da Vinci II, Media Plus/Media-Training, Public Health, Socrates II, and Youth. It also takes part in the Sixth Framework Research Programme, including Euratom. Phare helps meet part of the costs of participation in these programmes and agencies.

²This figure includes an allocation for Cross-Border Cooperation (CBC) Programmes of €28.0 million in 2003. In addition, it received an allocation for nuclear decommissioning of €61.9 million in 2003.

Overall, the impact of Phare in Bulgaria continues to be positive. In view of the target date for accession, further sustained efforts need be taken to ensure the capacity of the Bulgarian administration to absorb EC funds.

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

- In the Regional development sector and within the Cross Border Cooperation Programme between Bulgaria and Romania, the first Joint Small Project Fund came to an end in November 2003. This Grant Scheme provided 17 projects with a total budget of €0.53 million with a clear cross-border impact. The projects were implemented in 7 Bulgarian municipalities and financial support was provided to NGOs and local and regional authorities in the areas of economic development, environment, tourism development, cultural exchange, local democracy, planning and development studies. During the implementation of the projects a total of 197 events were organised.
- In the social sector, a major project on Vocational Training came to an end in August 2003. This Grant Scheme provided 103 training organisations and vocational training schools with grants for vocational training in two regions of Bulgaria. In the North West, 40 grants were awarded, amounting to over €2.5 million; in the South Central region, 62 grants were awarded, amounting to over €3.3 million. A total of 9,848 unemployed people received training and 3,255 employed people received re-training. By 1 November 2003, some 1,883 people who had received training started work.
- In the justice and home affairs sector, under the project "Further strengthening of border control and management of future EU external borders (blue borders)" the Bulgarian Border Police receives support through twinning (€0.65 million) and an investment component (€4.65 million) through Phare. The twinning is being implemented with the Federal Border Police of Germany. So far the project has stimulated the strengthening of border control and management at the Black Sea and at the borders with Turkey and Romania. Through the investment component, new patrol vessels have been added to Bulgaria's fleet that will facilitate more systematic observation of the territorial sea. It thus contributes to the fight against all forms of organised crime carried out across the state border.

The Phare programme permits extended decentralisation of management, which entails waiving the requirement for *ex ante* approval by Commission Delegations for tendering and contracting. For this to be possible strict pre-conditions covering programme management, financial control and structures regarding public finance must be met. An extended decentralised implementation system (EDIS) should be put in place as soon as possible before the date of accession, provided that the Commission's assessment of Bulgaria's EDIS application is positive.

Bulgaria has embarked on the preparations for EDIS on the basis of the guidance provided by the Commission. Application for EDIS is expected in 2005.

The Commission approved the Bulgarian **SAPARD** programme in October 2000. The indicative allocation from the Community for SAPARD in Bulgaria for 2004 is €68.0. The allocation for 2003 was €56.5 million. The main focus of the 2004 SAPARD programme is addressing the preparation of Bulgaria's Agriculture for membership. Consequently, the remaining financial resources only will be spent on *acquis* related measures. The Multi-annual Financing Agreement (MAFA), which sets out the rules for

implementing SAPARD, was signed in December 2000. The Annual Financing Agreement (AFA) 2003 (first part) was signed in March 2003 and concluded in October 2003. The signature of the second part of the AFA 2003 with the allocation of credits not used by the Commission was still pending in June 2004. The AFA 2004 is planned to be signed before the end of this year.

Bulgaria was the first candidate country to have its SAPARD Agency accredited and to receive provisional conferral of management; the Agency now manages 92% of the amount available under the programme. After an initial payment on account of €13 million made to the SAPARD Euro Account in the National Fund in May 2001, the second part of this payment on account for an amount of €13 million was made in December 2003. Additional payments of €59 million were made for expenditure declared from the start of the programme until 25 June 2004. During the same period, the SAPARD Agency signed 1152 contracts with final beneficiaries amounting to €235 million of public funds.

A Monitoring Committee has been established by the Managing Authority and has met seven times. The programme was modified in 2002 and 2003, amending the measures, the monitoring indicators and the reallocation of financial resources between measures. The Commission's approval of a third modification, submitted by the Bulgarian authorities in March 2004 and decided by the Monitoring Committee during its last meeting on 30 June 2004, is still pending.

The **ISPA** programming framework is governed by the environment and transport strategies drawn up by the Bulgarian authorities in agreement with the Commission. These strategies were reviewed in 2003. In the case of transport infrastructure, the emphasis is on completing or upgrading the main trans-European road and rail networks, including cross-border connections. In the environment sector, the Bulgarian Government has focused on the improvement of water quality via investments in waste water treatment, sewerage systems and water supply. Urban waste management and air pollution are also priority areas.

Four environment projects relating to the water sector and one relating to a regional waste management centre were approved in 2003. In addition, one technical assistance measure for capacity building and future project preparation in the water and waste management sectors, together with a project aimed at curbing air pollution at a major thermal power plant, was approved in the first half of 2004.

Implementation of ISPA projects in Bulgaria is progressing but the rate of progress has been slow, reflecting the size and complexity of the projects and the limited capacity of some of the implementing agencies. Technical assistance with implementation is generally included in ISPA project costs, while wider ranging measures to reinforce the bodies concerned are also underway. Various assessments of capacity weaknesses have been undertaken. Regular audits of financial management and control systems of the bodies responsible for ISPA implementation have been carried out by the Commission since December 2001. Recommendations for strengthening structures and improving procedures have been made and are being implemented. The Bulgarian authorities have been urged to prepare an adequate pipeline of good quality projects so as to be ready to take up the remaining allocation of ISPA resources in the period 2004-2006, and future allocations under the Structural/Cohesion Funds. Technical assistance from ISPA is available for all preparatory stages of projects, including technical, financial and economic feasibility studies, and environmental assessments. A strategy for the extended

decentralisation (EDIS) of ISPA implementation, which was adopted in 2002, is currently under implementation and the first stage of the process (“gap assessment”) was completed at the end of 2003. The second phase (“gap plugging”) is under way and is expected to be completed before the end of 2004.

The ISPA budget allocation for Bulgaria of just over €100 million per annum has been fully committed in each year since 2000 (with only a small shortfall in 2002). The budgetary commitment in 2003 was €112.6 million and the indicative allocation for 2004 will be around €135.4 million.

Twinning

One of the main challenges facing the candidate countries is the need to strengthen their administrative and judicial capacity to implement and enforce the *acquis*. As of 1998, the European Commission began to mobilise significant human and financial resources to help them with this process, using the mechanism of twinning administrations and agencies.

The twinning process, funded under Phare, makes the vast body of Member States’ public sector expertise available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

Furthermore, the candidate countries can draw on Member States’ expertise through “Twinning light”, an exchange of expertise mechanism to support projects of limited scope.

For Bulgaria, 86 projects have been delivered over the period 1998-2003. Twinning will again be an important factor in the 2004 programme, contributing to the results of around 35 projects. These span a broad range of sectors including judicial reform, environment, transport, customs, taxation, social issues, health and food control, agriculture, finance and competition.

Negotiations

Negotiations were opened with Bulgaria in February 2000. Negotiations have continued on the basis of the same principles that have guided the accession negotiations until now, whereby each country is judged on its own merits. All 31 negotiating chapters have been provisionally closed with the provisional closure of the chapters on Competition policy, Regional policy, Financial and budgetary provisions, Agriculture and “Other” in June 2004.

B. CRITERIA FOR MEMBERSHIP

1. Political criteria

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

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

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

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

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

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

In its 2003 Regular Report, the Commission found that:

“Bulgaria continues to fulfil the Copenhagen political criteria.

Progress was made with the adoption of a programme and an action plan for the implementation of the Strategy for Modernisation of the State Administration, which aim at consolidating the legal framework in this area. Sustained efforts will be necessary to further implement the public administration reform and to fulfil Bulgaria's aim to have a qualified and efficient civil service in place in the medium term, to ensure the effective application and enforcement of the acquis when Bulgaria joins the Union.

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

The overall reform process for the judiciary continued in line with the 2002 Action Plan. In particular, the amendments to the Constitution regarding the status of magistrates represent an important step forward. Other legislative measures aim at reducing the duration of court proceedings and strengthening judicial control of decisions of the executive. However, further efforts are necessary to re-organise the investigation service as part of the executive in line with best practice in Member States. Bulgaria also needs to ensure that the judicial budget is adequate for the smooth functioning of the judicial system.

Corruption remains a problem, and Bulgaria should maintain concerted efforts to implement measures in this respect. The fight against corruption remained high on the political agenda and further measures in this context were adopted.

Bulgaria continues to respect human rights and fundamental freedoms.

The legal framework for asylum and child protection improved considerably. However, the living conditions of children placed in institutions changed little during the past year. As regards the mentally disabled, the required legal framework is still missing, notably to ban arbitrary detention. Despite some efforts to address the situation, the living conditions in institutions for mentally disabled people are difficult and opportunities for rehabilitation and therapy are scarce. Further efforts are necessary to address the situation as regards degrading treatment by the police and trafficking in human beings. In the area of social and economic rights, progress can be reported notably as regards equal opportunities and anti-discrimination.

The new Action Plan for the implementation of the “Framework Programme for Equal Integration of Roma into Bulgarian Society” represents a positive step, as specific budgetary support is provided for measures in the areas of anti-discrimination policy, education, culture, housing, employment and social protection. Determined and sustained efforts are needed to fight discriminatory attitudes and behaviour and to address the widespread social disadvantage affecting the Roma community.”

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

1.1 Democracy and the rule of law

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

Local elections were held in the 263 municipalities of Bulgaria in November 2003. General elections to elect the 40th National Assembly will take place in spring 2005.

The parliament

The National Assembly continues to function satisfactorily. The overall law-making process is advancing steadily, with good results as to further alignment with the *acquis*. The National Assembly has held extraordinary sittings in order to speed up the adoption of all urgent bills related to Bulgaria's European integration.

With the formation of two new parliamentary groups, there are now seven political groupings represented in the 240-seat Parliament. This re-organisation of parliamentary groups caused temporary delays in the adoption of accession-related legislation.

The Directorate for Legislation and European Law ensures legal expertise on EU *acquis* alignment throughout the legislative process in Parliament, mainly through assistance in the parliamentary committees. Over the past two years the provision of such expertise has been particularly strengthened between the two readings of Parliament. Parliamentary Committees and Members of Parliament are also increasingly seeking in a proactive way the advice of the experts of the European Law Directorate. Its staff has been brought up to 23 people as opposed to 21 last year. Continued attention should be paid to training and retaining qualified staff.

The legal framework for creating the institution of an Ombudsman entered into force in January 2004. The Parliamentary Ombudsman and his Deputy will be in charge of investigating violations of citizens' rights and liberties by state or municipal bodies and their administrations, as well as by persons who provide public services. However, the National Assembly failed to elect the ombudsman within the reporting period, although provisions in the law required an election by the end of March.

The executive

During the reporting period, the Bulgarian authorities have continued to prepare their administration for EU membership on the basis of the government's policy for the modernisation of the public administration, as set out in the updated Strategy for the modernisation of the public administration adopted in September 2003 and its updated action plan.

The government proceeded with a functional review of the state administration in early 2004, in order to streamline its priorities and functions, but this has not yet been translated into legislative amendments on revision of **government structures**. The cabinet has a total of 21 ministers (of which 3 are deputy prime ministers), including the Prime Minister. There have been no personnel changes at ministerial level under the reporting period but numerous changes of deputy ministers have occurred, both through resignation and dismissal.

The specific structures for co-ordinating European integration continue to function well. European integration has been over the past year the main platform of the policy-making process of the government, notably through the Council on European Integration, which takes the final decisions on all European integration matters. The EU integration structures have been co-ordinated since last year by a deputy prime minister for European affairs, who is in charge of monitoring and co-ordinating the government policy related to the obligations that will fall from EU and NATO membership, and also takes responsibility for the public administration reform. The only change this year in the

structures relevant to European integration is the creation in the Ministry of Foreign Affairs of a Communication Strategy Directorate, which has yet to prove it is operational.

Inter-ministerial co-ordination in non-EU matters is uneven, in particular at working level between administrations. Overall, further efforts, notably in the policy-making and policy coordination process and in personnel policy, will be required if Bulgaria wants to achieve the ambitious objective of the reform strategy, which is to have a qualified and efficient civil service in place in the medium term.

Although the reform of the **public administration** is a priority for the government, the structures in charge of its preparation and implementation are limited: the Minister for the State administration does not have a ministry but receives support from a directorate in the Council of Ministers, staffed with 13 people. There are no other central or co-ordinating bodies in charge of the public administration reform or for civil service management in general. A lot of efforts are still necessary to improve the management structures of the Bulgarian administration. A report on the performance of the administration is published annually. It is a basis for assessing the efficiency of the state administration and for further necessary changes. The 2003 report contains recommendations to improve the work organisation of the public administration, the administrative capacity for the implementation of the *acquis*, and access to public information. It also deals with the introduction of information technologies and with anti-corruption measures.

The envisaged amendments to the law on administration, designed *inter alia* to clarify the role and position of cabinets in the state administration, have not yet been adopted. There have been several reports underlining gaps in the existing legislation and urging Bulgaria to adopt a comprehensive legislative framework, with a view to enforce fully the rule of law and to guarantee the principle of legality in the working of the administration. An important step forward has however been achieved with the adoption of the amendments to the Civil Service law in early October 2003, which entered into force in January 2004. Besides a more precise definition of the civil servant status, they provide for the introduction of mandatory competitive selection for new entrants to the civil service and a strengthening of the merit principle in recruitment and performance appraisal. The amended law also contains requirements for a new classification of positions in the state administration, including positions at the regional and municipal administration levels. The unified classification of job positions in the administration was adopted in March 2004. It simplifies and sets out requirements for the different categories and levels in the administration. The scope of positions covered by statutory civil servants has been considerably extended. A regulation on the holding of competitions for the civil service adopted in January 2004 defines the procedure for carrying out competitions for the appointment of civil servants.

A performance appraisal system has been introduced in all entities of the state administration, as planned. All public officials underwent their first formal complete performance appraisal by end December 2003.

The success of the amended law in providing for an accountable, efficient and independent civil service, including at regional and municipal level, will need to be assessed after its first year in force. In particular, the various regulations affecting the civil service, such as the labour code, the law on local governments and administrations and other pieces of legislation, as well as the specific statutes existing in some branches

of the administration such as the police, the judiciary and the diplomatic corps, will have to be harmonised with the new legal framework.

Over the reference period, the overall number of staff with civil-servant status has continued to grow and had reached 25,959 by the end of 2003, corresponding to an increase of around 10.2% in comparison to 2002 and 41.8% in comparison with 2001. The increase concerned mainly newly created and restructured administrative bodies. The proportion of civil servants is around 32% of all employees in the public administration. The total number of employees in the Bulgarian State Administration in 2003 was 81,062 people.

Salary adjustments based on individual performance for civil servants, introduced in January 2003, are now being implemented in the Bulgarian administration. This reward policy is at the discretion of each ministry (with little transparency in some cases) and some ministries have introduced additional bonuses. The bonus system for staff dealing with European affairs and pre-accession funds has been maintained. Minimum and maximum payments have been set up for each job title in the administration. However, salaries in the public sector still remain relatively low.

Another priority of the reform programme is training and the new law on Civil Service provides that up to 0.8% of the budget for civil servants' salaries should be made available for training purposes. The Institute for Public Administration and European Integration is the main training body, in parallel with specialised institutions such as the School of Public Finance, School of Magistrates, School of Policemen, Diplomatic School and others. The Institute organises compulsory training for newly appointed civil servants as well as specialised training on European integration issues. The total number of staff who have undergone training in 2003 amounts to 20,158, of which about 7,000 people through the Institute.

Progress has been made with implementation of the e-Government Strategy through the adoption in March 2004 of an action plan for the period 2003-2005 to promote the development of new electronic services for citizens and businesses. Further attention needs to be paid to developing a coherent and consistent policy with regard to the procurement and use of information technologies throughout the administration.

Transparency of the **legislative process** has continued to improve through more systematic consultations with civil society and economic and social partners, despite the fact that there is no formal harmonised mechanism for the consultation of stakeholders in the preparation of new legislation. Since the last Regular Report, there have been several other good examples of co-operation with civil society, notably in the social field and in the fight against corruption (*see also section on Civil and Political Rights*). More effort is needed in disseminating information about membership in the European Union in general throughout society.

Local administration is the responsibility of municipalities. Bulgaria has 263 municipalities, which are legal entities with their own budgets and property. Mayors and municipal councils are elected directly by the local community. The Government has set up a working group in charge of preparing a new law on decentralisation. Greater clarity as to the respective competences and budgets of central and local administrations is needed. Besides some preparatory work and feasibility studies, there is no progress to be recorded during the reporting period. A strategic policy design, focused on local and regional administrations, needs to be developed as a matter of priority. More

consideration should be given on how the implementation of the *acquis* can be fully ensured on regional and local level.

The judicial system

The structure of the Bulgarian judicial system and the functions and competences of the Constitutional Court have not changed since the last Regular Report.

During the reporting period, Bulgaria has continued the reform process and a series of important legislative acts were amended and adopted.

A new set of amendments to the Law on the Judicial System entered into force in April 2004. The amendments take account of the changes to the Constitution introduced in September 2003 concerning the fixed term tenures for leading positions in the judiciary, immunity and irremovability of magistrates. The amendments also provide for clearer rules with regard to the appointment and promotion of magistrates and for the establishment of two new Committees under the Supreme Judicial Council, the Committee on Attestations and the Committee on Proposals, which have powers on appointments and dismissals of heads in the administration of the judiciary. The law now explicitly regulates statutory management positions in the judiciary, as well as their nomination and mandate. Implementing ordinances on delivering attestations to magistrates and on the rules and procedures for carrying out competitions for magistrates were also adopted. There have been positive developments as regards the introduction of an objective and transparent recruitment system through the changes to the Law on the Judicial System introduced last year. A general competition for nominating magistrates was carried out in the first half of 2004, to which 1 977 candidates participated.

Other legislative acts were adopted, such as amendments to the penal code in March 2004 (on the qualification of crimes), a law on the land and property register, as well as a law on changes in the Constitutional Court (introducing preventive measures against non-compliance with the law).

A number of changes took place during the reporting period in relation to top positions in the judiciary, due to the expiry of several mandates. The mandate of the President of the Supreme Administrative Court, as well as of the 22 ordinary members of the Supreme Judicial Council, came to an end in December 2003. After several failed attempts, the president of the Supreme Administrative Court was elected in March 2004, with a seven-year mandate. The ordinary members of the Supreme Judicial Council were elected in December 2003, 11 from the Parliament and 11 from the judiciary, with a mandate for five years. All members from the parliamentary quota were elected from the ranks of the parliamentary majority. Changes in lower courts have happened since, on the basis of decisions by the Supreme Judicial Council. However, despite the new ordinances on appointments of high magistrates (*see above*), political considerations have interfered in a number of nominations and compulsory attestations of the candidates have not always been applied objectively. The independence of judicial action from political interference needs to be pursued as an important guarantee for the rule of law.

The budget for the judiciary was increased by 44% in the 2004 budget law compared to the budget voted for the previous year. The number of magistrates, bailiffs and register judges has remained about the same since last year. The total number of posts for judges is 1,478, out of 1,558 existing positions, compared to 1,469 out of 1,550 positions the

previous year. The appointment of judicial assistants, a function created in January 2003, has remained limited to the Supreme Court of Cassation and to the Supreme Administrative Court. The judiciary could benefit from extending the use of judicial assistants also to other courts.

Staff in the Supreme Judicial Council increased from 38 to 58 positions, of which 53 had been filled by mid-2004. In June 2004, the Supreme Judicial Council adopted a communication strategy as well as new rules on the organisation of its activities and administration. Suitable premises are still lacking, preventing journalists from attending the meetings of the council which are public.

Over the last year, the average salary increase for judges was 16.5%, for prosecutors 18% and for investigators 22.5%. On average, remuneration of the magistrates is substantially higher than that for the public sector in absolute terms and also in rate of increase. The working conditions of judges, prosecutors, investigators and judicial staff continued to improve, but still remain difficult in most cases. The introduction of information technologies to support the reform is on-going under a programme running up to 2007. Several Courts, notably the Supreme Administrative Court, have already been equipped in an adequate manner.

The National Institute for the Judiciary was set up in December 2003, under the financial and organisational responsibility of the Supreme Judicial Council. It is taking over the functions of the previous non-governmental Magistrate Training Centre in order to provide training to judges, prosecutors and investigators. During the reporting period, 380 participants have followed specialised training in EU law. Beginning this year, all newly appointed magistrates will have to follow a six month training course before taking up their duties.

There are in practice no harmonised statistics at national level on the functioning of the judicial system, in particular as regards the average duration and the nature of the legal proceedings. The collection of statistics is divided per individual courts and the division of responsibilities between the Supreme Judicial Council and the Ministry of Justice in this area remains unclear.

The system for enforcement of judgements needs profound revision as only 1/8 of the fines due are effectively collected. Non-execution of judgements undermines the effective rule of law, and may affect civil cases related to the implementation of the *acquis*. A proper monitoring system must be put in place.

Despite legislative and administrative improvements, significant efforts are still needed to change the functioning of the judicial system in practice. The short-term priorities of the judicial reform strategy have only been partially implemented within deadlines. Although progress has been made with regard to the immunity of magistrates (*see above*), there is no development to report with regard to revising the rules for immunity of investigators and prosecutors. Important challenges lie ahead, notably as regards the civil and penal procedures and the structures of the Bulgarian judiciary.

Little progress has been made as regards the reform of the pre-trial phase. Further strengthening of the Public Prosecution Office is needed, including a revision of the structures and working methods. Recent reports confirm that there are important structural problems as regards the independence from external pressure of the Bulgarian investigators, the duplication of activities and the complexity of the current penal

procedure. Substantial delays due to frequent referrals of cases back to the investigation and preliminary investigation stages negatively affect Bulgaria's capacity to prosecute organised crime and corruption. Moreover, several recent judgements of the European Court of Human Rights show that repeated transmissions of case files between the different authorities make it difficult to satisfy the reasonable time requirements of the Convention for the Protection of Human Rights and Fundamental Freedoms. In order to bring the functioning of the pre-trial phase in line with best EU practices, Bulgaria must intensify its efforts to make deep reforms in this area by ensuring a revision of the legislative framework, including a new penal procedure code, further amendments to the judicial system act and a comprehensive assessment of the need to amend the relevant provisions of the Constitution. For more efficiency in the pre-trial phase, the role of the investigating magistrates needs to be addressed and limitations of their area of material competence should be introduced. The role and position of other key players in the pre-trial phase, such as the police and the prosecutors, will subsequently need to be revised in terms of their task attribution and resources.

Anti-corruption measures

Surveys and assessments conducted by both national and international organisations confirm that corruption continues to be perceived as a serious problem, although there are no reports of deterioration. It is too early to judge the extent to which the changes in legislation have had an impact to curb the general level of corruption, but some reports mention first signs of a decline of petty corruption in the customs authorities, in the police and in the judicial system. Education and health care are also considered to be amongst the most corrupt sectors of the administration. Corruption pressure remains important for the business sector where recent surveys point out corruption situations in the granting of permits and credits, and relating to tax evasion and public procurement. There are no reliable surveys of the level of corruption at local level (municipalities). Since the beginning of 2003, the collection and processing of statistical information on judgments on bribery distinguishes between active and passive bribery in the private and public sector, trade in influence and abuse of official positions. In total, 322 cases were examined by courts which pronounced 88 sentences, mostly for abuse of official position and for active bribery. During the reporting period, further pieces of legislation and regulation have been adopted and amended to continue to align the legislative environment with the main international standards in the fight against corruption. Amendments to the law on civil service adopted in November 2003 contain a definition of the situations related to conflicts of interest and disclosure for civil servants (*see above*). The new law on public procurement enters into force in October 2004 and introduces a new institutional set up and principles compliant with the *acquis* (*see also Chapter 1 – Free movement of goods*). The health care sector has been exempted from this law.

Following the publication last year of a report on the implementation of the National Strategy against Corruption (2001), the government adopted in December 2003 an updated Action Plan for the period 2003-2005. Its objective is to achieve an institutional and legal environment based on EU principles and standards. It emphasises corruption prevention activities and the development of control, and includes specific sector strategies in health and education. However, it does not specifically cover high level and local corruption. There is still little transparency regarding the personal interests of elected officials and the financing of political parties and election campaigns.

In February 2004, the Supreme Judicial Council adopted a strategy for the fight against corruption in the judiciary. It focuses on the strengthening of administrative capacity for anti-fraud control. This was followed by the adoption in March of a professional code of ethics for judges, compliant with the European Charter on the Status of Judges. A code of conduct was adopted for the civil service in June 2004. A code for the business sector is under preparation. The law introducing a code of ethics for members of the Parliament has not been adopted. Overall, the approach taken by the Bulgarian authorities in the fight against corruption has left aside the need to take specific measures in the fight against high level corruption, in the political, local and business circles.

The institutional set-up in the fight against corruption has been further consolidated. The inter-ministerial committee, chaired by the Minister of Justice, has been in charge of co-ordinating and controlling the implementation of the National Strategy and the Action Plan since February 2003. Special investigation departments have been set up by the Supreme Cassation Prosecutor's Office. A Commission for Prevention and Counteracting Corruption was established in November 2003 under the authority of the Supreme Judicial Council. Its role is to define the policy for the fight against corruption in the judiciary and it can examine individual complaints. Memoranda of understanding have been signed between the Supreme Judicial Council, the Prosecutor's office and the Ministry of Justice on exchange of information on corruption. Special units within various ministries and within the police and border guards are in charge of fighting corruption (see also *Chapter 24 - Co-operation in the field of justice and home affairs*). Lawsuits for corruption form a small part of all the cases in penal procedure. Nevertheless, the pre-trial proceedings on corruption charges are increasing, from 2 253 cases in 2001 to 4 458 in 2002 and 6 785 in 2003. In 2003, the number of persons convicted in first instance for corruption-related crimes was 431.

Bulgaria's legislation is to a large extent aligned with the Convention on the Protection of the European Communities Interests and its Protocols. The Council of Europe Civil law Convention entered into force in November 2003. Bulgaria ratified the Additional Protocol to the Council of Europe Criminal law Convention against Corruption in December 2003. Bulgaria signed in December 2003 the UN Convention against Corruption.

1.2 Human rights and the protection of minorities

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

Bulgaria has ratified the main human rights **conventions** (see *Annex I*). As mentioned in previous Regular Reports, the Bulgarian constitution incorporates the European Convention on Human Rights and Fundamental Freedoms (ECHR) into Bulgarian law, and accords the Convention supremacy over domestic legislation. Bulgarian courts only recently started to grant direct effect to the judgements of the European Court of Human Rights (ECtHR).

The principle of **non-discrimination** is enshrined in the Constitution. In January 2004, comprehensive anti-discrimination legislation entered into force, through which a large degree of alignment with the anti-discrimination *acquis* has been reached. It prohibits

any direct or indirect discrimination, including on the basis of sexual orientation. Through amendments of the Penal Code in March 2004, most discriminatory provisions on sexual orientation have been abolished. The required independent body, namely the Commission for Prevention of Discrimination, has yet to be established and the criteria for appointing the members of this body have to be defined (*see also Chapter 13 – Social policy and employment*). Bulgaria has not yet ratified Protocol 12 (general prohibition of discrimination) to the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Law on the **Ombudsman** entered into force in January 2004, but an Ombudsman has not yet been elected (*see above*). In the fulfilment of his duties, the Ombudsman may develop suggestions and recommendations with regard to violations of human rights and freedoms including the elimination of their causes. The Ombudsman acts upon complaints by individual persons irrespective of their citizenship, sex, political affiliation or religious beliefs as mediator between the administrative bodies and the affected persons.

Civil and political rights

There continue to be reports on cases of **ill-treatment** during police arrests, notably during interrogations. Reports mention that the proportion of people of Roma origin who claim to have been victims of such treatments in police stations is substantially higher than the average. The Bulgarian authorities have continued to take steps to address these situations through training, and disciplinary measures have been taken in several cases. However, according to several reports, police practices do not yet meet the requirements of the recent legislation on the use of firearms or of the internal instructions on conditions of interrogations adopted last year.

Trafficking in human beings – especially of women and children for the purpose of sexual exploitation – continues to be a serious problem in Bulgaria, which is a country of origin, transit and to a lesser extent destination. There are no reliable data on the number of persons under exploitation and on the number of missing people in Bulgaria. The importance of human trafficking is connected with the presence of organised crime. There have been few arrests in relation to human trafficking to be reported in Bulgaria this year. Despite the fact that Bulgaria's anti-trafficking legislation underwent considerable improvements over the past years and that the Penal Code since 2002 foresees punishments for both cross-border trafficking and domestic trafficking in human beings, the number of convictions remains limited.

A legislative framework is in place which criminalises human trafficking and aims to improve co-ordination between state bodies and NGOs. The law of May 2003 on Countering Illegal Trafficking in Human Beings was supplemented with the adoption in March 2004 of an Ordinance setting up the rules for the structure and activities of the National Commission for the Prevention of Human Trafficking, as well as rules for temporary shelters and centres for protection and assistance of victims of human trafficking. However, although the law stipulated legal mechanisms and special institutions for the protection and support to victims, a solid witness protection scheme is in reality still inexistent. The absence of such a scheme is hampering Bulgaria's policy to successfully fight trafficking in human beings. The structures with regard to the protection of witnesses and victims need to be revised to ensure confidentiality and to be in line with the EU best practices regarding the approach to victims. To date, the

implementation of the prevention and the social reintegration of victims remain largely in the hands of NGOs, despite a growing awareness of the national authorities over the past years.

Conditions in Bulgarian **prisons** remain largely inadequate, mainly because of overpopulation and poor living conditions in the older facilities. However, efforts are under way to improve the living conditions in prisons and other detention facilities through a renovation programme. Nine detention facilities were closed down in 2002 and 2003 and thirteen are scheduled for closure during the year 2004. Four new buildings have been built and three prisons renovated. Over the reporting period, there have still been reports of degrading treatment from prison guards in disciplinary facilities, notably in isolation and administrative confinement cells. The conditions for pre-trial detention have further improved, although the number of complaints about unlawful use of force by police still remains high.

Regarding **legal aid**, studies show limited improvements in access to legal assistance during trial. A significant number of defendants are still being tried without a defence counsel. The situation regarding the pre-trial detention phase has not improved over the reporting period but the adoption of the law on lawyers in June 2004 should guarantee some improvement in the access to justice for all citizens. A legal aid fund, separate to the budget of the judiciary, has not yet been established.

In the area of **asylum**, the Bulgarian authorities have continued their efforts to fully implement the law of 2002, amended this year for further alignment with international refugee standards. The number of asylum seekers in Bulgaria remains limited. During the year 2003, the State Agency for Refugees received a total of 1 549 applications of which 1 036 were refused. 411 persons received humanitarian status and 19 persons finally received the status of refugee (*see also Chapter 24 - Co-operation in the field of justice and home affairs*).

There continue to be reports of public expressions of racism and racially motivated aggressions, particularly against Roma. More resolute action from civil society – including media – would help to promote a social climate more conducive to intercultural dialogue, and to prevent outbreaks of intolerance towards certain groups, which continue to be recorded.

Freedom of expression is enshrined in the Constitution, and legal provisions are further developed in the legislation. However, the legal framework regarding libel and defamation, as already described in previous Regular Reports, has still not changed. Libel by a journalist continues to be defined as a criminal offence under the Criminal Law and defamation is still punishable by fines up to €7,000. The number of cases brought to court has increased and even though only few of them ended with journalists being sentenced, the risk of prosecution may lead to self-censorship.

Regarding audiovisual media, the mechanism for public financing through license fees, as envisaged by existing legislation has not yet been developed, which hampers the full independence of the broadcasting regulatory authority, the Council of Electronic Media. The nine-member Council of Electronic Media is appointed partly by the National Assembly and partly by the President. In March 2004, the Director General of Bulgarian National Television was dismissed by a decision of the Council of Electronic Media on the grounds of mismanagement. Reports question the effective independence of the Council and indicate that public broadcasters require additional safeguards against

political influence. The Council needs to ensure its capacity to make transparent, justified and impartial decisions and needs to reinforce its administrative capacity (*see also Chapter 20 – Culture and audiovisual policy*).

Following the ECtHR decision of December 2003, in the *Yankov v. Bulgaria* case, measures are required to prevent degrading treatment of detained persons and to ensure guarantees for the respect of their right of freedom of expression.

As regards **freedom of religion**, a lack of clear procedural guidelines in the Law on Denominations has resulted in some difficulties related to implementation of registration requirements at the local level. In July 2004, the executive intervened through police raids in more than 200 Orthodox churches, on the grounds of a conflict on the restitution of properties within the Bulgarian Orthodox Church, which split in 1992. Some clergymen were temporarily detained. The property rights of local churches will need to be clarified.

The rights to **freedom of assembly and association** are satisfactorily respected in Bulgaria. Civil society continues to play an important role in public life. A number of public-private consultative bodies such as the National Council for Rehabilitation and Social Integration, the Council for Social Assistance and the National Council for Child Protection aim at participation of NGOs in the preparatory legislative process. A greater effort could be made by Bulgaria to encourage the development of NGOs and to stimulate their involvement in the preparation for accession.

During the reference period, the **European Court of Human Rights** ruled against Bulgaria in four cases for violation of Article 3 (prohibition of inhuman or degrading treatment or punishment) and in three cases of violation of Article 5 (right to liberty and security).

Economic, social and cultural rights

Progress has continued concerning the adoption of general legislation on **equal opportunities** with the entry into force of comprehensive anti-discrimination legislation in January 2004 (*see above*). Transposition of the *acquis* has progressed through amendments to the Labour Code adopted in June 2004, aiming to transpose the *acquis* on parental leave and pregnant workers. Furthermore, they abolish the prohibition of night work and overtime for certain categories of women. In early 2004, a Consultative Commission on Equal Opportunities for Women and Men in charge of developing, coordinating and implementing relevant state policy was established within the Ministry of Labour and Social Policy. Also, restrictions on women's recruitment in the regular military service were repealed (*see also Chapter 13 – Social policy and employment*).

Women are present in the main instances of the public and political life of Bulgaria, although their representation in elected positions remains sometimes modest. The number of women in the parliament is 63, out of 240 members. The Government counts five women out of 21 ministers, and 16 women serve as deputy ministers, out of 50. Only 7% of the regional governors are women. However, the representation of women is higher in the management of the public administration, where they account for over 42% of the directors and over 52% of the heads of department.

In the area of **children's rights**, a variety of strategies, action plans and implementing legislation were adopted during the reference period, mainly aiming at successfully implementing the existing Law on Child Protection. A National Strategy and programme for child protection 2004-2006 aim to ensure conditions conducive for the observance of children's rights. Some progress was made in implementing the 2003-2005 plan to reduce the number of children placed in institutions, by elaborating methods to prevent the abandonment of children and by improving coordination of assistance agencies at local level. However, the case of the special schools of the Ministry of Education and Science is not covered by the Child Protection Act or by the de-institutionalisation plan.

During the reporting period, a National Strategy and an Action Plan for protection of rights of street children were adopted. They focus on the development of preventive work and modern social services like family planning, consulting and day care centres. In November 2003, implementing legislation to improve the quality of services provided for children placed in institutions and to provide foster care was adopted. But the development of foster care is still at an early stage in practice.

On the whole, significant progress has been achieved in adoption of the legislative framework related to child welfare. However, despite a number of efforts, the living conditions of children placed in institutions in some cases continue to be inadequate. There is no comprehensive approach to the closure of institutions on the basis of agreed criteria and to develop and promote alternative forms of care. The number of children placed in institutions continues to determine the funds allocated to these structures which does not provide the necessary incentives for de-institutionalisation. The institutional set up for child protection is rather complex. It involves five ministries as well as two agencies (the State Agency for Child Protection and the Social Assistance Agency) and their local structures, namely the Municipal Directorates for Social Assistance with insufficiently resourced Child Protection Departments. In spite of the monitoring responsibilities of the State Agency for Child Protection, the competences of this body remain limited, its co-ordinating function needs to be enhanced and the ultimate responsibility for child welfare lacks in practice sufficient clarity.

The rules for adoption of Bulgarian children were changed via amendments to the Law on Family in July 2003 as reported last year. Inter-country adoption is allowed if all options for accommodation with relatives and family friends or for adoption by Bulgarian parents have been exhausted and if three Bulgarian candidates have declined to take the child within six months. However, there is a lack of a nation-wide database of children potentially to be adopted and of a nation-wide register of appropriate domestic adopters.

First procedures following the new law have started since January 2004 and it is yet too early to judge the extent to which the changes in adoption legislation have had an impact on the number of international adoptions, which remains high according to some sources. Bulgaria needs to continue its efforts to implement the Family Code adopted in 2003 in the best interest of the child.

Some measures have been taken to improve the situation of **disabled persons** (*see also Chapter 13 – Social policy and employment*). Though there is wide political awareness on the necessary shift from a medical to a social care model, particularly from institutionalized care to community based services, the relevant strategy and action plan remain rather vague in its concrete implementation and appropriate funding.

Some institutions for people with mental disabilities were closed, but insufficient attention has been given to the establishment of community based forms of care. Living conditions in a number of psychiatric institutions and social care homes for mentally disabled continue to be inadequate with scarce opportunities for rehabilitation and therapy. Diagnostic methods are overly broad and there is no review of placement decisions. Furthermore, reports of ill-treatment continue.

The ECtHR ruling on the *Varbanov v. Bulgaria* case identified deficiencies concerning the provision of procedural guarantees (medical expertise and judicial control) during detention in psychiatric institutions. A new Law on Public Health including a chapter on mental health was adopted by the Parliament in August 2004 and appears to be in line with the requirements of the ECHR in respect of detention of mentally ill persons. The new law will enter into force in January 2005 and the necessary implementing rules will have to be put in place. Furthermore, a strategy for mental health 2004-2012 as well as an action plan were adopted in July 2004. Substantial efforts including proper allocation of financial resources will be necessary to effectively implement the intentions of these documents.

As regards **social rights**, further progress was made in identifying employees' and employer's organisations on the basis of criteria laid down in the Labour Code. As described in more detail in *Chapter 13 – Social policy and employment*, the trilateral and particularly the bilateral social dialogue would benefit from deepening. In November 2003, the Economic and Social Council was established as an independent consultative body on economic and social issues involving both social partners and civil society. Bulgaria is a party to the revised European Social Charter.

Minority rights and the protection of minorities

People from ethnic and cultural minorities, notably from the **Roma** community, continue to be marginalised. The implementation of the “Framework Programme for Equal Integration of Roma into Bulgarian Society” is still in its early stages and there continues to be widespread inequality and *de facto* discrimination in education, employment, access to health and access to public services as outlined in last years' reports. There continues to be reports about police abuse against Roma.

The elaboration of a long-term Action Plan in line with the “Roma Inclusion Decade” initiative has started. The existing Action Plan 2003-2004 for the implementation of the Framework Programme provides for more specific activities, a timetable and a specific budget for its implementation. However, no adequate legislative reforms were envisaged in key areas, such as education, health care and housing. Some of the objectives of this plan, including those related to desegregated education, are not backed up by financial support. A number of the employment related actions mentioned in the plan do not specifically target Roma.

Although a comprehensive anti-discrimination legislation entered into force in January 2004 (*see above*), the independent Commission for Protection against Discrimination, as envisaged by the law, has not yet been established. The effectiveness of this law in this area remains therefore to be seen. Nevertheless, in July 2004, a local Court based a decision on this law to compensate a Roma in a case of discrimination in access to services.

A strategy focussing on the education of school children of minorities was adopted in June 2004. Amendments to the National Education Law of September 2002, envisaging mandatory free of charge pre-school preparation, came into force, starting from the school year 2003/2004. De facto segregated education remains in some places however a major obstacle for access of Roma to quality education. A number of Roma children of mainstream mental ability continue to be placed in special schools following poorly controlled assessment. The Ministry of Education and Science has issued instructions for desegregation of Roma in schools both in 2002 and 2003, but there appears to be little commitment to devise a specific policy in this area over the short to long term. Assistant teachers have been introduced as mediators between children from minorities and their teachers in integrated pre-school classes at kindergartens, preparatory and first classes of elementary schools. However, their mission tasks and responsibilities remain insufficiently clear and some reports indicate that practical implementation meets with financial obstacles.

A number of national employment programmes aiming *inter alia* at Roma long-term unemployed have continued, such as “From Social Care to Providing Employment”, “Job Opportunities through Business Support” and “Beautiful Bulgaria”.

Although the Framework Programme called for urgent measures for the legalisation of Romani housing, including amendments to the legal framework, only isolated actions for the development of zoning maps have been undertaken. A comprehensive country wide plan for the legalisation of Romani housing has not yet been adopted.

Many Roma continue to be excluded from access to health care services. The existing system for funding health contributions of unemployed Roma through the municipal budget meets obstacles in the poorest municipalities. The envisaged strategy for improving the health conditions for Roma has not been elaborated.

The capacity and status of the state structure on minority issues, the National Council on Ethnic and Demographic Issues at the Council of Ministers, do not provide it with the powers necessary for effective minority rights protection. Its place within the Bulgarian administration has to be clarified. So far, it lacks the political influence and staffing to fulfil its mission.

On the whole, initiatives continue to address the situation of the Roma minority, but a sustained targeted effort will be needed before a considerable improvement of the living conditions of Roma can be achieved.

The Turkish minority continues to be integrated into political life through elected representation at national and local levels. Further attention needs to be paid for the socio-economic integration of those ethnic Turks and other minority groups who live in economically less developed regions.

1.3 General evaluation

Since the Commission concluded in its 1997 Opinion that Bulgaria fulfilled the political criteria, the country has further consolidated and deepened the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. This trend has been confirmed over the past year. Bulgaria continues to fulfil the political criteria.

Tangible progress was made in public administration reform with the adoption of amendments to the Civil service law. The specific structures for co-ordinating European integration continue to function well, and in view of Bulgaria's aim of building a qualified and efficient civil service by the time of accession this progress needs to spread throughout the public administration. Also, interdepartmental coordination should improve. Attention should be given to the legal framework for local and regional administration, which will play an important role in the implementation of the *acquis*.

Building on important reforms of the judiciary system achieved in recent years, there have been positive developments with regard to the recruitment and appointment of judges. Still, certain key parts of the reform of the judiciary remain to be adopted. The complexity and efficiency of the penal structures, in particular in the pre-trial phase, is a matter of concern. Strong efforts will be necessary to foster Bulgaria's capacity to prosecute organised crime and corruption, which involves further reforms in the structures of the judiciary and of the police.

Bulgaria has implemented several measures in the fight against corruption, but it remains a problem. Renewed efforts are needed, including tackling high level corruption.

Bulgaria continues to respect human rights and fundamental freedoms. Further progress should be pursued in specific areas to improve their implementation in practice. Comprehensive legislation on anti-discrimination was adopted but the independent body required by the law has not yet been established. The freedom of expression is ensured by law. However, the legal framework regarding libel and defamation by journalists needs to be revised. Efforts to address inadequate living conditions in certain prisons and problems of ill-treatment in custody need to be sustained. Trafficking in human beings is a serious problem and needs to be addressed. A new law on public health should address most of the issues related to the placement of mentally disabled people. The structures responsible for child welfare and their co-ordination with the relevant ministries need to be reinforced.

Efforts have been made in the past years to develop a framework to tackle the problems faced by minorities, but the situation on the ground has not evolved much. Sustained efforts including allocation of appropriate financial resources will be necessary to effectively implement the intentions and to combat in particular anti-Roma prejudice.

2. Economic criteria

2.1 Introduction

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

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

In its 2003 Regular Report the Commission found that:

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

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

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

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

2.2 Summary of economic developments since 1997

Following the severe economic crisis in 1996/97, the currency board arrangement introduced in July 1997 and economic reforms have been crucial for stabilising the economy on a continued growth path. Following negative real GDP growth in 1996 and 1997, the economy kept on growing between 1998 and 2003. Inflation decreased significantly from more than 1,000% in 1997 to 2.3% in 2003. Fiscal discipline kept the deficit close to balance in most years, thus running a primary surplus, which brought both public debt and foreign debt down to more sustainable levels. The improved business climate is reflected in a rising share of private investment in GDP and substantial net inflows of foreign direct investment with a record high in 2003. The current account deficit, although largely financed by foreign direct investment, has widened as a result of both strong domestic demand and fewer external financing constraints. Unemployment peaked in 2001 and has decreased considerably since then.

| Bulgaria - Main Economic Trends (as of 1 September 2004) | | | | | | | | | |
|---|------------------------------------|-------|-------|-------|-------|-------|-------|-------|-------------------|
| | | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 latest |
| Real GDP growth rate | % | -5.4 | 3.9 | 2.3 | 5.4 | 4.1 | 4.9 | 4.3 | 5.3 1st qu. |
| Inflation rate | | | | | | | | | |
| - annual average | % | : | 18.7 | 2.6 | 10.3 | 7.4 | 5.8 | 2.3 | 6.7 Jan-July |
| - Dec.-on-Dec. | % | : | 1.6 | 7 | 11.3 | 4.8 | 3.8 | 5.6 | 7.6 July |
| Unemployment rate | % | : | : | : | 16.4 | 19.2 | 17.8 | 13.6 | 12.0 2nd qu. |
| (LFS definition) | | | | | | | | | |
| General government budget balance | % of GDP | -0.3 | 1.7 | 0.4 | -0.5 | 0.2 | -0.8 | -0.1 | : |
| Current account balance | % of GDP | 10 | -0.5 | -5.3 | -5.5 | -7.3 | -5.6 | -8.5 | : |
| | million ECU/Euro | 923 | -55 | -642 | -760 | -1106 | -929 | -1504 | -947 Jan.- June b |
| Gross foreign debt of the whole economy ^b | % of exports of goods and services | 172.5 | 150.6 | 188.3 | 160 | 147.4 | 126.1 | 109.3 | : |
| | million ECU/Euro | 9211B | 8070 | 10847 | 11843 | 11935 | 10769 | 10330 | 11689 June |
| Foreign direct investment inflow | % of GDP | 4.1 | 4.2 | 6.1 | 8.1 | 5.0 | 5.6 | 6.7p | : |
| (balance of payments data) | million ECU/Euro | 375 | 479 | 747 | 1114 | 755 | 923 | 1190p | 962 Jan.- June b |

Source: Eurostat, if not indicated otherwise; a Moving 12 months average rate of change. b Source: Website of the National Bank.
p= provisional figures. B= break in series.

Substantial progress has been made in the restructuring of the economy and privatisation is approaching its end. A large number of state-owned enterprises have been sold or liquidated, but several major firms still remain to be privatised. The financial sector is now basically completely in private hands and to a large extent foreign-owned. Financial intermediation, which is mainly working through the banking sector, has strongly expanded in terms of growth of credit and deposits. The legal basis for the liberalisation of network industries is in place and competition to the incumbents is in its beginnings. Conditions for business in Bulgaria have improved although substantial efforts are still required to enhance the efficiency of the public administration and judicial systems and the regulatory environment, and in particular to improve the prospects for small and medium-sized enterprises.

| Bulgaria - Main Indicators of Economic Structure (2003) | | |
|--|-------------------------|------|
| Population (average) | Million | 7.82 |
| GDP per head | € PPS | 6280 |
| | % of EU-25 average | 29.4 |
| Share of agriculture in: | | |
| - gross value added | % of total | 11.4 |
| - employment | % of total | 27.7 |
| Gross fixed capital formation | % of GDP | 19.6 |
| Gross foreign debt of the whole economy | % of GDP | 49.4 |
| Exports of goods and services | % of GDP | 53.2 |
| Stock of foreign direct investment | Million € | 5583 |
| | € per head | 695 |
| Employment rate | % of 25-64 age group | 52.5 |
| Long-term unemployment rate | % of labour force | 8.9 |
| Source: Eurostat | | |

Per capita income is still low compared to the EU, while the labour market situation is improving. The high economic growth was not fully passed on to the catching-up of average per capita income in purchasing power standards (PPS), which increased only from 26% of the EU-25 average in 1997 to 29% in 2003, one of the reasons being that PPS take into account the effects of the upward adjustment of administered prices and excise tax rates. The employment rate of the working-age population fell from 54.5% in 1997 to 49.7% in 2001 but increased again to 52.5% in 2003. The unemployment rate in 2003 is back to its 1997 rate of 13.6%, after climbing to 19.2% in 2001. About two thirds of the unemployed are long-term unemployed. Unemployment rates for men have been slightly higher than for women, and unemployment among younger people is about double the average rate. Regional income differences are small, ranging between 22% and 24% of the EU-15 average, with the exception of the South-west region, which includes Sofia, where the figure stood at 36% (data for level-2 statistical regions in 2001). Regional differences in unemployment are more pronounced. While in the South-west region the unemployment rate was 13.3%, it was close to or above 20% in all other regions, reaching 26.9% in the North-west (data for level-2 statistical regions in 2002 with a national average of 18.2%).

2.3 Assessment in terms of the Copenhagen criteria

The existence of a functioning market economy

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

Governments since 1997 have implemented an ambitious programme of economic reform, but there are signs of reform fatigue in the population. While there is a broad political consensus on the fundamentals of economic policies, such as maintaining the currency board arrangement and preparing for EU accession, there are diverging views between political parties about the affordability of alleviating the social consequences. Opinion polls suggest that many people in Bulgaria fail to see progress in their economic situation. Nevertheless, governments since 1997 have pursued tight fiscal policies and market-based economic reforms and have mostly implemented announced policies, although sometimes delayed or weakened. All programmes with the International Monetary Fund since 1997 have been successfully concluded and a new 25-months precautionary stand-by arrangement, which includes drawing IMF loans only if deemed necessary, has been agreed in August 2004. The Bulgarian authorities submitted their latest Pre-accession Economic Programme in August 2003, which had been prepared by the Ministry of Finance, following consultation of the social partners, non-governmental organisations, academic circles and various government institutions. This programme confirms the government's commitment to a prudent fiscal policy and the reform agenda. The submission of the 2004 Pre-accession Economic Programme is required for submission between mid-October and the end of November.

Macroeconomic stability has allowed sustained economic growth. Real GDP growth was 4% on average from 1998 to 2003. This was the case in spite of adverse external conditions, including several political crises and wars in the Western Balkans region, an economic crisis in Turkey and the global economic slowdown. Real GDP growth in 2003 was preliminarily calculated at 4.3%, despite the slow economic activity in the EU. Real GDP growth in the first quarter of 2004 was at 5.3% compared to the corresponding period of 2003. Growth in 2003 was based on strong domestic demand, in particular private consumption and investment fuelled by strong credit growth, which caused imports to surge. The fixed investment-to-GDP ratio has gradually increased, from 11% in 1997 to nearly 20% in 2003. The negative balance of trade in goods and services prevented growth from turning out even stronger. On the supply side, the economy has been driven by a strong expansion in industrial production since mid-2002 and a steady increase in services while the agricultural sector, which was hit by a drought in 2003, seems to be performing better in 2004.

The current account deficit has increased almost continuously since 1997, but was financed by net inflows of foreign direct investment in most years. While the current account was in surplus in 1997 and almost in balance in 1998, mainly because of a lack of domestic demand and access to external financing, its deficit increased to 8.5% of GDP in 2003. The very high deficit in 2003 was due to strong private consumption and investment fuelled by high credit growth, which raised the demand for imported goods while the weak economic environment in the EU did not make for equally strong growth

in external demand for Bulgarian goods. The high trade deficit of 12.5% of GDP in 2003 was only partially offset by other items of the current account, such as tourism. The trend seems to be continuing in 2004, with imports growing by 17% and exports by 11% in the period from January to June compared to the same period in 2003, thus resulting in a 38% higher trade deficit. Mainly because of an improvement in the income balance, the current account deficit increased by less to only 4.8% of projected GDP in the first half of 2004, which compares to 5.3% of GDP for the same period in 2003. Net inflows of foreign direct investment (FDI) in the first half of 2004 were almost 5% of GDP, thus exceeding the current account deficit, since there were some important revenues from privatisation. According to balance of payments statistics, the current account deficit was fully financed by net FDI in all years except in 2001 (68%) and in 2003 (79%). This situation might be difficult to sustain in the medium term once privatisation is concluded and no longer contributes to long-term capital inflows. The Central Bank and the Ministry of Finance have reacted to the widening current account deficit with some tightening of policies in their respective areas of responsibility. Due to strong capital inflows, the foreign reserves of the central bank have continued to increase. Total foreign debt, which is to a large extent public debt, declined from 100% of GDP in 1997 to below 60% of GDP at the end of 2003.

Unemployment moved in parallel to the restructuring of the economy. Going down from 19.2% of the labour force in 2001 to 13.6% in 2003, the unemployment rate has decreased significantly but is still fairly high. The unemployment rate in the second quarter of 2004 was 1.7 percentage points lower than in the corresponding period in 2003 and stood at 12.0%. The reduction has been brought about by net job creation in the private sector and by labour market programmes, in particular for long-term unemployed, together with certain statistical effects. However, actual employment, including those working in the large informal economy and in agriculture, is difficult to assess, but tends to add flexibility to a labour market which is formally rather strictly regulated and characterised by high non-wage labour costs due to a high dependency ratio. Measures have been introduced to monitor the existence of labour contracts, to reduce evasion from tax and social security payments and to lower income tax rates, but little has been done to reduce excessive rigidities in the labour code, such as the conditions for fixed-term contracts, unusual working hours or overtime work. A further reduction in unemployment is also hampered by the fairly low regional mobility of the workforce, caused by a combination of social ties, high owner-occupation of housing and skills mismatches between regional labour demand and supply. On the other hand, emigration of highly qualified persons brings about shortages in some segments of the labour market.

The currency board arrangement and economic reforms have contributed to low inflation. The exchange rate anchor and the liberalisation of the economy have limited producers' scope for price increases. Inflation, measured by the harmonised index of consumer prices on annual average, has remained at single-digit rates since 1999, with the exception of a rebound to 10.3% in 2000. Following a period of low inflation in the first half of 2003, rates moved upwards in the second half due to drought-related higher food prices and the regulated higher energy prices. Consumer price inflation was 2.3% on average in 2003 and 6.7% in the first seven months of 2004 compared to the corresponding period in 2003. The increase of excise tax rates in January 2004 and of energy prices in July 2004 has kept inflation at a higher rate than in 2003. The contribution of administered prices to inflation was 1.9 percentage points at the end of 2003. Inflation excluding administered prices was fairly volatile, mostly following the

developments of food prices, with negative rates in 1999, positive rates around 10% in 2000 and 2001 and a rate of 4.8% at the end of 2003.

Bulgaria adhered to the currency board arrangement introduced in July 1997 by fixing the Bulgarian lev (BGN) against the deutschmark and later the euro. The currency board had by itself an important stabilising function, but also raised awareness of the need for a credible, stability-oriented economic policy. Average short-term lending rates have come down from 14% p.a. in 1998 to 10.5% p.a. in 2003. The broad monetary aggregate M3 has grown by two-digit rates in the last few years, which shows that the economy is being remonetised and that money demand is being re-established after its sharp decline in the 1996-97 crisis. The currency board arrangement continues to be well covered by foreign exchange reserves. In view of the widening current account deficit and strong credit growth, the central bank has reinforced prudential rules and has decided, as of 1 July 2004, to increase minimum reserve requirements by extending the base and to include all loans in the credit register and not, as previously, only those larger than BGN 10 000. In order to reduce liquidity in the banking sector, the government is shifting most of its deposits held in accounts with commercial banks to the central bank.

Fiscal policy has remained prudent and responsible. The general government deficit has been below 1% of GDP⁴ in all years and was in balance or in surplus in some years. In 2003, the general government sector was running a cash surplus peaking at 2.8% of GDP in October, and a similar trend occurred in the first half of 2004 with a surplus of 2.3% of projected GDP, not least because of high collections of VAT, excises and duties by the customs administration due to strong imports, but also because of a budgetary rule limiting discretionary spending in the first three quarters of the year. Following some extraordinary spending towards the end of 2003, and in view of the widening current account deficit, the initial deficit target of 0.7% of GDP was revised and a nearly balanced budget was achieved. Public debt has fallen from above 100% of GDP in 1997 to 46% of GDP at the end of 2003 because of the continued primary budget surplus, an active debt management strategy and the depreciation of the US dollar against the euro. The government pursues an active debt management strategy with the objective of reducing risks by gradually shifting from a denomination in US dollars towards a denomination in euro, from short-term to long-term maturity, from floating to fixed interest rate bonds and from foreign to domestic financing. At the end of July 2004 the government used part of the fiscal reserve to reduce its foreign debt by buying back Brady bonds of a value of €565 million which brings the foreign and public debt-to-GDP ratios further down by nearly three percentage points. A fiscal reserve of mostly more than 10% of GDP is being held at the central bank, which aims to underpin the credibility of fulfilling foreign debt service obligations. The government implemented several tax reforms in an attempt to gradually shift from direct to indirect taxation. Corporate and personal income tax rates were reduced by several percentage points and are now fairly low by international standards. A National Revenue Agency has been prepared in recent years for the purposes of standardising the collection of taxes, social security and customs, and, although there have been delays, it is scheduled to become operational in 2006. In view of the fast ageing and decline of the population in Bulgaria, reforms of the pension and health care systems have been implemented. Obligatory and voluntary

⁴ All general government deficit and debt data used were notified by the Bulgarian authorities to the European Commission in March 2004. Data are, however, only partially compliant with EU standards (ESA 95). Figures based on the IMF Government Finance Statistics (GFS) show similar trends.

private pension funds and an increase in the statutory retirement age as well as disincentives for early retirement have improved the fiscal sustainability of the pension system. However, reforms in the health sector are still incomplete, which adds up to a low quality of medical services and is draining funds from the central budget.

The macroeconomic policy mix has been adequate, but might require further tightening in the future. In the absence of monetary policy and exchange rate instruments, the prudent and flexible fiscal policy supported by economic reforms has been the main instrument of macroeconomic stabilisation. Wage increases in the public and private sectors have been broadly in line with productivity developments. The tight fiscal policy pursued was appropriate in order to stabilise the economy and to avoid a further stimulus to domestic demand, which would have triggered a further widening of the trade deficit. The increasing current account deficit could warrant some further tightening of policies in the course of 2004, but has so far not been a major problem since it was mostly covered by net inflows of foreign direct investment and does not seem to result from a loss of external competitiveness.

Liberalisation and proper regulation of prices has progressed. In 2004, prices for tobacco, water supply and sewerage, waste disposal, electricity, central heating, medicines and some medical services, rail passenger transport, postal services, fixed-line telephony plus a number of public services are administered or regulated. Measured by the weights in the consumer price index in 1997, their total weight went down from 15.6% in 1997 to 14.6% in 2004 because of the full liberalisation of coal prices in 2000. However, due to their increased weight in the consumer price index over time, in particular because of increased household spending on the goods and services concerned, almost one quarter of inflation is still arising from the adjustment of administered or regulated prices. However, important progress in aligning prices with costs has been made in several areas to prepare the shift from administrative to proper regulatory price regimes. In July 2004, the third and last step of a schedule agreed with the World Bank to bring energy prices for households gradually to cost recovery levels has been made by increasing electricity and district heating prices by about average 10% respectively. From 2005 on, household electricity and district heating prices will be indexed to inflation until they are liberalised under the regulatory framework.

Private ownership has become predominant in the economy. The share of employees working in the private sector increased from 46% in 1999 to 64% in March 2004. The private sector's share in gross value added grew from 63.4% in 1997 to 73.3% in 2003. Houses and land are largely in private hands since land restitution was finalised in 2000. Between January 1993 and June 2004, 5,107 privatisation deals were concluded. The percentage of privatised state-owned assets (excluding infrastructure) calculated from their value in 1995 was 86% at the end of June 2004. 146 majority packages and 706 minority packages were still scheduled for privatisation by then.

The number of large companies remaining for privatisation has been considerably reduced. There has been good progress in privatisation. The financial sector is now almost completely privately owned and to a large extent in foreign hands. Many minority packages have been sold through the stock exchange. As for the larger companies, the sale of 65% of the *Bulgarian Telecommunications Company (BTC)* to a private equity fund was concluded in June 2004 after two years of continuing procedural problems. More than five years after the government had begun the sell-off procedure, a 75% stake in the *Varna shipyard* was handed over to the *Bulyard Shipbuilding Industry Company*, which is a consortium of Bulgarian and US investors that had won the tender for a 75%

stake in the shipyard in October 2003. In July 2004, decisions were taken by the supervisory board of the tobacco company (*Bulgartabac*) on the bundling of subsidiaries to implement the strategy of its piecemeal sale, based on the approval of the general strategy by the Parliament in December 2003 and on recommendations by a consultant. *Bulgartabac's* four best-performing subsidiaries, in two packages of two each, as well as twelve of its tobacco-processing factories have been published for sale, and several major foreign tobacco companies have shown interest. Preferred buyers have been selected for 67% of the shares of the 3 regional pools of the 7 electricity distribution companies and negotiations on the specific conditions have started. Once finalised, the deals for the three pools would trigger a substantive FDI inflow of around 3.5% of GDP. Preparations for the privatisation of several thermal power plants and district heating utilities have been made. 27 out of 42 hydroelectric power plants have been sold. Other major privatisations scheduled to be launched in 2004 include the *Navigation Maritime Bulgare*, the *Bulgarian River Shipping Company*, the national carrier *Bulgaria Air*, a real estate firm (*ADIS*), the arms producers *Teraton*, *Kintex* and *Vazov's Military Works of Sopot (VMZ)*, enterprises from the coal-mining sector plus several district heating companies. Because management or employee buy-outs had created many problems after 1997, new procedures were intended to accelerate the privatisation of the remaining state-owned assets in a more transparent and efficient way through auctions, tenders and public offering of shares implemented by the Privatisation Agency. However, procedural problems and the lack of interest by foreign investors, also because of the situation of the global economy, have delayed some of the bigger privatisations. The government recently proposed new amendments to the Privatisation Law which would give the line ministries more responsibilities in defining privatisation strategies for individual companies.

Efforts have been made to streamline market entry and exit procedures, but the implementation of several of the measures is not yet finished. Data from the Statistical Institute and the Ministry of Justice point to high increases of market entry in 2003 compared to 2002, while market exit is growing by less or even declining. An interpretation of these trends is difficult since data from the two sources are not fully consistent and they are influenced by both the business cycle and the changes in administrative and legal procedures. While several measures have been taken to reduce and accelerate administrative procedures, reactions from the business sector do not give clear indications of improvements. A new Law on the Restriction of Administrative Regulation and Control on Business Activity entered into force in December 2003. Its main provisions, which include the principle of silent consent if the administration does not react within the set time periods and the obligation to establish one-stop shops, obviously take time to implement. 5 out of 20 indicative measures of e-government recommended by the EU have been implemented, including a public register of existing licensing regimes accessible via Internet. An inter-ministerial working group has eliminated or simplified some of the licensing regimes existing at central level. A new Law on Investment Promotion defines shortened deadlines for the authorisation of large investment projects and officials not meeting the deadlines will be fined. In spite of these improvements, many business people still perceive starting and running a business as difficult because of complex procedures and inefficiencies in the administrations and courts. In order to speed up insolvency proceedings, the Commercial Code was amended in such a way that a company which fails to make an outstanding payment within 60 days after the date the payment was due will be considered insolvent and special legal chambers have been created to deal exclusively with bankruptcy cases. However, additional legislative changes designed to bring further improvements to insolvency

proceedings are being considered. A new Bank Bankruptcy Law has been adopted which increases transparency and speeds up procedures, mainly by giving firm control of receivers' activities to the Bank Deposits Guarantee Fund.

Enforcement of property rights depends crucially on the progress of administrative and judicial reform. Inefficiencies of the administrative and judicial systems often discourage parties from enforcing their rights and can impose substantial costs on doing business. It is often the smaller, domestic companies for which these costs are relatively high and can be detrimental to their development. Housing markets are working properly and enjoyed buoyant development in 2003 from which the construction sector has also benefited with increased activity. The design of land restitution has resulted in scattered ownership of agricultural land and it is estimated that about 25% of the farmland is idle. Although there are some signs of increasing consolidation of land plots to larger units, this remains a serious impediment to increasing productivity in agriculture and income in the rural areas. Prices and trade of farmland are low because of low profits in agriculture, expectations of EU accession-related increases in land prices and high costs of land transactions. Efforts are being made to modernise the land registration system, including with the support of international donors, but the project has seen significant delays. In April 2004, the legal basis for the Register Agency was created, which unifies the property registers administered by the regional courts by making them territorial units of the Agency.

The largely private and foreign-owned banking sector has considerably increased its role in financial intermediation. Since the crisis, when 17 banks were closed down, the number of banks has stayed more or less constant at a rather high 35 at the end of 2003, but concentration is also high with the biggest four banks accounting for about half of total banking assets. Following major privatisations in 2000 (*Bulbank*), 2002 (*Biochim*) and 2003 (*DSK*), almost 98% of commercial banks' total assets is in private hands and more than 75% is foreign-owned. The Bank Consolidation Company, which was responsible for bank privatisation, has been dissolved and its assets as well as its remaining tasks of monitoring buyers' commitments have been transferred to the government. Initially, banks had maintained a policy of quite cautious lending, which has contributed to a low rate of banking intermediation. However, this has changed since the end of 2001 when rates of bank credit growth reached more than 50%, continuing throughout the year 2003 and in the first half of 2004. Bank credits to non-financial private corporations and households have increased steadily from 4% of GDP at the beginning of 1998 to 26% of GDP at the end of 2003, while deposits have doubled from 20% of GDP in 1998 to 40% of GDP in 2003. In spite of the credit boom, bank performance indicators point to a sound situation. The capital adequacy ratio has declined over the years from 37.3% in 1998 to 22% in 2003 and 18% in June 2004, which is still high and far above the legal minimum of 12%. The situation as regards non-performing loans steadily improved from 9.2% in 1998 to 3.8% in 2003. Interest rate spreads between bank lending and deposit rates have decreased due to more intensive competition between banks and more stable economic conditions, but are still relatively high.

The non-banking financial sector is slowly developing, but has still a very limited role in financial intermediation. The stock exchange remains underdeveloped and shows very low turnover despite a high number of companies quoted. The market capitalisation of companies listed on the Bulgarian Stock Exchange increased from 5.8% of GDP in 1999 to 7.9% in 2003. This situation improved also because several companies were partly or fully privatised through the stock exchange. Total turnover at the Bulgarian Stock

Exchange relative to market capitalisation at the end of 2003 was 12.5%. 35 companies were listed on the official market and 303 companies on the unofficial market. Since its start in October 2000 at a level of 100, the Sofia stock exchange index, SOFIX, has increased strongly and reached a new high of 560 in August 2004. Private pension fund assets went up from 0.3% of GDP in 2000 to 1.5% of GDP at the end of 2003. The ratio of gross premium income of all insurance companies (including life and non-life insurance) to GDP increased from 1.3% in 1999 to 1.9% at the end of 2003.

Supervision of the financial sector has been tightened. At the beginning of 2003, a new, largely independent, Commission for Financial Supervision started to work which had been created by merging three different commissions for supervision of the non-banking sector (securities, insurance, and supplementary social insurance). Supervision of the banking sector remains with the central bank, which has recently strengthened some prudential rules in order to be better able to monitor possible risks arising from the high credit growth. Since the beginning of 2003, International Accounting Standards have become obligatory for banks, other financial institutions and companies have traded on the stock exchange; all other companies will follow in 2005.

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

The ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework, allowing economic agents to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and enterprises need to invest to improve their efficiency. Furthermore, the more access enterprises have to outside finance and the more successful they are at restructuring and innovating, the greater will be their capacity to adapt. Overall, an economy will be better able to take on the obligations of membership the higher the degree of economic integration it achieves with the Union before accession. Both the volume and the range of products traded with EU Member States provide evidence of such integration.

Bulgaria has achieved a sufficient degree of macroeconomic stability and market mechanisms are working sufficiently to allow a more efficient allocation of resources. In the 2002 and 2003 Regular Reports, Bulgaria was recognised as a functioning market economy.

Only limited progress has been made to increase the efficiency and quality of the education system. One of Bulgaria's main assets is a relatively well-educated and trained workforce, in particular regarding engineering and natural sciences, while there is less of a tradition in social sciences and management. 75.6% of young people aged 20 to 24 have attained at least upper secondary education attainment level. The main challenge in the education sector is to adjust the system to a declining school-age population following the general demographic decline and emigration, among whom many better educated and younger people. A further weakness is that the education system produces graduates with qualifications which do not always match the demand of the labour market. Education spending increased from a crisis-related low of 2.6% in 1997 to 3.7% of GDP in 2001, which is still a fairly low rate by international comparison and has contributed to a declining state of buildings and teaching material. The government pursues a strategy to improve the efficiency of education spending without major increases in public expenditure by gradually decentralising the management of resources

and by increasing the low student-teacher ratio. However, between the school years 1997/98 and 2003/2004 the number of students and educational institutions decreased by 10% and the number of teachers by only 6%, meaning that the student-teacher ratio has dropped further from 12:4 to 11:8. At the same time, net enrolment rates have increased, in particular in the group of 15 to 18 year-olds (from 70% to 83%) and in the group of 19 to 23 year-olds (from 25% to 30%), most likely in response to the situation on the labour market, which is characterised by poor job prospects for young people in the period under consideration, but also because of better returns to education. Some legislative changes were made in 2004 to improve the quality of higher education and academic research. Expenditure on the National Action Plan for Employment 2003 was €120 million (about 0.7% of GDP), which includes a significantly higher amount spent on active labour market policies than in 2002. Total expenditure on research and development has remained low at around 0.5% of GDP since the mid-1990s, of which only about one quarter was spent by the business sector.

The renewal of the private capital stock has made good progress whereas it has been slow for the public capital stock. High investment growth, supported by a revived banking sector and relatively low interest rates and FDI inflows, has almost doubled the ratio of gross fixed capital formation to GDP from 10.6% in 1997 to 19.6% in 2003. However, this ratio has potential for a further increase to support continued high growth and could do so in line with further improvements in the business environment. Despite the pursuit of a tight fiscal policy, general government gross fixed capital formation has varied between 3% and 4% of GDP in all years except in 1997 (1.5%) and 2003 (2.8%). Net inflows of foreign direct investment (FDI) had an important role in private capital formation and technology transfer, with an average of about 6% of GDP from 1998 to 2003. It remained strong in the first four months of 2004, at 1.8% of projected GDP. FDI relating to greenfield investment was higher than FDI relating to privatisation in most years. Most of the FDI inflows originated from EU Member States, in particular Greece, Italy and Austria, and were channelled into banks, manufacturing, transport and communication, and trade.

The quality of infrastructure is low, but slowly improving. Transport infrastructure is in a lengthy process of upgrading through the efforts of the Bulgarian authorities and support from EU pre-accession funds and other international organisations. The length of motorways has only marginally increased, from 314 km in 1997 to 328 km in 2003. On 1 April 2004, a road tolling system for heavy vehicles entered into force, one of its objectives being to raise funds for road construction, and a second stage for light vehicles is starting in 2005. The state-owned Bulgarian rail track company (*NC RI*), with a network of 4,320 km in 2001, has terminated servicing 200 km of lines which made major losses and has downgraded the status of another 300 km of lines. The legal basis for the granting of concessions for the civil airports at Bourgas and Varna has been created and a public tender is under preparation. The information and telecommunication infrastructure is being upgraded and can be expected to improve still further in the next few years with the achieved privatisation of the telecom monopoly and the liberalisation of the sector. The digitalisation rate of the fixed telephone network increased from 17% at the end of 2001 to 27% at the end of 2003, with Sofia already achieving a rate of 72%. Internet use is growing fast, albeit from a low starting level. A private telecom company, established through the acquisition of the largest national cable operator, Cable Bulgaria, by a group of American and Bulgarian investors, will offer fixed telephony, internet access and cable TV and has already launched the first route of a private nation-wide fibre optic backbone network connecting Sofia and the second largest city Plovdiv.

Subscriptions to mobile phone services, with currently two operators and a third licence given in the context of the privatisation of the previous fixed-line telecom monopoly (*BTC*), have increased from 1% (1998) to 38% (2003) of total population, meaning that since 2003 there are more mobile than fixed-line phone subscriptions. Third-generation mobile phone licences (UMTS) have not been tendered yet. Energy transmission infrastructure, which will remain in the hands of a state monopoly (*NETC*), is geared towards facilitating the physical unbundling of the electricity sector, reducing physical losses and connecting networks to neighbouring countries. Local infrastructure, such as streets, sewerage, water supply and schools, is still in a poor state since municipalities do not have sufficient means for investment because fiscal decentralisation is only gradually providing more funding. EU-funded ISPA projects are targeting most of their environmental expenditure on bringing wastewater collection and treatment as well as waste management in several regions up to EU standards.

Enterprise restructuring has made good progress through privatisation, but it is still ongoing in some industries. The restructuring of the steel industry is incomplete although efforts have been undertaken to ensure the collection of suppliers, wage, tax and customs payments arrears. In accordance with the Europe Agreement, Bulgaria has been allowed, exceptionally, to provide state aid for the restructuring of the steel industry on condition of submitting a convincing programme. In March 2004, the Bulgarian authorities presented to the EU for approval a programme concerning the restructuring of the steel industry until 2007. Restructuring in the coal mining sector continues in line with a programme until 2007 designed to liquidate inefficient coal mining facilities and privatise the remaining viable ones. The legal framework for the liberalisation of network industries is largely in place so that the main challenge is the restructuring of the formerly or currently state-owned enterprises in a way which allows competitors to enter the market. The Energy Law and the Energy Efficiency Law have been adopted and set the regulatory framework in the electricity, heating and gas sectors. They define third party access to networks, allowing direct contracts between large energy consumers and producers, and should facilitate market entry in energy generation. Before the end of 2004, liberalisation of the electricity market is expected to start with about 20% of the market, allowing larger industrial costumers to buy electricity directly from six eligible generators. The electricity sector is attracting substantial private investment, also from foreign investors, such as for the rehabilitation of a large thermo-power generator and its adjustment to EU environmental standards. Privatisation of the seven regional electricity distribution companies and further hydropower plants is under preparation. Investment in district heating is being made to deliver more efficient use. Concessions for 8 new regional gas distribution networks have been tendered. In the telecommunication sector, the ex-monopoly *BTC* introduced tariff rebalancing at the beginning of May 2004 to bring down cross-subsidisation by reducing prices for long-distance calls and increasing prices for local calls. The privatisation contract of the *BTC* contains several conditions, including minimum amounts of investment, restrictions for divestiture and limits on the reduction of personnel. Several concessions for fixed-phone telephony and internet telephony (VoIP) have been given to competitors, but full competition has been held back by the lack of interconnection agreements with *BTC* of which a first agreement with one competitor was signed only in July 2004. In the railway sector the government pursues a concept for restructuring and modernisation which includes a split of the *Bulgarian State Railway Company (BDZ)* into separate freight and passenger companies, the signing of an agreement between the government and *BDZ* on a mandatory public service as a basis for public funding, upward adjustment of prices, the purchase of new trains, the sale of non-operational assets and of several recreation facilities, and the

purchase of two high-speed trains. The company had already raised the prices of subsidised tickets for schoolchildren, students and pensioners. *BDZ* laid off 1 062 employees in 2003 and another 1 280 workers will be made redundant in 2004. These redundancies represent about 3-4% of all railway workers, mostly administration officials in Sofia, so that total staff will be 10% less than at the end of 2001, in line with commitments vis-à-vis the World Bank. One concession was granted to a private company for cargo haulage along a 100 km railway section.

The structure of the economy has changed at a fast pace in terms of production, but much less so in terms of employment. The agricultural sector's share in gross value added has more than halved, from 26% in 1997 to 11% in 2003, which is due to both the negative developments in the agricultural sector and the positive developments in the non-agricultural sectors. While the share of industry (including construction) has remained at between 28% and 30% over this period, services have expanded from 44% in 1997 to 59% in 2003. This sectoral shift was much less pronounced in terms of employment, with employment in agriculture increasing from 25% to 28% and in services from 43% to 45%, while there was a decrease in industrial employment from 32% to 28%.

Small and medium-sized enterprises (SMEs) have gained in economic importance, but continue to have to cope with a difficult business environment. The share of non-financial sector enterprises with up to 250 employees rose from 56% of employment in 1997 to 68% in 2001, and from 35% of value added in 1997 to 48% in 2001. In spite of this growth, SMEs are still confronted in particular with the difficult conditions of doing business in Bulgaria, including the frequent changes in regulations and the inefficiencies in the administrative and judicial systems. The large informal economy also makes competition harder for those SMEs which play by the rules. Access to credit has improved as a result of the growth in bank lending. There is a large variety of specific credit lines supporting SMEs, including the Guarantee Fund for Micro-credits implemented by the Ministry of Labour and Social Policy, specific SME credit programmes managed by commercial banks and several non-governmental initiatives. A law for the Promotion of Entrepreneurship and SMEs has been adopted in 2004. Its objectives are to improve the coordination of SMEs' policies and to provide a full package for public services as close as possible to the entrepreneur. The implementation of policies will be carried out by the executive Agency for Entrepreneurship Promotion and SMEs, which is a merger of the existing Agency for Small and Medium-sized Enterprises and the Trade Promotion Agency.

Privatisation, a tight fiscal policy and competition rules were the most important means to reduce state intervention. Hidden subsidies in the form of tax and social securities arrears of enterprises monitored under the expired IMF arrangement decreased from 2.3% of GDP at the end of 2001 to about 1% of GDP at the end of 2003. State-owned enterprises with financial risks are closely monitored and their restructuring has made progress. Coal mining, steel, district heating and railway companies still receive state aid to cover their losses. According to the Pre-accession Economic Programmes, subsidies were reduced from 2.4% of GDP in 2001 to 2.2% of GDP in 2003. EU rules on state aid and anti-trust form the basis of Commission decisions for the Protection of Competition. The Law on Public Procurement adopted in 2003 to implement EU *acquis* should make procedures more transparent and provides for the creation of a Public Procurement Agency which is responsible for the register of public procurements. A Law on the Promotion of Investment has been adopted with the objective of providing a more consistent framework of incentives for investment depending on their size.

The trade integration of the Bulgarian economy is high, but exports have decreased in relative terms. Due to high growth in Bulgaria and the slowdown of the main trade partners' economies, the general openness of the economy, measured by trade in goods and services as a percentage of GDP, decreased from 58% (1997) to 53% (2003) for exports and increased from 54% (1997) to 63% (2003) for imports. Bulgaria's exports as a share in global merchandise trade have increased by around 23% from the third quarter of 1997 to the third quarter of 2003. Bulgaria's most important export is tourism, for which revenues, as recorded in the balance of payments, usually account for about 8% of GDP. Following the abolition of tariffs in the context of the Europe Agreements, the EU has become Bulgaria's most important trading partner. In 2003, about 53% of the value of merchandise trade was with the EU-15, about 13 percentage points higher than in 1997. Exports of goods to the EU consisted mainly of unrefined copper, fuel oils, iron, footwear, and textiles and clothing; the most important imports from the EU were motor vehicles and pharmaceuticals. Among the EU Member States, Germany, Italy and Greece have become the most important destinations for Bulgarian products, while the most important partners outside the EU are Russia (for imports only, mainly oil and gas) and Turkey. Bulgaria's foreign trade protection, as measured by the simple average of the most-favoured nation (MFN) tariff rate, amounted in 2004 to 12% on imports from MFN countries and 3% on imports from the EU.

In spite of strong real exchange rate appreciation, international competitiveness does not seem to have deteriorated significantly. Due to the higher inflation in Bulgaria than in the euro area, the Bulgarian lev has experienced accumulated real appreciation of almost 40% against the euro since the introduction of the currency board in July 1997. Over the same period, the real effective exchange rate, based on consumer prices, has appreciated by 22%. However, given the catching-up in prices for non-traded goods and services, including adjustments of administered prices and excise taxes, this does not necessarily imply a reduction in Bulgaria's external competitiveness for traded goods, especially as, due to high labour productivity growth and a moderate wage policy, real unit labour costs in 2003 were 7.5% lower than in 1998. Available analyses suggest that the Bulgarian currency is close to its equilibrium exchange rate after starting at an undervalued rate when the currency board was introduced.

2.4 General evaluation

The 1997 Opinion already acknowledged the substantial reform efforts undertaken by the Bulgarian authorities to transform their economy. Since the Opinion economic structure and performance have significantly improved. Macroeconomic stability has been achieved soon after the Opinion, profound economic reforms have been carried out over the entire period while the Bulgarian authorities' commitment to the economic requirements of EU accession has been sustained.

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

Improvements can be made in sustaining macroeconomic stability and in deepening structural reforms. The current account deficit has widened substantially in 2003 and could, if continuing, warrant a further policy response. The business environment, in particular the efficiency of the administrative and judicial system as well as regulatory procedures, should be further improved to increase Bulgaria's attractiveness for

investment. In spite of significant achievements, privatisation still needs to be completed. While the legal framework is largely in place, the actual restructuring and liberalisation of the network industries need to progress further in order to enhance competition and efficiency. The ongoing reduction in unemployment should be further supported by reducing rigidities in labour market regulation.

3. Ability to assume the obligations of membership

This section addresses the question of Bulgaria's ability to assume the obligations of membership – that is, the legal and institutional framework, known as the *acquis*⁵, by means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 2003 Regular Report, this section seeks to provide an overall assessment of Bulgaria's ability to assume the obligations of membership, and of what remains to be done. It also provides, for each of the negotiating chapters, a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted.

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

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

The Brussels European Council in June 2004 underlined that particular attention should be paid by Bulgaria and Romania of to improving their judicial and administrative capacity, in order to be ready for membership by January 2007. Building on the assessment of Bulgaria's administrative capacity provided in the 2003 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures required for implementing the various aspects of the *acquis*.

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

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

In the 2003 Regular Report, the Commission found that:

⁵ A description of the *acquis* for each chapter can be found in the Commission's 1997 Opinion on Bulgaria's application for EU membership.

“Over the past year, Bulgaria has continued to make good progress in most areas of the acquis and is on track to complete the required legislative transposition before the planned date of accession if the current pace of progress is maintained.

Regarding the internal market, Bulgaria made further progress in most areas. In free movement of goods, progress continued with the adoption of sector-specific legislation in the area covered by New Approach directives. In the sectors covered by Old Approach directives, progress was recorded notably as regards data protection for pharmaceuticals. While progress has been recorded in the area of food safety, further efforts are needed both on transposition and administrative capacity. In the non-harmonised area, Bulgaria should continue screening for measures that may be incompatible with the principle of free movement of goods. As to public procurement, further efforts are necessary to align with the acquis and to build up the necessary administrative capacity.

As regards free movement of persons, progress was limited and considerable further work is needed concerning mutual recognition of qualifications (especially as regards curricula and training requirements) and the establishment of the necessary administrative bodies for the future co-ordination of social security systems. Concerning the right of establishment and freedom to provide services, Bulgaria made further progress as regards the non-discriminatory regime of national treatment for foreigners performing economic activities in Bulgaria. The establishment of the Financial Supervision Commission is an important step towards strengthening supervision. Further efforts are required as regards data protection and information-society services. In the area of free movement of capital, Bulgaria has made good progress in adopting new legislation on capital movements and payments, and anti-money laundering.

Company law was further aligned with the acquis. The focus should now be put on the enforcement of legislation on the protection of intellectual and industrial property rights, notably through better co-ordination between competent authorities. Further progress was recorded in the field of competition policy, where the legal framework for both anti-trust rules and state aid was consolidated. Further efforts are required to enhance the state aid enforcement record. Bulgaria also needs to restructure its steel sector in line with the relevant provisions of the Europe Agreement.

Regarding agriculture, Bulgaria has made considerable progress in adopting legislation in particular in the veterinary and phytosanitary sector. Administrative structures have been further consolidated and strengthened although further improvements are needed. Substantial work is still ahead in order for Bulgaria to meet EU veterinary and phytosanitary control and hygiene standards. Bulgaria has achieved a reasonable degree of legislative alignment in field of fisheries. However, further progress is needed with regard to technical capacity of inspection and control systems as well as with regard to compliance with EU hygiene and health requirements.

Bulgaria has continued to make progress in aligning transport legislation with the acquis and has made efforts to improve its maritime safety record. These efforts should continue. The administrative structures in the road, railway and maritime areas need to be strengthened. Attention needs to be paid to ensuring the financing

for important investments necessary in this sector, notably for upgrading the road network.

As regards taxation, positive developments were reported in the areas of VAT and excise duties, where new legislation was adopted. However, significant further efforts are needed to strengthen the tax administration. Attention should be paid to improving tax collection, enhancing internal control, ensuring that the computerised tax information system is fully operational, and completing preparations for interconnectivity with EU IT systems.

On social policy and employment, some progress has been made, particularly in the area of anti-discrimination policy. However, further work remains on legal transposition, particularly in the areas of labour law, health and safety at work and public health. Administrative capacity needs to be strengthened.

Reforms in the energy sector progressed, although important legislation preparing for the internal market and setting up a framework for energy efficiency has not yet been adopted. The preparation for privatisation of the distribution companies has advanced. Bulgaria must continue to respect its commitments on nuclear safety, notably as regards closure commitments for Kozloduy nuclear power plant and to ensure a high level of nuclear safety in its installations.

Bulgaria has significantly progressed in aligning with the telecommunications acquis through the adoption of a new telecommunications law. Efforts should now focus on implementation and further enhancing the capacity of the regulator.

Concerning regional policy and co-ordination of structural instruments, Bulgaria has made some progress with regard to preparations for the implementation of Structural and Cohesion Funds, notably with institutional structures and programming. Considerable efforts are still needed to develop, consolidate or complete institutional structures and to bring administrative capacity (including staffing and training) and procedures up to the level required. Priority should also be given to the introduction of efficient and fully transparent procurement and financial management and control systems as well as to monitoring and evaluation systems and to the strengthening of inter-ministerial co-ordination.

Bulgaria has reached a good level of alignment of the environmental acquis and has developed directive-specific implementation plans and financing strategies. The continuous efforts to develop administrative capacities, notably at local level, and further elaborate mechanisms to monitor effective implementation should be maintained. Implementation remains a major challenge, as is the need for increased administrative capacity and the cost of alignment.

Some progress has been made in further aligning Bulgaria's legislation with the acquis in the area of consumer and health protection. Bulgaria needs to finalise its legislative framework, particularly in the area of non-safety related measures. Further efforts are needed to put in place an efficient market surveillance mechanism.

Further good progress could be noted in the area of justice and home affairs. The new legislation adopted in the areas of data protection, visa, migration, asylum and money laundering almost completed alignment with the acquis. Substantial further efforts are needed to further strengthen the judicial system, through a continuation of

the reforms. Particular attention should be given to combating drugs and illegal migration.

For customs, a good degree of legal alignment has been reached and progress was noted concerning administrative and operational capacity and concerning computerisation. These efforts should continue. Measures were taken in the framework of the anti-corruption strategy.

Significant further progress has been made in strengthening financial control in Bulgaria, developing further the entire legal basis and the necessary administrative capacity. Further work should now focus on implementation of legislation and further strengthening of the required institutional structures, inter alia for the protection of the EU financial interests.

Steady progress is being made in the other chapters of the acquis.

Bulgaria needs to continue to make sustained efforts to develop sufficient administrative and judicial capacity to implement and enforce the acquis. As well as continuing horizontal reform of the public administration, it needs to focus in particular on developing the capacity to be part of the internal market and to apply the acquis in areas such as agriculture, environment and regional policy. Continued efforts are required to establish the necessary administrative capacity to ensure the sound and efficient management of EU funds.

In the accession negotiations, 26 chapters have been provisionally closed. The commitments made in the negotiations are with a view to accession in 2007. They are generally being met, although delays have been noted in certain specific areas.”

3.1 Chapters of the acquis

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

Chapter 1: Free movement of goods

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

Progress since the last Regular Report

Since last year's Regular Report, Bulgaria has made further progress in the field of free movement of goods.

In the area of **horizontal and procedural measures**, no legislative measure has been taken during the reporting period.

Good progress was noted in the adoption of European standards. By the end of May 2004, the total number of transposed European standards was 12,439. This corresponds to 83.6% of the standards adopted by the European Committee for Standardisation (CEN) and by the European Committee for Electrotechnical Standardisation (CENELEC). National standards in conflict with European standards are withdrawn following an internal procedure. Bulgaria is aiming at becoming a member of CEN and CENELEC in 2005.

Work has progressed well in aligning **sector-specific legislation** with the *acquis*. In the areas covered by *New Approach Directives*, additional legislation has been adopted, which aims at transposing the *acquis* concerning gas appliances, machinery, cableways, lifts, toys, non-automatic weighing instruments and electrical –safety relating to low voltage equipment and electromagnetic compatibility.

In the sectors covered by *Old Approach Directives*, further progress can be recorded. In particular, the establishment of the legal framework relating to type-approval of motor vehicles has been completed with the adoption of implementing legislation under the Law on road traffic. The establishment of the legal framework relating to type-approval of agricultural and forestry tractors has been completed with the adoption of implementing legislation under the Law on registration and control of agricultural and forestry machinery. Progress has also been achieved in the transposition of the *acquis* on chemicals, as the Law on protection against harmful impact of chemical substances and preparations was amended in December 2003, aiming at eliminating the identified incompatibilities with the *acquis*. Further implementing legislation has also been adopted on classification, packaging, labelling as well as concerning restrictions on the marketing and use of certain dangerous substances and preparations, detergents, drug precursors and Good Laboratory Practice. Regarding cosmetics, the Ordinance on cosmetic products has been further aligned with the *acquis* in September 2003. In the field of metrology, some progress has been made with the adoption in October 2003 of the Ordinance on measuring instruments subject to metrological control.

Concerning food safety and foodstuffs legislation (*see also Chapter 7 – Agriculture*), considerable progress has been recorded. The Law on foodstuffs was amended in November 2003, notably with a view to introducing the Hazard Analysis Critical Control Points (HACCP) principles. In addition, several pieces of implementing legislation have been adopted to reflect recent development of the *acquis* concerning vertical and horizontal foodstuff regulations. However, certain non-conformities still need to be addressed. As far as administrative capacity is concerned, with the adoption of amendments to the Law on foodstuffs in November 2003, the responsibilities of the authorities (Ministry of Health and National Veterinary Service) were determined.

As regards other sectoral legislation, no new provisions have been adopted for the transposition of the *acquis* on cultural goods and on firearms.

In the **non-harmonised area**, no legislative developments are to be reported and further progress was confined to initiating in March 2004 a more detailed screening of Bulgarian legislation for elements in conflict with the free movement of goods.

In the field of **public procurement**, the adoption of a new Law on public procurement in March 2004 and its entry into force in October 2004 represent an important step towards alignment. The new law defines the different types of procurement contracts and relevant exemptions, the contracting procedures to be followed and the contracting authorities. Another important feature of the Law is the introduction of changes in the appeal system, according to which a Court of Arbitration is established to streamline and improve the processing of complaints. The Law provides for the establishment of a Public Procurement Agency under the Ministry of Economy. The Agency is empowered to carry out the functions of an institution ensuring centralised support for contracting authorities and economic operators by providing consultations, legal advice, statistical information, and drafting of implementing legislation and documents for the implementation of the law. It is therefore responsible for carrying out overall coordination in this sector and for implementing the public procurement system.

Overall assessment

The principles of the new and global approach have been introduced into the Bulgarian legal order, but the Law on technical requirements for products, last amended in September 2002, still requires some further amendments. The Bulgarian legislation on electrical safety, lifts, gas appliances, electro-magnetic compatibility and machinery is in line with the *acquis*. Changes are needed in the legislation on safety of toys, equipment and protective systems intended for use in potentially explosive atmospheres, personal protective equipment and radio- and telecommunications terminal equipment. The *acquis* on medical devices, active implantable medical devices and in-vitro diagnostic medical devices remains to be transposed.

For the most part, regulatory, accreditation, standardisation, certification and market surveillance functions are well separated. The Bulgarian Accreditation Service (BAS) is the national body for accreditation, established as an executive agency under the Ministry of Economy. It has been a full member of European cooperation for Accreditation since 2001, but not yet signed any multilateral agreements in the field of accreditation (MLAs).

A State-agency certification body “Certification and Testing” (EA “CT”) was also created under the Ministry of Economy in September 2002 as a transitional measure for a period of no longer than two years until a sufficient network of conformity assessment bodies and laboratories is set up (afterwards EA “CT” should be transformed and registered under the Commercial Law). The fact that EA “CT” depends on the Ministry of Economy, as does the BAS, could undermine the independence of EA “CT” and call into question the segregation of the accreditation and certification functions.

The Bulgarian Institute for Standardisation (BIS) is a State structure under the Council of Ministers that became operational in September 2002, but it is making preparations to become a non-governmental organisation in the near future. These preparations aim at meeting the criteria for CEN/CENELEC membership and setting up efficient structures for supplying the country with national standards. In the *New Approach* sectors, the State Agency for Metrology and Technical Surveillance (SAMTS) has been given the overall responsibility for the designation of conformity assessment bodies, for metrology and for

market surveillance. Besides that, the Ministry of Regional Development and Public Works (MRDPW) is responsible for designation of conformity assessment bodies and market surveillance for construction products and the Ministry of Health for market surveillance of medical devices.

The capacity for conformity assessment is still being developed. By the end of April 2004, 25 conformity assessment bodies had been designated (14 designations issued by SAMTS and 11 designations issued by MRDPW). By the end of March 2004, BAS had accredited 71 testing laboratories, 11 calibration laboratories, 122 inspection bodies, 3 product certification bodies, 3 quality management systems certification bodies and 3 personnel certification bodies.

The development of market surveillance in Bulgaria is satisfactory for the area of the *New Approach Directives*, except for sectors, where appropriate legislation is not yet in place. Market surveillance should be further reinforced in some *Old Approach* areas, such as motor vehicles.

In the field of *Old Approach Directives*, while a considerable amount of legislation has already been adopted in the field of motor vehicles and tractors, the *acquis* on two- or three-wheeled motor vehicles remains to be adopted. Changes are needed in the legislation on pre-packaging, cosmetics, glass, textiles and footwear in order for it to be in line with the *acquis*. The *acquis* on wood, aerosol dispensers and electro-medical equipment used in human or veterinary medicine has still to be transposed. Even though Bulgaria has transposed a considerable amount of the *acquis* on pharmaceuticals, further efforts are needed to achieve full compliance with the *acquis* on medicinal products for human use as well as on veterinary medicinal products.

In the non-harmonised area, new screening of the legislation has started. Bulgaria should draw up and implement a timetable and show more decisive progress on the elimination of obstacles to the free movement of goods. A number of measures, including obligatory origin marking, as well as certain language requirements contrary to the principle of free movement of goods, are still to be eliminated. Furthermore, Bulgaria should pay particular attention to the introduction of mutual recognition clauses into Bulgarian legislation.

In the field of foodstuffs, most of the legislation has been transposed, with the exception of legislation in the fields of novel foods, mineral waters and the 2002 *acquis*. Incompatible provisions remain notably in the legislation on additives and on labelling. The system of pre-marketing authorisations in the form of sanitary certificates will need to be dismantled to ensure the proper functioning of the Internal Market. Special attention will have to be paid to the application of HACCP requirements to all food operators (processors, caterers and retailers), and to the new EU legal provisions concerning food hygiene and food and feed controls. Bulgaria should continue the work aimed at reorganising and developing its laboratory capacity, as well as in the accreditation process. Further efforts are required in order to designate the official control laboratory for genetically modified, irradiated and novel foods and the entry points for foodstuffs subject to special import control procedures. Further clarification is needed as regards the division of responsibilities between the Ministry of Health and the National Veterinary Service.

In the field of public procurement, an important step was taken with the entry into force of the new law and the establishment of the Public Procurement Agency under the

Ministry of Economy. Many provisions are now aligned with the Directives on public procurement, but several shortcomings remain and will have to be addressed, notably concerning scope, coverage, some definitions, rules on participation and the rules on the award procedures themselves. In parallel with this effort, transposition of the 2004 *acquis* should now start in order to complete alignment in this sector. An ordinance on the award of special public contracts (in the field of defence and security) has been adopted as well as the procurement nomenclature. Compatibility of these texts with the *acquis* remains to be confirmed. Efforts should be devoted to strengthening the administrative capacity of the Agency and to improving the qualifications of its staff, so as to be able to apply the national procurement legislation effectively.

Conclusion

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

Since the Opinion, Bulgaria has made substantial progress in the field of free movement of goods. Legislative alignment and administrative capacity in the field of industrial products have been steadily improving. Recent progress has been noted in the field of public procurement.

Negotiations on this chapter have been provisionally concluded. Bulgaria did not request any transitional arrangements in this area. Bulgaria is meeting the majority of the commitments and requirements arising from the accession negotiations for this chapter.

In order to be ready for membership, Bulgaria's efforts should now focus on legislative alignment in the harmonised area (in the fields of both the new and old approaches) and the introduction of mutual recognition clauses into Bulgarian legislation falling under the non-harmonised area. Attention should be paid to developing the necessary administrative capacity to implement the *acquis* on industrial products, and as regards the foodstuffs and food safety *acquis*. Attention should also be paid to the transposition of the *acquis* on cultural goods and on firearms. Particular attention should be paid to the identification and removal of measures possibly incompatible with the principle of free movement of goods. This process has started with the screening initiated in March 2004 and should continue. In the field of public procurement, Bulgaria's efforts need to focus on completing the legislative alignment and on developing the administrative capacity of the newly established authority.

Chapter 2: Free movement of persons

The *acquis* under this chapter provides for non-discriminatory treatment of workers who are legally employed in a country other than their country of origin. This includes the possibility of cumulating or transferring social security rights, which requires administrative cooperation between Member States. In order to facilitate the practice of

certain professions, the *acquis* also includes specific rules concerning mutual recognition of qualifications and diplomas; for certain professions a harmonised training curriculum must be followed in order to be able to have the qualification automatically recognised in an EU Member State. Furthermore, this area also covers the residence and voting rights of EU citizens in any Member State.

Progress since the last Regular Report

Since last year's report, Bulgaria has made further progress in preparing for full alignment with Community provisions, as well as for the establishment of the required administrative structures.

Significant progress can be reported on **mutual recognition of professional qualifications**. The Law on Lawyers entered into force in June 2004. It contains a chapter on foreign lawyers, which will enter into force in January 2007, and lays down stricter rules and procedures for acquiring the right to be attorney at law. In April 2004, Bulgaria adopted a list of regulated professions. The Health Law adopted in July 2004 aims to transpose a considerable part of the *acquis* on doctors, dentists, midwives, and nurses.

In the area of **citizens' rights**, a special Migration Directorate was established (*see Chapter 24 – Co-operation in the field of justice and Home Affairs*).

As regards **free movement of workers**, Bulgaria intensified its efforts to conclude bilateral agreements for exchanges of labour with EU Member States and third countries. As for administrative developments, a working group was established in the National Employment Service with the task of analysing Bulgarian legislation in the field of the free movement of workers and the *acquis* in the same sphere.

Bulgaria continues to strengthen bilateral relations with a view to the future **coordination of social security systems** and is currently preparing bilateral agreements with Austria, Belgium, Croatia, Greece, Hungary, Luxembourg, Poland, Portugal, Romania and Slovenia covering health insurance, pensions, unemployment benefits and family allowances. In November 2003, a bilateral agreement with Spain, covering short-term cash benefits, pensions, unemployment benefits and family benefits, entered into force. Since 2004, the budget of the National Health Insurance Fund includes funds to cover medical care provided abroad. Bulgaria has submitted its proposals for entries to the Annexes of Regulations 1408/71 and 574/72 which were agreed with the Member States in June 2004.

Overall assessment

With the adoption of the Health Law and the Law on Lawyers, Bulgaria has made significant progress in aligning with the provisions on mutual recognition of qualifications, but further efforts are needed to prepare the implementing legislation. Bulgaria has adopted a definition of regulated professions in the Law on Higher Education in April 2004 and a list of regulated professions which corresponds to the technical list of regulated professions in the EU Member States. The draft Law on Recognition of Qualification in Professions Regulated in the Republic of Bulgaria, which aims to establish the framework of the professional recognition procedures for the regulated professions, has yet to be adopted. The Minister of Education and Science is

responsible for maintaining and updating the list. Outstanding issues include alignment with EU legislation on pharmacists, dental practitioners and veterinarians. A Law on commercial agents was adopted. Legislation on mutual recognition needs further monitoring to ensure that it distinguishes between academic and professional recognition and includes simpler procedures to allow the provision of services. Curricula and training will need to be adjusted in the remaining cases to ensure full compliance with the sectoral directives as from accession. In the case of doctors and nurses, not all central training requirements have been integrated into primary legislation. The obligatory specific training in general medical practice needs to be introduced by accession at the latest; this is not yet the case (it is foreseen only for 2008). The issue of “*feldscher*” (i.e. persons with a rudimentary medical training) is also still outstanding.

In the area of citizens’ rights, it should be pointed out that the Constitution needs to be amended in order to complete the transposition of the *acquis* on voting rights. By accession, it also has to be ensured that all Bulgaria’s legislation is aligned with Community rules, in particular with respect to nationality, residence and language requirements as well as electoral rights. By then, Bulgarian and non-Bulgarian EU nationals should also receive the same treatment concerning access to education, including tuition fees.

In the area of free movement of workers, Bulgaria has strengthened its administrative capacity, but needs to undertake further efforts to ensure full implementation of the *acquis* by accession, including the social and cultural integration of migrant workers and their families. As regards future participation in the European Employment Services (EURES) network, efforts should continue, especially with regard to language training. Preparations should also be made for connection to the European Job Mobility Portal to ensure that all job vacancies displayed on the Public Employment Services website will be available upon accession.

As concerns the future coordination of social security systems, Bulgaria still needs to ensure that it will have achieved the required level of financial stability to meet the additional costs arising from the application of the Community provisions, in particular in the health care field. Bulgaria should continue to strengthen its administrative structures, in particular through training and reinforcement of staff. It should also continue its efforts to conclude further bilateral social security agreements. Moreover, essential preparatory measures are required for the introduction of the European Health Insurance Card as from the date of accession.

Conclusion

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

Since the Opinion, Bulgaria has made substantial progress in aligning with the *acquis* in this area. It has provided a detailed timetable for the transposition of the measures needed to achieve full harmonisation with the *acquis* and has provided details on the entry into force of this legislation, where available. It has taken further steps to ensure that its administrative structures will be sufficiently developed by the time of accession in order

to meet the requirements for full implementation of the *acquis*, including with regard to the future coordination of social security systems.

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

In order to be ready for membership, particular attention should be paid to ensuring further alignment in the field of mutual recognition of professional qualifications and citizens' rights and to further developing appropriate administrative structures in order to ensure correct enforcement of the *acquis* in this field. The adoption of the new legislation transposing the two General System Directives on mutual recognition of professional qualifications, which currently is in inter-ministerial consultation, should enhance alignment with the *acquis*.

Chapter 3: Freedom to provide services

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

Progress since the last Regular Report

Since last year's Regular Report, Bulgaria has made some progress as regards the right of establishment and in the field of financial services, with the exception of the insurance sector, where progress was more limited.

As regards the **right of establishment and the freedom to provide services**, the screening of the legislation and administrative practices designed to identify discriminations and/or restrictions not compatible with this principle was concluded and its report was provided to the Commission in July 2004. Bulgaria has made further progress in establishing a general, non-discriminatory regime ("national treatment") for foreign nationals and companies performing economic activities in Bulgaria. The Law on foreign investment (renamed as Law on investment promotion) was amended in April 2004, which resulted in the repeal of the provisions requiring foreigners to obtain a permanent residence permit to practise an economic activity and imposing restrictions on the acquisition of real estate in areas related to national security. The Law on lawyers and the Law on health were adopted in June and July 2004 respectively, providing for the possibility for EU nationals, having obtained advocacy or medical qualifications as per the legislation of an EU Member State, to offer services in these areas according to the Bulgarian legislation as from January 2007. On the other hand, however, the implementing legislation for the Law on foreigners was amended in February 2004, imposing additional requirements on foreigners, including EU citizens, regarding the

funds to be held for each day of their stay when entering Bulgaria and knowledge of Bulgarian when seeking to obtain a permanent residence permit.

In the field of **financial services**, the Bulgarian National Bank has adopted some amendments and a new regulation, intended to improve the prudential supervision in this sector. In particular, the amendment to Regulation No 2 aims at reinforcing the central bank supervisory powers to assess the soundness of banks' structures and ensure the transparency of shareholdings. Furthermore, the supervisory functions of the central bank have been strengthened through the adoption of two regulations, introducing the Basle principles on internal control for banks and rules on minimum required reserves.

In the field of insurance, the Parliament adopted in September 2004 amendments to the Insurance Act, aiming at further alignment with the *acquis*. Implementing legislation has also been adopted, notably in order to increase the amounts of third-party liability compensation available in the area of motor vehicle insurance.

As regards **personal data protection**, no legislative measures have been taken during the reporting period.

As regards the **information society regulations**, a Government Decree was adopted in July 2004, intended notably to transpose the transparency provisions of the *acquis* (mechanism for exchange of information).

Overall assessment

As regards the right of establishment and freedom to provide services, the amendments made to the Law on investment promotion are a step on the road towards eliminating discriminations. However, as regards the Law on foreigners, amendments are required to unequivocally exempt EU citizens from the rule whereby the granting of long-term residence permits is conditional on the creation of ten jobs for Bulgarian nationals. Reference to "international agreements" is not sufficient to provide this exemption. The recently adopted amendments to the implementing legislation for the Law on foreigners should be modified. Furthermore, amendments are required to the Law on gambling to revoke the existing discriminatory requirements regarding investment and the creation of jobs. Efforts were made for the conclusion of the screening exercise and the identification of the barriers to be eliminated. Bulgaria should now ensure that all the obstacles identified are duly and timely eliminated. Furthermore, existing practices in the Bulgarian tourism sector, namely double pricing, are discriminatory measures according to the *acquis* and should therefore be abolished.

As regards banking services, transposition of the *acquis* is quite advanced. However, work remains to be done, notably to transpose Community legislation on capital adequacy, e-money and financial conglomerates, as well as to complete alignment with Directive 2000/12 (e.g. introduction of single passport and the home country control principles). The banking supervisory structures are well equipped and oversee commercial banks and financial brokerage houses with a view to ensuring compliance with prudential regulations. The Bulgarian National Bank has broad powers to investigate the identity and suitability of direct and indirect shareholders of banks. The administrative capacity in this area can be considered to be good and stable with clear results in the form of the low incidence of non-performing loans. However, the National Bank should provide guidance and further develop capacity for assessing risk and the internal controls on banks' IT systems. The National Bank should enhance its

supervisory capacity for both on-and off-site functions, to cope with the envisaged rapid development and differentiation of the Bulgarian banking system. In addition, administrative capacity should be further strengthened in view of the forthcoming work for the National Bank entailed by the future Basel II Accord and the related EU Directives, which will require banking supervision to have a higher level of technical capacity for risk assessment.

As regards the remaining areas within the field of financial services, the progress recorded in alignment with the *acquis* on insurance should continue, as significant parts of the *acquis* remain to be transposed. As far as motor vehicle insurance is concerned, the provisions yet to be transposed relate to minimum coverage amounts, single premiums, minimum guarantee funds, appointment of claim representatives and the establishment and approval of information centres to help injured parties seek compensation. The provisions yet to be transposed as regards the life and non-life directives relate to the concepts of single licensing and home Member State supervision and the principle of freedom to provide services. The transposition of the *acquis* on securities and investment services and UCITS still requires significant progress.

Since March 2003, supervision of the financial sector (excluding banking) has been carried out by the Financial Supervision Commission (FSC). Overall the FSC seems to provide efficient supervision of the non-banking financial sector. Furthermore it is increasingly establishing close relations and cooperating with the National Bank within the framework of the Financial Market Supervision Council, which is the coordinating consultative body for both banking and non-banking supervisory authorities, tasked with unifying supervisory standards. More effort is, however, necessary to ensure the effective operation of the supervisory authority for insurance, notably by reinforcing its powers regarding the internal controls implemented by insurance companies and creating a centralised database.

The Law on data protection is not yet fully in line with the *acquis*, notably because its structure and the definitions and criteria it introduces are in many cases different from those of the *acquis*. Steps for further alignment should be taken. A Commission for personal data protection was set up in 2002 which meets the requirement of independence but needs greater capacity in terms of human resources, budget and premises.

Further work is necessary on the transposition of the *acquis* regarding conditional access and other information society services, including electronic commerce, where delays are observed.

Conclusion

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

Since the Opinion, Bulgaria has made steady progress in most areas of the chapter, both in terms of legislation and strengthening the administrative and regulatory infrastructure required to supervise the financial services sector. Improvement has also been noted regarding the right of establishment and freedom to provide services.

Negotiations on this chapter have been provisionally closed. Bulgaria has been granted a transitional period until the end of 2009 as regards the investor compensation scheme, at the end of which it should reach the minimum level of coverage set out in the *acquis*. Bulgaria is meeting the majority of the commitments and requirements arising from the accession negotiations for this chapter. However, delays have occurred as regards the preparations for compliance with the insurance *acquis*.

In order to be ready for membership, particular attention must be paid to unequivocally eliminating the remaining restrictions on the right of establishment, which have been the subject of the screening report presented to the Commission in July 2004. Enhanced attention should also be paid to completing the planned legislative alignment in the banking (in particular with the capital adequacy and codified banking Directives) and securities *acquis*, including UCITS. Bulgaria needs to step up its efforts in the insurance sector to ensure a timely compliance with the *acquis*. More work is also required in the field of data protection and information society services, such as electronic commerce and conditional access.

Chapter 4: Free movement of capital

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

Progress since the last Regular Report

No particular developments can be reported in this chapter where a large degree of alignment has already been reached.

Overall assessment

Bulgaria has reached a large degree of alignment in this chapter.

In the field of capital movements, liberalisation in line with the *acquis* is now almost complete. The remaining restrictions concern the acquisition of land by non-residents, for which transitional periods have been granted, and the full harmonisation of prudential rules covering investment in foreign assets by institutional investors.

Regarding payments systems, work remains to be done to complete the alignment with the *acquis* (e.g. the Directive on Settlement Finality and the Recommendation on

Electronic Payment Instruments). Bulgaria still needs to establish an out-of-court redress scheme to deal with settlement complaints between banks and their customers.

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

The provisions on money laundering were reinforced in 2003 with the law on foreign exchange, which obliges banks to report all their transactions. Compliance with the parts of the *acquis* dealing with money laundering has been achieved. Implementation structures have been reinforced by the recruitment of additional experts in financial analysis, new software tools and the appointment of liaison officers for the Ministry of Interior and Prosecution Office. Case-law in this area remains weak (*see also Chapter 24 – Co-operation in the field of justice and home affairs*).

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria had introduced currency convertibility for most current-account transactions but that liberalisation of capital transactions had been limited, being restricted to inward capital movements only. A relaxation of restrictions, in particular on outward capital movements, was not considered likely until sustainable improvement had been achieved in the financial situation and performance of the banking sector, and would also depend on the progress of economic stabilisation and structural reform. On money laundering, the Commission concluded that, whilst Bulgaria was party to the 1990 Money Laundering Convention and had adopted a Money Laundering Act in May 1996, considerable work remained before the system would be working effectively in practice.

Since the Opinion, Bulgaria has made steady progress in aligning its legislation and developing the necessary administrative structures.

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

In order to complete its preparations for membership, Bulgaria's efforts should now focus on adopting legislation in the field of capital movements and completing the alignment of the legislation on payment systems. In the fight against money laundering, efforts should be continued to improve the effectiveness of the existing system.

Chapter 5: Company law

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

industrial property rights, and the recognition and enforcement of judgments in civil and commercial matters and of contractual obligations.

Progress since the last Regular Report

Since last year's Regular Report, there is little development to be reported in the area of company law, except as regards the enforcement of the legal framework for the protection of intellectual and industrial property rights.

Regarding **company law** as such, measures have been taken with a view to improving the implementing regulation for the commercial register and the commercial registration, following the latest amendments to the Commercial Law, which were adopted in June 2003.

In the area of **accounting**, the Institute of Certified Public Accountants, which is a professional non-governmental organisation to which registered auditors belong, has continued to intensify its activities in relation to independent financial audit of companies' annual financial statements. During the reporting period, the Institute licensed 10 additional auditors. Up to now, the Institute has licensed 570 auditors and 120 auditing companies.

In the field of **intellectual and industrial property rights**, the Council of Ministers adopted in September 2003 an amendment to the Ordinance on the border measures for protection of intellectual property rights. In particular, the amendments introduce further details in the Ordinance as regards the terms in which the National Customs Agency should notify the applicant and express an opinion on the application.

The **Regulation replacing the Brussels Convention** on mutual recognition and enforcement of foreign judgments in civil and commercial matters will be directly applicable upon accession, and accession to the **Rome Convention** will only be possible upon accession (*see also Chapter 24 – Co-operation in the field of justice and home affairs*).

Overall assessment

Bulgaria has aligned its legislation on the Third, Sixth and Twelfth Directives. The alignment with the requirements of the First, Second and Eleventh Directives should be completed.

The main authority which monitors the implementation of commercial legislation is the Supreme Court of Cassation. The 29 district courts in the country deal with cases of registration of companies and insolvency proceedings. All 29 district courts keep separate commercial registers for the entities according to their place of operation/registration. These registers are kept on paper and no unified link exists between the different registers. Therefore, there is no nation-wide commercial register in the country. The procedure lacks transparency and accountability. Work has been undertaken in order to set up a centralised electronic registration of companies system, and to simplify and streamline company registration procedures (standard practices and templates). Preparatory work, which aims at establishing specialised commercial departments within the judicial system to invigorate and facilitate enforcement of

business-related legislation, is under way. All these efforts need to be continued as a matter of priority.

In the area of accounting, Bulgaria's legislation is largely in line with the *acquis*. International accounting standards have been in use since January 2003 by banks, insurance companies, investment and insurance enterprises and by the companies listed on the stock exchange, and will be mandatory as from January 2005 for all other companies.

The laws on protection of intellectual and industrial property rights (notably the Law on copyright and neighbouring rights) are largely in line with the *acquis*. However, certain clarifications are needed, in particular with respect to the scope of certain exceptions and to the system of public lending right. As regards satellite broadcasting and cable retransmission, the legislation is largely in line with the *acquis*, except for the definition of satellite broadcasting. However, some problems remain with regard to the administrative capacity in this area (difficulties in the negotiation of tariffs for cable retransmission). Legislation remains to be adopted on the supplementary protection certificate for medicinal products and plant protection products, as well as on biotechnological inventions. The *acquis* on the artist's resale right and enforcement of IPRs also need to be fully implemented.

The authorities responsible for the protection of intellectual and industrial property rights are the Ministry of the Interior, the Patent Office, the Ministry of Culture, the National Customs Agency and the judiciary. Work is being done in order to enhance cooperation between these bodies.

As regards the enforcement of the legislation, certain efforts have been undertaken. Nevertheless, a rather high level of piracy (music and software CDs) and counterfeiting (e.g. textile products) still gives cause for concern. Bulgaria is no longer a major centre for the manufacture of pirated or counterfeit products, but trade in these products remains important on the Bulgarian market. Enhancement of the administrative capacity of enforcement bodies, including controls on cross-border trade of pirated and counterfeit goods, remains a matter of priority. Effective application by the police, customs authorities and national courts of the recent provisions on border measures and on sanctions and remedies for infringements of intellectual and industrial property rights should contribute to better enforcement.

With respect to the Brussels Regulation and the Rome Convention, Bulgaria should designate the relevant courts or other authorities to ensure swift implementation of these provisions.

Conclusion

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

Since the Opinion, Bulgaria has made good legislative and administrative progress in the field of company law, but its efforts in this area should continue. The protection of intellectual and industrial property rights still needs strengthening.

Negotiations on this chapter are provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Special transitional rules will apply in relation to pharmaceutical product patents, involving the non-applicability of Community exhaustion to certain exports from Bulgaria, as regards the granting of supplementary protection certificates for medicinal and plant protection products, as well as in relation to the extension of registered or pending Community trademarks to the territory of Bulgaria. Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations for this chapter.

In order to be ready for membership, particular attention should be paid to the effective enforcement of industrial and intellectual property rights, in particular through strengthening border controls and improving coordination between enforcement bodies such as customs, the police and the judiciary. Current efforts aimed at enhancing the coordination between law enforcement bodies in this area should be continued.

Chapter 6: Competition policy

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

Progress since the last Regular Report

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

In the area of **anti-trust**, the Commission for the Protection of Competition (CPC), which is the national competition authority in Bulgaria, has continued to develop its administrative capacity. In October 2003, new Rules of Organisation approving a new structure for the CPC were adopted, in order to refocus resources on enforcement of serious competition concerns. In April 2004, the CPC adopted a methodology for the application of fines and in July 2004 a new block exemption for the motor vehicle sector, as well as new procedural rules for the collection of evidence, were adopted. Training and awareness-raising activities have continued over the reporting period. New Commissioners took office in the CPC in October 2003, following a much delayed appointment process.

The CPC has also continued to develop its anti-trust enforcement record. In 2003, the CPC adopted 64 anti-trust decisions, including restrictive agreements (6), abuse of dominant position (25) and merger control (24), and leading to 12 prohibitions (all with fines). In the first eight months of 2004, the CPC adopted 86 anti-trust decisions, including restrictive agreements (5), abuse of dominant position (23), merger control (15), leading to 12 prohibitions (10 with fines). The CPC has also increased its work in the field of competition advocacy.

In the area of **state aid**, progress has been made on the legislative framework with the adoption in June 2004 of amended implementing rules for the state aid Law. Under the Europe Agreement mechanisms, a regional aid map was jointly adopted in March 2004. The Ordinance on the procedure for monitoring and ensuring transparency of State aid was amended in March 2004 in order to transpose the EU's Transparency Directive. In June 2004, Bulgaria adopted amendments to its fiscal schemes, in order to bring them into line with state aid rules by 1 January 2005.

Administrative capacity has been further developed. Cooperation between the CPC, which is in charge of state aid control, and the state aid department of the Ministry of Finance (SAD), which is responsible for state aid monitoring, as well as with other parts of the administration, has improved. Information activities have continued in order to increase awareness of the rules, and there have been important training efforts.

The CPC has also developed its state aid enforcement record. In 2003, the CPC concluded 49 state aid cases, whereof 33 concerning the competition chapter, whereas in the first eight months of 2004 the CPC concluded 91 state aid cases, whereof 65 concerning the competition chapter. The annual state aid Report for 2003 was submitted by Bulgaria in July 2004. Measures have continued over the reporting period in order to ensure greater respect for the *ex-ante* notification obligation. A prolongation is under agreement with the EU, on the basis of a steel restructuring plan, of the period in which restructuring aid can be granted to the steel industry under specific conditions as defined in Protocol 2 to the Europe Agreement and its subsequent additional protocols.

Overall assessment

As regards anti-trust, the overall assessment is positive. The Law on the protection of competition contains the main principles of Community anti-trust rules as regards restrictive agreements, abuse of dominant position and merger control. Nevertheless, some further fine-tuning of the rules is still necessary in view of the EU's new procedural Regulation (EC) No 1/2003 and in order to ensure more efficient enforcement. For the administrative capacity to be fully satisfactory, efforts should continue as regards focusing resources on the enforcement of serious competition concerns, training of the CPC and the judiciary, and awareness raising (including an improved website). It is important that the CPC sets a high standard for independence, objectivity and quality, and for this reason the appointment procedure of CPC Commissioners also needs to improve. In order to ensure that the anti-trust enforcement record of the CPC becomes fully satisfactory, Bulgaria needs to continue its efforts to follow a more deterrent sanctions policy, to place more emphasis on the prevention of the most serious distortions of competition and to make better use of investigative tools, including surprise inspections. Bulgaria also needs to enable private enforcement of anti-trust rules through the courts. The CPC needs to take an active role, both as regards enforcement activities and in the field of competition advocacy, in order to ensure the continued liberalisation of the economy and the opening-up of markets.

As regards state aid, the overall assessment is largely positive. The state aid law, with its recently amended implementing rules, provides a good legislative framework for the control of state aid. For administrative capacity to become fully satisfactory, there is a need to upgrade the CPC's and SAD's state aid expertise and to continue efforts regarding cooperation within the administration, awareness-raising activities (including improved websites) and training of the judiciary. As regards the enforcement record of

the CPC, the quality of decisions in 2003 was largely unsatisfactory, but in the first eight months of 2004 there has been a clear improvement in the quality and scope of the decisions, including the assessment and alignment of existing fiscal aid schemes. However, in order to ensure that the state aid enforcement record of the CPC becomes fully satisfactory, Bulgaria needs to continue its efforts to improve the quality of its state aid decisions. On the basis of a state aid inventory, annual reports have been submitted for the years up to 2003, and the quality of the latest report is good. In particular, efforts need to continue in order to ensure ex-ante notification of all new aid measures and proper cumulation control, paying increased attention to the enforcement of state aid rules in relation to restructuring cases, payment deferrals, fiscal advantages, aid to SMEs and measures in connection with privatisation. A pro-active follow-up of the actual implementation of decisions and opinions is also important. Aid to the steel and coal sectors needs to be fully controlled, respecting the specific commitments for these sectors, and a technical study of the relevant coal production must be completed.

Conclusion

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

Since the Opinion, Bulgaria has made steady progress in adopting anti-trust legislation, developing the administrative capacity of the CPC and establishing an anti-trust enforcement record. More recent progress has also been made in adopting state aid legislation and increasing the transparency in the system, as well as in developing administrative capacity in the CPC and the SAD and establishing a state aid enforcement record. Overall, on legislative alignment, administrative capacities and enforcement record, Bulgaria is reasonably well advanced, although in particular the state aid enforcement record still needs further strengthening.

The negotiations on this chapter have been provisionally closed, subject to confirmation of the positive trend in the state aid enforcement record. The progress described above confirms that this positive trend has continued. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations for this chapter.

In order to be ready for membership, particular attention needs to be paid to ensuring that Bulgaria continues to update its alignment as the *acquis* in this area evolves, that it continues to strengthen its administrative capacity and, most importantly, that it continues to develop a track record of proper application and enforcement of both anti-trust and state aid legislation. In particular, Bulgaria needs to further improve the quality of its state aid enforcement. In this respect, the continuation of current efforts aimed at improving administrative capacity and the close regular co-operation that the CPC has established with the Commission should enhance the quality of the enforcement record.

Chapter 7: Agriculture

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

Progress since the last Regular Report

Since the last Regular Report, further progress in alignment with the EU *acquis* and in strengthening of the administrative capacity has been noted. Agriculture is still a very important source of employment in rural areas and important for the economy of the country as a whole. Subsistence and semi-subsistence farming however hampers the labour productivity in agriculture and the rural income. The sector also showed steady development with no major disturbances and fluent development of production and trade.

The share of gross value added (GVA) for agriculture was 12.1% in 2002 and fell to 11.4% in 2003, thus confirming the downward trend in agriculture's contribution to total GVA. In 2003, Bulgaria recorded a positive trade balance of €30 million in trade in primary agricultural products with the EU-25. Bulgarian exports⁶ totalled €374 million compared to €344 million for EU-25 exports. During the same period, Bulgaria also recorded a trade surplus of €16 million with EU-15. Bulgaria's exports amounted to €304 million compared to €288 million for EU-15 exports. The decrease of Bulgaria's exports to EU-25 by €74 million compared to the previous year can be attributed to a sharp decline in Bulgarian cereals exports which showed a record level in 2002 and returned to more historic levels in 2003. Main Bulgarian exports are oil seeds followed by meats (especially sheep meat and duck liver) and cereals (mainly wheat). During the same year, the value of EU-25 exports to Bulgaria (€344 million) gave evidence of a discreet increase compared to 2002 (€330 million). Main EU export sectors were pig and poultry meat followed by fruits (primarily oranges and peaches) and vegetable oils.

Regarding the land market, data for 2003 compared with 2002 indicate a stable market in land transactions (around 35,000 ha per year) and price per ha (around €730). After the completion of the land restitution process the major objective now is to overcome land fragmentation. Following the adoption of the Law on the National Land Company this autonomous, state-owned institution is in charge of supporting transparent market mechanisms and competitive land prices to create consolidated areas.

⁶ Source of trade figures : WTO definition of agricultural products, figures from EUROSTAT COMEXT (see U.E. 12.15 : Commerce des produits agricoles 1998-2000, 1 Partie D.G. AGRI/G.2 Analyses quantitatives, prévisions, statistiques, études, 2001, pp. 10-57 et 86-89)

Compared with 2002 the budget allocation for agriculture has increased by 13.3% to €204 million. Conversely, the allocation for 2004 includes a cutback of €50 million and almost €10 million concerning subsidies. Regarding agricultural policy, the Ministry of Agriculture and Fisheries (MAF) continued to pursue strategies and actions for sectors identified in the 2001-2005 government programme. The priority sectors are organic farming, cereals, stock-breeding, milk and wine. As such, MAF pursues its policy of stabilising agricultural production. Concerning price policy Bulgaria's agriculture continued to operate as a liberal economic sector except for state intervention in the tobacco market. Certain subsidies were also granted to the grain sector, the production of quality milk, the breeding of elite livestock and plant varieties, production of vegetables (red peppers, tomatoes and potatoes) and perennial plantations (roses, orchards and vineyards). Furthermore, the State Fund for Agriculture (SFA) supported three investment programmes concerning plant and livestock production and agricultural machinery in 2003. Based on its WTO commitments, Bulgaria has also continued to conduct a liberal trade policy. Free trade agreements (FTAs) negotiated with Albania, Bosnia and Herzegovina and Serbia and Montenegro in 2002 have been signed. The FTA with Albania entered into force already in 2003, whereas the entry into force of the latter two is pending. An FTA has also been negotiated recently with Moldavia.

Export subsidies for agricultural products such as cheese, eggs, poultry meat, lamb and sheep meat and processed fruit and vegetables destined for non-EU markets were introduced in 2004 in compliance with international provisions and obligations and are based on 2003 Bulgarian legislation.

Horizontal issues

The preparations for setting up the structures to operate the European Agricultural Guidance and Guarantee Fund (EAGGF) within the SFA continued. A single paying agency, built on the SAPARD agency, will channel both EU and national funds. Bulgaria has completed its plan to manage national funds. Recruitment and training of additional staff for the agency is ongoing with the aim of recruiting 450 new staff by 2006.

A current priority regarding the completion of the IACS in Bulgaria in 2006 is the data clearance for its agricultural parcels identification system with the help of the Agricultural Land Information System (ALIS). The second stage of IACS development has also started aimed at technical specifications and procurement of remote sensing services.

The 2003 Agricultural Census has now reached its planned third stage with the processing of data and the publishing of results. Less than 0.05% of farmers have refused to respond to the census exercise. The initial list showed 817,298 statistical units to be interviewed. At the end of the census records are available for 678,825 units with agricultural activities. About 50,000 of these are units with very small-scale agricultural activity, at the limit of the threshold defined for an agricultural holding. 138,473 holdings initially included in the census turned out either not to be involved in agriculture, to be duplicates or to have only a marginal activity, below the threshold set for an agricultural holding.

From the utilised agricultural area farmed by the units interviewed, non-utilised agricultural areas and fallow land, other pastures and meadows used by many farms were excluded. Final results should be available at the end of the year, delivering the base line data for Bulgaria's participation in the Common Agricultural Policy (CAP).

As regards the trade mechanisms, legislation is now in place for issuing export licences and granting export subsidies but shows some distinct divergences from the EU system. Decisions regarding the details of subsidies are taken annually by the Council of Ministers. Export licences are issued by the SFA.

With a view to completion of Bulgaria's alignment with the EU *acquis* in the area of quality policy a number of legal measures were taken to set the standards for the quality of the products supported and procedures for exercising quality control. Geographical indications and designations of origin have to be registered by the Bulgarian Patent office; Bulgaria's current legal measures are compliant with the relevant EU measures.

Although the agri-environment measure under SAPARD is not yet accredited, further progress on the implementation and enforcement of organic farming has been achieved. A private body ("SGS Bulgaria Ltd Co.") has been approved by MAF as the institution for inspecting organically-produced plants, plant products and foodstuffs of plant origin. This body will also be in charge of the use of indications referring to organic production methods. The approval of further bodies in the context of the supervision of organic farming is expected.

By following up actions on the Farm Accountancy Data Network (FADN) of the two previous years, the collection of information in 2004 involves 500 agricultural holdings. The National Statistical Institute is in charge of processing the data and establishing the FADN in Bulgaria. The completion of the FADN also depends on the results of the 2003 Agricultural Census.

Common market organisations

Using the results from previous feasibility studies and implementation plans Bulgaria has started to set up the necessary structures for the common organisation of the markets in all main sectors. Special attention was paid to creating legislation that will permit administrative capacity building and implementing common agriculture policy measures.

For arable crops it has been noted that Bulgaria has completed the alignment of legislation and has also created the required administrative capacity for the management of this sector with the establishment of the National Grain and Feed Service (NGFS) as part of MAF. Close cooperation between the National Veterinary Service (NVS) and the NGFS on the elaboration and enforcement of the inspection plan on animal feeding stuffs has also been observed. As a result of the poor harvest in 2003 (caused by drought) Bulgaria imposed a ban on the export of grain and released state reserves. MAF continued supporting this sector nationally in the form of subsidies, interest subsidies, credit guarantees and co-financing.

Regarding specialised crops (fruit and vegetables), alignment of legislation is complete. Producers and traders are encouraged to increase the quality of products and packaging by enforcing *acquis* adopted earlier. Alignment of legislation is also complete. The tobacco fund within MAF is managing the tobacco sector in Bulgaria. The management includes measures regarding production, intervention, quota management and supervision of growers and their growing areas. As the income of the growers is still very low, state support has been granted for prime quality tobacco. Privatisation of the state tobacco holding "Bulgartabac" and its subsidiaries has started. Sales revenues are used to support social programmes for employees in the tobacco sector.

With the latest amendments to its legislation on wine and beverages Bulgaria removed some legal shortcomings with regard to the corresponding EU *acquis*. The Executive Agency on Vine and Wine (EAVW) is now completely in charge of the registration of vineyard holdings as a state control body whereas the National Vine and Wine chamber (NVWC) remains in charge of the registration of producers. The NVWC will continue to function as an inter-professional organisation.. The NVWC also operates the Bulgarian wine fund promoting domestic wine brands. Wine producers who have contributed to the fund can apply for grants from the SFA. Furthermore, a commission for wine quality has been established and additional measures on planting rights taken. Work on the completion of the GIS-based vineyard register continued, but up to end July 2004 only 10% of wines are registered. A system for the recognition of certified wine-planting material has been initiated.

Producers of spirits and liquors have to register with the Ministry of the Economy and to provide the technical specifications of their products.

With regard to the meat sector, progress has been made with the introduction of the sheep and pig carcass classification system based on the (S)EUROP scale. Legislation for EU-compliant production and marketing of eggs has also been adopted. To increase the quality of raw milk, state subsidies were granted to meet the EU quality standards. All of the current 3,500 milk collection points and 360 milk processing plants have introduced quality control measures. In this respect, the recent modification of the SAPARD programme includes incentives for small dairy farmers to group together to buy cooling equipment and provides for the purchase of special cooling vehicles. The requirements on names and labels of marketed milk and dairy products were transposed. A system for collecting information necessary for the allocation and management of milk quotas involving the reorganised Animal Breeding Directorate within MAF was introduced.

Rural development and forestry

In early 2004, a concept for rural development was prepared, including the whole range of measures laid down by Regulations (EC) No 1257/1999 and 141/2004, in particular semi-subsistence farming support, complements to direct payments, and the two SAPARD-specific measures concerning the setting-up of producer groups and technical assistance. In addition to the SAPARD measures, three prepared national programmes and projects have been implemented. These are supporting alternative agriculture in the Rhodopi Mountains and a regional programme for north-western Bulgaria, sustainable development in rural areas and the development of less-favoured areas.

Discussions in the context of the midterm review of the SAPARD programme have led to some proposed modifications and amendments to the Bulgarian National Agriculture and Rural Development Plan (BNARDP); representatives of farmers' associations and rural non-governmental organisations participated in this debate. The up-take of Community funds is satisfactory but has not reached a steady state; at the beginning of August 2004 the Commission had received payment applications for 102% of the 2000 allocation, which represents disbursements to final beneficiaries up to the end of June 2000 amounting to €59 million. A mid-term evaluation of SAPARD in Bulgaria was conducted in 2003.

Within MAF the Rural Development and Investment Directorate is responsible for the implementation of the Rural Development (RD) policy of the Government. In addition to its SAPARD Department, the Department for RD looks after investments in less-

favoured areas and prepares integrated RD plans. A legal measure is under preparation to define and determine the less-favoured areas. The third Department's specific competence is to cover all agri-environmental aspects.

In the forestry sector, rules and procedures for fire prevention activities in forests and protection from fires and requirements on the production of and trade in forest reproductive materials were adopted. The National Forestry Board (NFB) has recently been re-integrated into MAF now being based on the state budget. Its powers and responsibilities cover the management and control of forests, hunting and non-commercial fishing.

Veterinary and phytosanitary issues, including food safety

Bulgaria continued the process of harmonisation of national legislation with the EU **veterinary acquis**. Several ordinances cover vertical EU measures on *animal health* and veterinary *public health* requirements for trade and importation of live animals and certain animal products (bovine embryos, poultry and hatching eggs, red, white and game meat and meat preparations, miscellaneous live animals and their semen, ova and embryos), animal disease control measures (African swine fever), animal welfare (laboratory animals) and the horizontal measures on veterinary checks for the import of live animals and for veterinary certification. The process of harmonisation and of enforcement of rules for measures on transmissible spongiform encephalopathies (TSE) and related measures on animal by-products not intended for human consumption must be continued (regime of testing, adoption of a relevant feed ban, collection and disposal of cadavers and specific risk material).

According to the national plan the process of upgrading establishments processing raw material and manufacturing products of animal origin will now be completed by the end of 2005. The reason for changing the plan was that the commitment period for the SAPARD 2002 Annual Financial Agreement for upgrading establishments was extended to the end of 2005. All operating establishments are supposed to meet the requirements for their respective type and capacity by then. At present all establishments are included in a register, divided into groups according to the type of products manufactured. According to their status of upgrading all establishments are currently classified into four categories. Category I plants are meeting EU standards. Category II establishments are those with agreed business plans that have started the upgrading process. Category III establishments have the potential to achieve compliance but had not started the upgrading process by 1 February 2004. They will either be closed temporarily or transferred to Category II. Category IV plants without the potential to achieve compliance have been closed at the beginning of 2004. Only establishments that have bought land for constructing a new plant, with approved technological plans and meeting the basic hygiene requirements will be allowed to stay in operation until the end of 2005.

Further alignment of Bulgaria's import and transit legislation with the EU *acquis* has been noted, but needs to be reviewed in light of the amendment of the veterinary framework law. Comprehensive feasibility studies on veterinary border inspection posts (BIPs) have been undertaken with Community assistance. Projects for the construction and equipment of the six long-term posts are launched following the results of the comprehensive studies, including civil construction work for six long-term veterinary BIPs (Varna, Burgas, Kalotina, Bregovo, Gjueshevo and Zlatarevo). Projects for the construction of Varna, Burgas, and Kalotina are experiencing delays. The border inspection post at Sofia airport will be constructed under the responsibility of the

Ministry of Transport and Communications. Sustained efforts are necessary in order to have this BIP ready by accession. Substantive training for border inspectors has taken place at the veterinary faculties of Stara Zagora and Sofia. However, veterinary services continue to suffer from a high turnover in personnel. Bulgaria has withdrawn its request for the construction of two new BIPs on the River Danube (Ruse and Vidin) for the import of feedingstuffs. Co-ordination has to be improved and a joint strategy for the implementation of EU import control procedures has to be developed between the bodies involved.

Regarding the traceability, identification and registration of animals, good progress has been made in the past. However, information is still based on paper communication and relevant information is processed electronically only at a later stage. Thus, electronically available data do not represent the actual situation.

In the *animal nutrition* sector EU rules on maximum permitted levels of undesirable substances and products in animal feed were adopted. All main EU Directives in this sector have now been introduced into Bulgarian legislation.

With the aim of increasing the overall administrative capacity in food safety the Ministry of Health (MH) and MAF have elaborated a common strategy for training their staff. They have also improved cooperation regarding the review of food safety issues and identification of related critical points in the pre-accession period.

Regarding the **phytosanitary** *acquis*, the transposition of the main EU measures on plant health is now nearly complete. Bulgaria has also caught up with the delay in the harmonisation process in the seeds and planting materials field. Legislation has been adopted covering the production and trade in seeds of cereals, oleaginous and fibre crops, vegetables, potatoes, fodder crops and beet and the production and trade in fruit, vine, ornamental and forestry planting materials, as well as the official list of varieties and the registration of producers and traders in seeds and planting materials. Another important element was the introduction of obligatory training of phytosanitary inspectors. This training will assist inspectors with new aspects of their work and refresh and update their knowledge of new legislative requirements. Each inspector will receive at least 40 hours of training over a three-year period. An intermediate report on the results of monitoring potato and other plant pests in 2003 has been presented in 2003 with the view to the recognition of protected zones with respect to certain plant diseases in Bulgaria.

Overall assessment

Bulgaria has made good progress on horizontal issues. It is on track with the setting up of the necessary structures for the implementation of the EAGGF, provided that sufficient financial and staff resources are allocated, in particular for creating the necessary IT systems and operating manuals for the paying agency and IACS. Regarding IACS, it is also essential to elaborate a new land parcel identification system (LPIS) and acquire a complete ortho-coverage of Bulgaria. Progress is also expected regarding the consolidation of land following the establishment of the National Land Company. Concerning the trade mechanisms decisions have to be taken with regard to the responsible bodies. The development of the administrative structures needs to continue in close cooperation with all bodies involved. In the area of organic farming, further modifications of legislation are necessary for full alignment with the EU *acquis*. Further progress has been noted regarding the development of the common market organisations in areas such as arable and specialised crops which are of key interest to Bulgaria.

However, sustained efforts are required in the wine sector to set up the vineyard register. With regard to fruit and vegetables, the Bulgarian authorities should pay due attention to providing a high level of information to producers and to encouraging them to set up producer organisations. Information is also needed for producers in the beef sector and the relevant meat industry. Efforts must also be devoted to the development of the milk sector, and in particular to the timely establishment of the milk quota system. The take-up rate of the SAPARD programme is successful. All SAPARD resources from the Bulgarian national budget have already been allocated. A positive step has been made with the elaboration of the concept for rural development which includes all major principles of rural development policy.

In the veterinary sector, good progress has been made in the transposition of the *acquis*, whereas enforcement remains more critical. First of all, further training of staff, particularly at regional and local level, should help enforce administrative capacity in all areas of this part of the *acquis*. With reference to animal health, the country needs to be prepared for the implementation of the non-vaccination policy, a functioning rendering system and a compensation scheme for animals in case of application of eradication measures. In this context it is an essential requirement to have a functioning electronic system recording the identification and registration of the relevant livestock species available, which also provides a real-time online facility for their movement control. The system should also deliver the necessary information for veterinary public health checks, such as residue and zoonoses monitoring and control. The upgrading and the accreditation of the laboratories for animal and public health have to continue. The current categorisation and classification of establishments form the basis of the national strategy of their upgrading to EU standards. Enforcement of EU animal welfare standards often depends on investments in structures. On the whole this is the case in slaughterhouses for lairage and stunning, in transport for vehicles and in holdings for keeping equipment and systems. However, more training on EU standards could also help alert staff to EU animal welfare standards in those areas. The Bulgarian authorities should continue implementing the national plan for the upgrading of establishments in order to deliver the expected results.

Reflecting the situation of veterinary import and transit control the necessary physical structures have only been set up on the border with Turkey. In particular, definite long-term facilities at the future outer border of the EU need to be completed before accession. The current Bulgarian procedure for checks, where physical checks are carried out at inland facilities, is not transparent and does not fulfil EU requirements. An electronic system, which could improve the transparency on imported and transiting consignments in such a situation, is not in place. The corresponding EU *acquis* is not transposed yet.

Priority must be given to align measures on TSEs and related measures on animal by-products with the EU *acquis*. For the collection and disposal of cadavers and specific risk material, dispositions must be taken, in particular for the construction of a new processing plant for rendering.

Concerning the phytosanitary sector, further progress has been achieved in the adoption of the EU *acquis* with regard to labelling of plant protection products and the marketing rules for seeds. However, the administrative capacity for enforcing the rules on the spot with particular reference to the plant passport system, registration and use of pesticides and monitoring of their residues, collection and processing of statistical data and the laboratory capacities, including quality control, still needs strengthening. Likewise, structures for most phytosanitary border control posts are not yet adequate. Although the

equipment of most of the long-term border inspection posts is complete, access to facilities for proper storage and quarantine of consignments or to destruction facilities is still insufficient. Bulgaria should continue its ongoing training for border inspectors focussing on the detection of quarantine pests upon imports.

Regarding forestry, the Bulgarian Parliament has still to adopt the Decision on the National Forest Policy and Strategy (NFPS) in Bulgaria 2003-2013.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria had made very limited progress in adapting to the Community *acquis* and that considerable sustained effort would be needed with regard to restructuring the agriculture and the agri-food sectors and reform of agricultural policy to prepare to apply the *acquis*. It noted that particular efforts were needed in relation to: the adoption, implementation and enforcement of veterinary and phytosanitary requirements and upgrading of establishments to meet EC standards, particularly with regard to the inspection and control arrangements for protecting the EU external borders; strengthening of the administrative structures to ensure the necessary capacity to implement and enforce the policy instruments of the CAP; restructuring of the agricultural and agri-food sector to improve its competitive capacity. The Opinion went on to note that fundamental reforms would be necessary before Bulgaria would be able to meet the obligations of membership.

Since the Opinion, Bulgaria has made good progress in this chapter.

Bulgaria has provisionally closed negotiations on this chapter. Bulgaria has been granted the following transitional arrangements: a) in the field of rural development measures eligible for Community support, a number of temporary derogations and amendments to the *acquis* for the period 2007-2009, including a derogation for the early retirement scheme for dairy farmers ; b) in the CMO for milk the marketing of drinking milk with a 2% fat content as semi-skimmed and 3% fat content as whole milk (until 30 April 2009); c) in the veterinary field, the use and processing in certain dairy establishments of raw cow's milk which is not compliant with EU standards (until 31 December 2009). Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations for this chapter.

In order to complete preparations for membership, Bulgaria's efforts now need to focus on the remaining alignment of its legislation with the EU *acquis*, continued strengthening of the administrative structures and creating the required infrastructure within the private sector involved necessary for the successful enforcement of the measures under this chapter. Particular attention and efforts need to be paid to the veterinary field, where the timely implementation of the priorities listed in the National Programme for the Adoption of the *Acquis* and their enforcement should allow significant advances.

Chapter 8: Fisheries

The *acquis* on fisheries consists of regulations, which do not require transposition into national legislation. However, it requires the introduction of measures to prepare the administration and the operators for participation in the Common Fisheries Policy (in the areas of market policy, resource and fleet management, inspection and control, structural

actions and state aid). In some cases, existing fisheries agreements or conventions with third countries or international organisations need to be adapted.

Progress since the last Regular Report

Since the last Regular Report, further progress in alignment with the EU *acquis* and in strengthening of the administrative capacity has been noted.

As regards the area of **resource and fleet management** and **inspection and control**, further approximation and completion of the harmonisation of Bulgarian legislation with the EU *acquis* were ongoing. An amendment to the Law on Marine Spaces, Inland Waterways and Ports adopted in March 2004 now includes a definition for fishing ports. The current amendment of the Fisheries and Aquaculture Act refers to setting up associations and producer organisations and to marketing standards and rules for fish and fishery products, thus providing the legal base of the market aspects for the implementation of the Common Fisheries Policy (CFP). As regards the National Agency for Fisheries and Aquaculture (NAFA), an amendment and a supplement to its statute entered into force, which restructured the organisation, fixed the number of staff and described its tasks. Under the responsibility of the Bulgarian Ministry of Agriculture and Forestry, NAFA and its subordinate structures are now fully in charge of the protection of fishery resources, management and control of fisheries and gathering all relevant statistics. The organisation chart includes a new department for Market Organisation and a new department for Structural Assistance. In addition, 30 extra posts have been created, which brings the number of staff now up to 240. The technical equipment and mobility of the 27 Regional Fisheries Inspectorates (RFIs) of NAFA in charge of monitoring, control and surveillance have been improved. The office and communication equipment were modernised. Training was provided for the implementation of the licensing and registration regime. Seminars were held on marketing standards and producer organisations, as well as on systems for the quality and safety of fish products, also with representatives from the fish-producing and processing industries.

The national programme for fisheries and aquaculture and the plan for the management of fishing fleet capacity aiming to outline a solution for sustainable exploitation of fishery resources and maintaining the balance of the marine ecological systems as one of the objectives of the CFP were submitted to all relevant authorities and bodies, scientific organisations and fisheries associations for approval.

The cooperation of NAFA and the Executive Agency for Maritime Administration (EMEA) concerning the common operation of the Fishing Vessel Register has been strengthened. Regarding the state of play of re-measurement of vessels, all boats over 15 metres are now measured according to the rules of the London Convention. In this context, it was also noted that Bulgaria does not have any fishing vessels of a kind needing approval according to the fishery products Directive. Concerning the Fishing Vessel Monitoring System, progress was limited. At present, only the software for the national statistical system and the initial database are ready.

The fishery statistics - legally required in Bulgaria since 2001 - show that in 2003 forty new fish-breeding farms were registered, giving a total of 179. The amount of fish produced for human consumption and for restocking increased to 2,898 tons. The strategy for rebuilding fish stocks has been continued; as in 2003 the programme for 2004 envisages 1.7 million fish releases for restocking. Warm water fish farms concentrate on breeding carp, whereas cold water farms breed various species of trout.

There are also some marine mussel farms. Catches of fish and other aquatic organisms amounted to 12,500 tons. The number of recreational angling permits increased substantially to 95,728. Bulgaria's fisheries and aquaculture sector continues to be small and accounts for 0.15% of GDP. It currently employs about 10,000 people. Fish imports stagnate at 18,000 tons per year and fish exports increased to 5,000 tons since the lifting of the EU ban. For commercial fishing in the Black Sea, the Danube and 4,700 inland basins, 4,488 licences were issued in 2003. Annual licences are still issued to individuals. The licensing regime introduced in 2001 requires the licence holder to record details of catches on a daily basis. Infringements of the fishery rules were identified in 1,461 cases. They were followed up by penalties and the confiscation of fishing equipment, including boats.

Regarding **structural actions**, the SAPARD Agency within the State Agriculture Fund has continued to act as a paying and intervention agency since June 2001 for fisheries too. Currently this agency is preparing for the implementation of the Common Fisheries Policy. The SAPARD programme has contributed to supporting the fisheries and aquaculture private sector. Up to now, there are 19 SAPARD projects covering fish, fishery products and aquaculture, with particular emphasis on improving processing and marketing of fishery products, developing and diversifying economic activities, provision of multiple activities and alternative income and creation of wholesale markets as well as setting up producer groups.

As regards **market policy** and **state aid** to the fisheries sector, there are no new developments to be noted.

With regard to Bulgaria's membership of **international fisheries agreements**, Bulgaria continues to be involved in the Black Sea Convention. NAFA continues to be a member or observer of the Antarctica Convention and of the fishery agreement with Canada, although there is no high seas activity by Bulgarian vessels. Bulgaria is also a member of the General Fisheries Council for the Mediterranean and the Agreement on fishing in the Danube and the North-West Atlantic Fisheries Organisation. Regarding the North-East Atlantic Fisheries Commission, Bulgaria formally discontinued its membership of 1984 in 1995. Fishery agreements with other third countries such as Mauritius and Mozambique meanwhile expired.

Overall assessment

As regards resource and fleet management and inspection and control, further adaptations to implementing legislation are still necessary, in particular concerning the vessel monitoring system and the collection and computerised retrieval of catch data. Despite a further substantial strengthening of its administrative and technical capacity, NAFA still lacks some adequate equipment. It would also need to fill the additional posts and to train personnel to effectively carry out the necessary control and inspection activities, focusing on the control of inland fisheries and the landing of fish in general. The Fishing Vessel Register needs to be continuously updated and the software also adapted for forwarding the necessary information to the European Commission. The Fishing Vessel Monitoring System remains to be completed, including the upgrading to a satellite-based system. This is also necessary for the collection and the computerised retrieval of catch data. In this context attention should be paid to the completion of the actions on processing of statistical data and to the necessary human resources. In

addition, details of the licence issued currently for commercial fishing in Bulgaria need to be adapted to EU requirements.

Further adoption of legislation in line with the *acquis* is needed in the area of structural actions, notably as regards the rules and procedures enabling the use and implementation of Community fisheries structural policy. Attention must be paid to ensuring that administrative capacity is adequate to address the specific requirements of the Structural Funds regulations from accession, in particular to the managing and paying authority for measures co-financed by the Community.

In the area of market policy, Bulgaria lacks adequate marketing infrastructure. It still needs to determine the fish species for which it intends to introduce and implement the common market organisation and the producer organisations it intends to create. It will have to adopt implementing legislation and develop adequate institutional and market structures. In more detail, progress will be needed with regard to the setting-up of producer organisations, the establishment of an intervention agency, the setting-up of an information system necessary for the management and control of measures, and the setting-up and maintenance of a system for the communication of information to the European Commission. The structure, organisation and functions of the three organisations of fisheries producers are still not in line with the *acquis*. The management plan for Bulgarian fleet capacity and the Bulgarian Fisheries and Aquaculture Programme have still not been adopted.

On veterinary issues, official veterinary supervision has improved appreciably. Exports to the EU are now possible, since certain shortcomings have been sorted out. With reference to international agreements, Bulgaria concentrates its activities on the Danube and the Black Sea.

Conclusion

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

Since the Opinion, Bulgaria has made good progress in this chapter.

Bulgaria has provisionally closed negotiations on this chapter. It has not requested any transitional arrangements. Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations for this chapter.

In order to be ready for membership, particular attention must be paid to the full introduction of the Fishing Vessel Monitoring System and the continuous updating of the Fishing Vessel Register, the setting up of structures and systems for the common market organisation and the further reinforcement of administrative capacity for the management and supervision of the fisheries sector. Technical capacity regarding inspection and control systems, including information technologies and communication of data, needs to be enhanced as well. The timely implementation of the priorities listed in the National Programme for the Adoption of the *Acquis* and their enforcement should allow resolving the main outstanding issues under this chapter.

Chapter 9: Transport policy

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

Progress made since last Regular Report

Bulgaria has continued to record progress in this area since the last Regular Report.

Regarding the **trans-European transport network**, Bulgaria continues to implement its Programme for Transport Infrastructure Development 2001-2005. In September 2003 a Coordination of Programmes and Projects Directorate was set up within the Ministry of Transport and Communications. This Directorate acts as the implementing agency for ISPA and PHARE transport projects, with the exception of road infrastructure projects which are managed by the Road Executive Agency (REA), which is also responsible for infrastructure policy and road management. In March 2004 the Agency was restructured to allow it to fulfil its role in the implementation of the vignette system (see below).

In the area of **land transport**, Bulgaria has continued its legislative alignment in the various sub-sectors. In the *road transport* sector, amendments to the Road Transport Law were adopted in November 2003, in particular aligning with the dangerous goods *acquis*. Furthermore, implementing legislation was adopted, including on dangerous goods, driving licences, registration documents and speed limitation devices. On 1 April 2004 Bulgaria introduced a vignette system for collecting charges for the use of Bulgarian road infrastructure. There are weekly, monthly and yearly vignettes, but no daily vignettes. The prices of vignettes for Bulgarian-registered vehicles are significantly lower than those for foreign-registered vehicles at present, but will be gradually aligned. As of 15 June 2004, transport covered by the EC-Bulgaria Transit Agreement can obtain all types of vignettes at prices equal to those applied to Bulgarian hauliers. The Executive Agency for Road Transport Administration, which is responsible for the licensing of transport operators, the authorisation of roadworthiness testing centres and professional competence training and driving examinations, was reorganised in September 2003. Following this reorganisation, the number of employees has decreased slightly from 533 to 524, including a fall in the number of roadside and premises inspectors from 210 to 201.

In the *railway sector*, Bulgaria has continued legislative alignment, which is nearly completed. It adopted an ordinance on the design and construction of railway lines, stations, level crossings and other constituents, contributing to the transposition of the interoperability *acquis*. The Executive Agency for Rail Transport Administration, responsible for licensing, certification, proposals for infrastructure fees, supervision of the allocation of infrastructure capacity, traffic safety, etc., has significantly increased its safety inspections. The number of Agency employees has remained unchanged. The restructuring of the railway sector continues. The incumbent operator has received a permanent licence as a railway operator. In May 2004 a licence was awarded to the first private railway operator in Bulgaria for freight transportation on the route Ruse-Kaspichan.

A process of financial restructuring of BDZ, the loss-making national railway undertaking, and the State Railway Infrastructure Company has been initiated. A new rail infrastructure charging system was adopted in August 2004 aiming at implementing the charging principles laid down in Community legislation. The interoperability Directives have been transposed into Bulgarian law in June 2004.

On *inland waterways*, no progress can be reported in terms of legislative alignment or administrative capacity.

As concerns **air transport**, Bulgaria has adopted implementing legislation on computerised reservation systems and on aircraft airworthiness (the latter implementing several Joint Aviation Requirements. The Montreal Convention for the unification of rules for international carriage by air entered into force in Bulgaria in January 2004. Administrative capacity in the aviation sector has remained mostly unchanged. Staff training and provision of equipment to the administrative bodies in the aviation sector continue to increase. Bulgaria Air, the flag carrier which was established in November 2002, has reported a profit from its operations for 2003 and expects to increase this in 2004

As regards **maritime transport**, legislative alignment with the *acquis* has continued, including on the minimum level of training of seafarers, safety management and mandatory surveys for the safe operation of ferries, on standards for ship inspection and survey organisations and the enforcement of provisions in respect of seafarers' hours. According to statistics for 2003, under the Paris Memorandum of Understanding the percentage of Bulgarian flag vessels detained following port State control was 5.68%, representing an important decrease compared with the two previous years (2002: 9.6%; 2001: 15.7%). This compares with an average for EU-flagged vessels of 2.76 in 2003. However, there are indications that the situation is deteriorating, in that the number of Bulgarian flag vessels being detained is rising. Bulgaria remains on the black list (category 'medium risk') of the Paris Memorandum.

The Executive Agency for Maritime Administration, responsible for port State, flag State and coast State control is being strengthened in line with an Action Plan that aims to improve administrative capacity, the performance of Bulgaria as a Flag State Authority and the safety performance of the Bulgarian fleet. Procedures in the field of flag State and port State control have been analysed and are being improved. The number of staff has remained steady; the 28 inspectors are following an extensive training programme. The total number of Port State Control Officers is eight, based evenly in Varna and Burgas.

Overall assessment

As regards the trans-European transport network, the priorities for construction of transport infrastructure mirror the national, regional and pan-European significance of the projects. In the light of the significant total investment required to implement the National Strategy for Development of the Road Transport Sector, a key issue for the Government is still to secure the very substantial funds needed to implement the programme and meet its commitments. Increasing administrative capacity to plan, coordinate, and implement projects and investments must also remain a priority. The very low budget for road maintenance leads to a rapid deterioration of the condition of the roads and Bulgaria must address the issue of how to maintain and ensure the quality of its (main) road network in order to be able to meet its obligations upon accession.

Increasing the administrative capacity to plan and coordinate the large number of projects and investments must also remain a priority.

In the field of road transport, implementing legislation remains to be adopted, in particular on transportable pressure equipment, speed limitation devices, weights and dimensions of vehicles, digital tachographs and technical roadside inspections. The new vignette system must be adapted to gradually phase out discrimination between domestic and foreign hauliers. Administrative capacity remains to be further strengthened, both quantitatively and qualitatively (training, equipment), especially as concerns implementation of rules on access to the profession, checks on driving time and rest periods and technical roadside inspections.

In rail transport, legislative alignment is nearly completed. However, the system for authorisation of placing into service the subsystems defined in the interoperability Directives should be revised and the body responsible for authorisation should be explicitly pointed out. The administrative capacity of the regulatory body, the railway Administration Executive Agency, should be strengthened. A long-term strategic plan for the railway system including an infrastructure investment plan capable of restoring financial equilibrium in the sector should be developed.

As regards inland waterways, Bulgaria still needs to complete legislative alignment; in particular it must set up an Inland Waterways Fund and adopt legislation on the technical requirements for vessels. The necessary administrative capacity to handle these matters must be ensured.

As regards air transport, legislative alignment remains to be completed and implementing legislation remains to be adopted. In order to improve aviation safety standards, the corrective actions determined by the JAA must be implemented. The improvement of the technical state of a relevant part of the Bulgarian fleet, as well as the overall level of aviation security, require additional attention. As far as the obligation to become a full member of the Joint Aviation Authorities is concerned, the corrective actions determined by the JAA Follow-up Fact Finding Visit (May 2004) must be fully implemented. The technical state of the Bulgarian cargo fleet, as well as the outdated part of the Bulgarian passenger fleet will need to be improved. The overall level of aviation security will equally need to be enhanced.

In maritime transport, framework legislation is largely in place. The relevant administrative structures are in place, but need further strengthening. The strengthening of flag State implementation policy remains an area of concern. In the light of the State ownership of most Bulgarian vessels, especially, the independence of the administration responsible for checking the vessels must be ensured. Port State control procedures need to be improved. In particular at the port of Varna the work of the port State control unit is unsatisfactory; both working procedures and the technical equipment need to be improved for that unit to perform its tasks properly. In spite of Bulgaria's significant efforts to improve the performance of the sector and the safety of its fleet, the number of Bulgarian flag vessels being detained has risen in recent months.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria had made progress with implementing the existing Community legislation on transport, but that rapid alignment was necessary and that in this respect, maritime, air and road freight sectors posed the

most potential problems, particularly on safety. In other sectors, particularly rail, implementation of the existing Community legislation in practice still had to be monitored. Bulgaria also needed to make sure that the resources necessary to lay the foundation for extension of the future trans-European transport network to the acceding countries were provided, and rapidly to compensate for the current shortcomings in the road network and the consequences of implementation of the existing Community legislation on fleet renewal. The Commission added that it would also be necessary rapidly and systematically to reinforce Bulgaria's administrative structures, including the supervisory bodies, for example for safety.

Since the Opinion, Bulgaria has made good progress in alignment with the *acquis* and in establishing the necessary administrative structures, in particular in the fields of road and rail transport; some progress can also be recorded in the area of aviation and maritime transport, while only limited progress can be reported in the area of inland waterways.

Negotiations on this chapter have been provisionally closed. Bulgaria was granted transitional arrangements on the financial standing criterion for transport operators carrying out domestic transport services (until 31 December 2010) and on a gradual increase of axle-load limits on the national road network (until 31 December 2013). Bulgaria has agreed to a transitional arrangement put forward by the EU concerning gradual reciprocal access to the cabotage market in the road haulage sector. Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations for this chapter.

In order to be ready for membership, particular attention should be paid to the implementation of the legislation, the strengthening of administrative capacity and ensuring sound financial planning for infrastructure projects. Also, further transposition and implementation of the *acquis* in the land transport, aviation and maritime sectors needs to be ensured. Particular attention needs to be paid to the strengthening of the maritime safety authorities and their independence and to improving the maritime safety record, as well as to aviation safety and security. In this respect, the continuous implementation of plans to strengthen administrative capacity, notably training for the Bulgarian port State and Flag state inspectors, and of the action plan for safety approved last year (including the scrapping of vessels) should allow improving maritime safety records.

Chapter 10: Taxation

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

Progress made since the last Regular Report

Since last year's Regular Report, Bulgaria has continued to make progress in aligning its legislation on indirect taxation with the *acquis*. No progress can be reported in the field of direct taxation.

In the area of **indirect taxation**, amendments to the Law on *VAT* adopted in December 2003 entered into force in January 2004. They are aimed at transposing the provisions relating to the transfer of enterprises and to the free supply of goods and services by the employer to the employee. The amendments to the Law on *Excise Duties*, also adopted in December 2003 and entered into force in January 2004, are aimed at further aligning the structure and definitions of tobacco products and mineral oils. In addition, for both such product categories the level of rates was increased in line with the commitments made during negotiations.

In the area of **direct taxation**, no progress to be reported as concerns transposition of the relevant EU directives. The corporate income tax rate was reduced to 19.5% in 2004, from 23.5% in the previous year.

No substantial progress can be reported in the field of **administrative cooperation and mutual assistance**. With regard to IT and interconnectivity, work has continued on the development of an integrated information system and interconnectivity strategy.

As concerns administrative capacity, the process of transferring the handling of taxation matters from the General Tax Administration (GTD) to the National Revenue Agency (NRA) has continued during the reporting period. Building upon the main results of a pilot project on the restructuring of a Territorial Tax Directorate launched in July 2003 in the city of Bourgas, the restructuring of all remaining territorial and local offices started in January 2004. A Code of Ethics for tax officials was adopted in February 2004 and distributed to all officials. The VAT refund process was improved, by introducing a system for selecting cases to check, thus shortening the period necessary to obtain the refund. Since February 2004, large taxpayers have had access to an online service for filing VAT returns.

Overall assessment

Bulgaria's indirect tax legislation is to a significant extent aligned with the *acquis*, notably as far as VAT is concerned. Concerning VAT, further alignment is needed in particular with regard to the special schemes and the scope of exemptions. Provisions on intra-Community transactions also need to be prepared.

As regards excise duties, while Bulgaria has aligned the structure of the duties with the *acquis* to a significant extent and raised the applied rates in accordance with a calendar agreed during negotiations, thereby reaching the EU minimum levels for some products (intermediate alcoholic products, some mineral oils), extensive transposition is still required. Rates are still well below the EU minimum for a number of products, notably beer, spirits, leaded and unleaded petrol, gas oil, LPG, methane and kerosene used as propellants, and cigarettes. The gradual increase in excise duty rates on such products should continue in order to meet the EU minimum levels required by the *acquis*. Bulgaria should urgently start preparing for the transposition and implementation of the *acquis* relating to tax warehouses and the duty-suspended movement regime, in order to give the National Customs Agency sufficient time to prepare for its effective management and its extension to intra-Community movements upon accession.

As regards direct taxation, Bulgaria has to complete the transposition of the merger and parent-subsidiary Directives, notably by abolishing the 15% withholding tax on dividends repatriated by EU-based companies from Bulgarian subsidiaries. In addition, Bulgaria has to bring its system for taxing interest and royalty payments in line with the *acquis*. Bulgaria should also only introduce new tax measures which are in line with the principles of the Code of Conduct for business taxation, and will have to remove, at the latest upon accession, all harmful tax measures, so as to comply with the principles of the Code of Conduct to the same extent as current Member States.

In the area of administrative cooperation and mutual assistance, the priorities are still, on the one hand, to ensure that the computerised tax information system is fully operational and, on the other hand, to establish interconnectivity with EU IT systems. Bulgaria should take further measures to ensure that management for the inter-connectivity projects is effectively provided during the transformation of the GTD into the NRA, that enough suitably-qualified human resources are allocated to manage such IT projects, and that clear lines of responsibilities are put in place. A Central Liaison Office has been established, but the necessary structures to operate effectively by accession are still to be set up.

Although it has continued to make steady progress and improved its tax collection record, Bulgaria must continue its efforts to modernise its tax administration. In this context, the NRA, which was set up in 2002, should continue the process of taking over full competence from the GTD. Particular attention should be paid to timely and effective completion of the transformation, thus ensuring the stability and capability of the new structure and its staff. Parliament should adopt the legislative measures relating to the design of the integrated processes for business registration, acceptance of returns, revenue accounting, tax and social security control, appeals and public revenue collection performed by the NRA, and the harmonisation of the tax and social security bases. In addition, Bulgaria should ensure that the transfer of responsibility for excise duty from the GTD to the National Customs Authority is completed in the shortest possible time.

Some encouraging developments targeted at upgrading administrative capacity can be noted with regard to reducing staff turnover, introducing e-services for individuals and business entities, and improving staff and training policies, including standards of ethics. These efforts should continue, in order to improve tax compliance and revenue collection.

Conclusion

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

Since the Opinion, Bulgaria has achieved a good degree of alignment with the tax *acquis*, particularly as regards VAT, but further alignment is needed in several areas. Administrative capacity needs further strengthening in order to be ready to implement and enforce the *acquis*, notably as regards interconnectivity with EU IT systems.

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

In order to be ready for membership, particular attention must be paid to administrative capacity, with a view to strengthening the tax administration. In this respect, a concept paper has been adopted, which contains proposals for legislative amendments related to the functioning of the National Revenue Agency. Strong efforts to ensure the timely adoption of the envisaged measures and their full application should contribute to the establishment of an adequate implementing capacity. Efforts should continue as concerns specifically IT systems (interconnectivity with EU systems). Attention must also be paid to the full transposition of the *acquis*, notably on excise duties and on direct taxation.

Chapter 11: Economic and Monetary Union

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

Progress made since the last Regular Report

Since the adoption of last year's Regular Report, no new legislation has been adopted concerning the prohibition of direct public sector financing, the prohibition of privileged access for public sector authorities to financial institutions and the independence of the national central bank. However, the government has submitted a proposal for amendments to the Law on the Bulgarian National Bank (BNB) to the National Assembly in June 2004.

Overall Assessment

As to the provisions regarding prohibiting direct financing of the public sector, further legislation remains to be adopted. Among others, in the Bulgarian National Bank's (BNB's) Law the system for offsetting BNB's shortfalls or net losses by temporary transfers of Government securities should be removed and a safeguard clause should be introduced to ensure that credits offered by the BNB to the government for purchases of Special Drawing Rights can only be made if they relate to "obligations" vis-à-vis the

International Monetary Fund. Amendments are also necessary on the Law on the Structure of the State Budget.

In the area of prohibition of privileged access for public sector authorities to financial institutions, Bulgaria has to align its legislation as regards the remaining restrictions on the investment of assets of the social security system. The Law on Public Offering of Securities should also be amended. The Law on Insurance still allows the Council of Ministers to adopt ordinances on the way of forming insurance reserves. Therefore, further provisions should be added through a safeguard clause mentioning that investment restrictions can only be based on prudential considerations and through a clear procedure of appeal against such ordinances.

As regards central bank independence, further efforts are needed to ensure full institutional, financial and personal independence, in the latter case by making rules for dismissal fully compatible with the *acquis* and introducing provisions for judicial review of dismissal decisions.

Administrative capacity is in place and is functioning adequately.

Conclusion

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

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

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. It is generally meeting the commitments and requirements arising from the accession negotiation for this chapter.

In order to complete preparations for membership, Bulgaria's efforts should now focus on completing the alignment regarding the independence of the Central Bank as well as alleviating the remaining restrictions on investment of social security scheme assets and of open-ended investment company assets. Further legislation also needs to be adopted to ensure full prohibition of direct financing of the public sector.

Chapter 12: Statistics

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

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

Progress made since the last Regular Report

Bulgaria has continued to make progress over the past year.

As regards **statistical infrastructure**, the National Statistical Institute (NSI) has introduced (in April 2004) further amendments to the statistical law by regulating access to and the provision of administrative data, defining the scientific and methodological activities of the NSI and by clarifying the confidentiality principle. The amendments to the statistical law also contain provisions for releasing the NSI from the task of maintaining the administrative business register, a step which further aligns the structure of the NSI with European standards.

Concerning **classifications**, no new development can be reported.

As regards the different **sector statistics**, good progress can be reported as follows:

Concerning *demographic and social statistics*, surveys like the labour force survey with the ad-hoc modules, the structure of earnings survey and the survey on vocational training in enterprises are in place. Preparations for carrying out an annual Labour Cost Survey are well advanced and data on public health and accidents at work are available. As for migration statistics concepts and data sources were defined.

As regards availability of *statistics at regional level*, quite a large number of indicators are available for the Nomenclature of Territorial Units for Statistics (NUTS) 2 and 3 levels and some data on demography, social statistics and environment statistics are even available at NUTS 5 level. Development work to build up a comprehensive system of indicators and databases has commenced. Preparations to reorganise the regional offices and define their responsibilities and functions have started.

In the field of *macro-economic statistics*, exhaustiveness and timeliness of annual and quarterly national accounts have further improved. The basic concepts and definitions of ESC 95 were introduced. Experimental financial accounts were elaborated. The concept of accrual accounting was developed by the Ministry of Finance.

For *business statistics*, good compliance has been achieved for short-term statistics.

In the field of *transport statistics* and service statistics no major developments can be reported.

For *external trade*, the quality and timeliness of the EXTRASTAT, the system measuring trade with third countries, have further improved, involving cooperation between the Customs Agency and the NSI. The responsibilities of the various institutions for implementing INTRASTAT, the system measuring trade among Member States, have been defined and preparations for its introduction have further progressed.

For *agricultural statistics*, during the past year, Bulgaria has carried out the agriculture census according to the requirements of European legislation and has already published the first results.

Overall assessment

Statistical infrastructure, the legal basis and organisational structure should be appropriate for the NSI to fulfil its current tasks, but the resources currently available do not permit the NSI to cope with the challenges and requirements of upcoming and newly enforced *acquis*. This is related to pure infrastructure elements such as suitable premises for the NSI as well as to its annual budget. The development of modern IT capacity and associated databases also remains a priority.

The NSI is in the process of reorganising its regional structure in line with the country's administrative reform and will need to deploy considerable resources to implement the reform successfully.

Major national classifications providing direct implementation of European classifications and nomenclatures are in place.

Regarding demographic and social statistics, the statistical output compares with that of most European Union countries in most areas. Statistics on income and living conditions, including poverty, need to be further developed. Statistics at regional level are mostly available and have been brought into line with the regional organisation of the country. Many data are available for the Nomenclature of Territorial Units for Statistics (NUTS) 2 and 3 and some at NUTS 5 level.

Macro-economic statistics are produced on the basis of the European System of Accounts (ESA-95) methodology with a good level of compliance but further efforts are needed to produce financial accounts. Bulgaria is a member of the European comparison programme, which supplies data for the compilation of purchasing power standards. Monetary, financial and balance of payment statistics are compiled by the Bulgarian National Bank following the requirements of the European Central Bank to a large extent. Government finance statistics needs to be brought into line with the ESA 95 concepts.

Structural business statistics and production statistics are produced at a reasonable level of compliance. Short-term business statistics are developed but need further progress in certain sectors. Attention needs to be paid to improving the quality and accuracy of business statistics by improving the quality of the business register and through better use of administrative sources.

Agriculture statistics are available to a certain extent and will be improved in terms of scope and quality after all data available from the agriculture census in 2003 have been processed and compiled.

Conclusion

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

Since the Opinion, Bulgaria has indeed made sustained efforts to progress further in the area of statistics; in addition, a population and housing census and agriculture census were conducted in 2001 and 2003 respectively. Overall, Bulgaria has achieved a good level of compliance. The commitment of staff, the well developed system of planning and the introduction of total quality management into working procedures constitute a good basis for *acquis* implementation that still needs to be undertaken before accession.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments and requirements arising from the accession negotiation for this chapter.

In order to complete preparations for membership, Bulgaria's efforts should now focus on further upgrading methodology and improving quality and completeness of data especially in the areas of national accounts, business statistics and agriculture statistics. Continuous efforts are needed to improve the quality and coverage of the business register. The full operation of INTRASTAT at the date of accession needs to be ensured.

Chapter 13: Social policy and employment

The *acquis* in the social field includes minimum standards in areas such as labour law, equal treatment of women and men in employment and social security, and health and safety at work. Specific binding rules have also been developed in public health (on tobacco control and surveillance and control of communicable diseases) and recently also with respect to non-discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation. The European Social Fund (ESF) is the main financial instrument through which the EU supports the implementation of its Employment Strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 21, which deals with all structural instruments). The Member States participate in social dialogue at European level and in EU policy processes in the areas of employment policy, social inclusion and social protection.

Progress since the last Regular Report

Some progress has been made since the last Regular Report.

In the area of **labour law**, good progress has been made. Legislation transposing the *acquis* on protection of employees in the event of the insolvency of their employer was adopted in April 2004. The law regulates the establishment of a Guarantee Fund at the National Social Security Institute. The fund will guarantee claims arising after 1 January 2005. Furthermore, amendments to the Labour Code transposing a major part of the *acquis* (namely on employers' obligation to inform employees of the conditions applicable to the contract or employment relationship, on the safeguarding of employees' rights in the event of transfer of undertakings, on collective redundancies and on certain aspects of the organisation of working time) were adopted in June 2004. Finally, the *acquis* on organisation of the working time of seafarers was transposed in October 2003.

In the field of **equal treatment of women and men**, important progress has been made in transposing a number of key directives in this area, including equal pay, equal treatment in employment and burden of proof through the Law on Protection against Discrimination, which entered into force in January 2004. The amendments to the Labour Code adopted in June 2004 have introduced *acquis* requirements regarding parental leave

as well as pregnant workers and abolish the prohibition of night work and overtime for certain categories of women. In early 2004, an “Equal Opportunities for Women and Men” sector (including focal points in each Directorate) was established with the Ministry of Labour and Social Policy, with a view to coordinating and implementing the state policy in this area. Furthermore, restrictions on women’s recruitment for military service were repealed.

Some progress has been made in the area of **health and safety at work**. During the reference period, legislation was adopted with a view to transposing the *acquis* on carcinogens and mutagens, on risks related to chemical agents, on minimum safety and health requirements for work on board fishing vessels and on the use of working equipment. A plan for strengthening the administrative capacity of the General Labour Inspectorate in the period 2004-2007 was approved in April 2004. According to information received by this institution, the occupational injury rate dropped by eight percent in 2003 as compared with 2002. A methodology for the envisaged impact assessment of the relevant *acquis* was approved in December 2003. The impact assessment as such has only just started. In July 2004, a timetable for the removal of the compensations for poor working conditions by July 2005 was established.

In the area of **social dialogue**, in 2003 implementing legislation to the Labour Code clarified the criteria for representing workers and employees as well as employers, which resulted in the recognition of five employers’ and two employees’ organisations. The Economic and Social Council, involving both social partners and civil society, was established in November 2003 as a legally independent consultative body on economic and social issues.

With regard to **public health**, implementing legislation determining the list of communicable diseases as required by the *acquis* was adopted in February 2004. A national plan 2004-2007 to strengthen the system for surveillance and control of communicable diseases was adopted in July 2004. Moreover, good progress was made in transposing the *acquis* on human blood and blood components through legislation adopted in November 2003. The *acquis* on human tissues and cells was partly transposed by a new Transplantation Act which entered into force in January 2004. A new method of subsidies to health establishments was introduced in January 2004, aiming at a more equitable allocation on the basis of patients admitted. A new health law adopted in July 2004 provides for the basis of developing a national healthcare system. It aims to codify patient’s rights and defines responsibilities of different institutions in healthcare. The law includes also a chapter on mental health. Furthermore, a strategy and an action plan on mental health were adopted. Legislation on tobacco and tobacco products of July 2004 aims to transpose the *acquis* on the manufacture, presentation and sale of tobacco products.

In the area of **employment policy**, the Government adopted in November 2003 an Employment Strategy for the period 2004-2010. It outlines priorities and measures to boost the economy and envisages *inter alia* a steady decrease of the unemployment rate to less than 10%. On the basis of this strategy, a National Employment Action Plan was subsequently adopted for 2004. A number of new employment programmes (e.g. for agricultural producers, women’s self-employment, etc.) have started and existing programmes such as “From Social Assistance to Employment” were continued. Some steps were taken to modernise the structures of the Employment Agency (one-stop-office principle) and to decentralise responsibilities to Regional Employment Services. A plan and procedural rules to strengthen the institutional capacity of the Employment Agency

were approved in spring 2004. The unemployment rate has dropped steadily since 2001 reaching 13.6% in 2003 which is still fairly high. The sharpest decline in unemployment has been registered in the age group of less than 25 years. However, the employment rate is still low. Bulgaria and the European Commission have continued the work on the Employment Policy Review. A first progress report on the implementation of the employment policy priorities identified in the Joint Assessment Paper (JAP) was submitted to the Commission in April 2004.

As regards the **European Social Fund**, some intermediate bodies for the Operational Programme “Development of Human Resources” were provisionally nominated, such as the Employment Agency.

Concerning **social inclusion**, a strategy for the fight against social exclusion aiming to follow EU policies in this area was adopted in October 2003 and subsequently complemented by an Action Plan. The Commission and Bulgaria are finalising the Joint Memorandum on Social Inclusion (JIM) to identify key challenges and relevant policy responses to promote social inclusion. The JIM is expected to be signed in autumn 2004.

In the area of **social protection**, since January 2004 responsibility for managing all family benefits for children lies with one body, namely the Social Assistance Agency, and monthly benefits for children until the age of 18 have been increased by 20%. A Plan for Equal Opportunities for people with disabilities 2003-2005 adopted in October 2003 outlines activities in the field of rehabilitation and integration. One priority of the plan relates to improving the conditions of people with disabilities in specialised institutions and the development of alternative services. As a follow-up to this plan, the concepts of “Social Assistant” and “Personal Assistant” were introduced in March 2004. In the same month, the Ministry of Labour and Social Policy finally introduced a monitoring of specialised institutions for social services for people with mental disabilities. A law on integration of people with disabilities was adopted in September 2004. In June 2004, a bilateral seminar took place between the Commission and Bulgarian authorities and stakeholders with a view to preparing the participation of Bulgaria in the open method of coordination in the field of pensions.

Although some progress has been made in implementing legislation on **anti-discrimination** adopted in 2003 and in force since January 2004, the Commission for Prevention of Discrimination still has to be established. This Commission will consist of three subcommittees, namely one on racial and ethnic equality, one on gender equality and one on all other grounds of discrimination.

Overall assessment

Apart from the *acquis* on Posting of Workers and European Works Councils, most of the *acquis* in the area of labour law has been transposed. Bulgaria also needs to prepare for the adoption of the recent *acquis* (namely the Directive supplementing the statute of the European Company and the European Cooperative Society as well as the Information and Consultation Directive). Continued focus on improving implementation and enforcement capacity, particularly of the Labour Inspectorates, is needed.

While most of the *acquis* in the area of equal opportunities for women and men has been transposed, further efforts are still necessary in particular as regards statutory pensions and social security. It still has to be verified on the basis of information provided by the Bulgarian authorities whether retirement of civil servants needs to be equalised

according to the principle of equal pay laid down by the Treaty. With regard to occupational social security schemes, the *acquis* needs to be transposed regardless whether such schemes already exist in Bulgaria. Implementing structures still need to be established and strengthened in order to ensure enforcement of the law. It will be particularly important to focus on further developing institutional arrangements in the field of equal treatment. Although the establishment of an “Equal Opportunities for Women and Men” sector in the Ministry of Labour is a positive step, its organisational set-up needs to be improved.

Bulgarian legislation is to a large extent in line with the *acquis* in the area of health and safety at work. However, the *acquis* on explosive atmospheres as well as recent *acquis* on vibration and noise still needs to be transposed. Considerable work remains to be done with regard to implementation and enforcement of the legislation in this area. The financial impact assessment of the individual directives needs to be urgently finalised in order to plan the considerable investments that will be needed both by the Government and by companies to comply with the *acquis* in this area. The compensation system for poor working conditions still needs to be abolished.

Social dialogue needs to be further improved. There are few collective agreements and social dialogue at enterprise and sectoral level is weak. The involvement of the social partners is crucial for the success of employment policy, restructuring process and implementation at all levels (national, sectoral, company) of legislation on working conditions. Moreover, Bulgaria must be ready to play a full role in the social dialogue process and structures at EU level, which is based on free affiliation of workers and employers to their respective organisations.

Investment in the public health system and in particular in the system for communicable disease surveillance and control is required. Laboratory equipment and techniques should be updated to meet minimum EU requirements. The legislation relating to communicable diseases should be urgently updated and an early warning system developed. The transposition of the *acquis* in the area of blood and blood products, tissues and cells needs to be completed and substantial capacity building efforts must be undertaken to ensure proper implementation of legislation. There is little socio-political consensus on concrete steps to pursue the health care reform and to implement the National Health Strategy and Action Plan 2001. Measures should be taken for improving the health status of the population, which remains well below the EU average. Access of people to health services, including of those deprived of welfare support as well as workers in the informal sector, needs to be improved.

The Bulgarian unemployment rate is decreasing significantly since 2002. However, the employment rate though increasing is still low. Further efforts are therefore necessary to implement the Joint Assessment of Employment Policy Priorities. Substantial efforts are needed to develop human resources, notably through training and education helped by reform of the higher and vocational educational systems. These systems have to be in tune with the future needs of the economy. Training measures for the unemployed and incentives for businesses and employees are also needed.

To prepare the ground for the European Social Fund implementation after accession, Bulgaria’s efforts should focus on overall policy coordination, significant investment in human resources development and interministerial coordination. An adequate use of relevant pre-accession funds should continue.

Regarding social inclusion, the Joint Inclusion Memorandum of the European Commission and Bulgaria will represent an important step to prepare Bulgaria for the open method of coordination in the area of social inclusion. Further efforts are necessary to ensure enhanced coordination among relevant ministries and agencies as well as adequate financial back-up of different strategies and action plans. There is little monitoring and evaluation of policy implementation, *inter alia* due to a paucity of good statistical information on disadvantaged groups. Allocation of clear responsibilities between different ministries dealing with social inclusion as well as synchronised decentralisation throughout different ministries for the provision of social services need to be improved. Also access to social assistance needs to be improved, in particular for the Roma minority.

Although the Anti-Discrimination Act has been in force since January 2004, much will depend on the timely setting-up of the Equality body and its resources in order to fully implement the *acquis* in this area. A greater effort will be needed to ensure that anti-discrimination legislation and the several positive measures that have been taken will have a real impact on the substantial problems still being faced by Roma and other minorities (*see also section B.1.2. – Human rights and protection of minorities*).

Conclusion

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

Since the Opinion, Bulgaria has made good overall progress in aligning with the *acquis* in all areas. In particular, progress has been made in transposing the *acquis* in the sphere of labour law and anti-discrimination.

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

In order to complete preparations for membership, Bulgaria's efforts should now focus on effectively implementing the *acquis* and establishing the necessary implementing structures in the areas of labour law, anti-discrimination, equal opportunities for women and men and public health. Social dialogue in line with EC practice needs to be further developed and the General Labour Inspectorate should be further strengthened. The compensation system for poor working conditions needs to be abolished. Progress is needed to improve the health status of the population, which is well below the EU average, and financial resources devoted to health need to be increased. Efforts must be continued to allow for an ongoing and efficient strengthening of administrative capacity with regard to ESF management and implementation at central, regional and local levels. The translation of the EU's objectives of promoting social inclusion into national policies must be continued.

Chapter 14: Energy

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

Progress since the last Regular Report

During the reporting period, Bulgaria has made further progress in preparing its energy sector for the internal market and stepped up actions to improve energy efficiency and the use of renewable energy.

In the area of **security of supply** and the constitution of mandatory oil stocks, Bulgaria adopted implementing legislation on the terms and procedures for organising activities concerning the State reserve and war time emergency supplies (October 2003), and concerning the rules for the structure of the ‘State Reserves and War Time Supplies’ agency (January 2004). The newly created directorate for the management of oil stocks, in that agency, employs 8 persons, although this number should rise to 17. At the end of June 2004, the level of oil stocks was 13.5 days.

In relation to **competitiveness and the internal energy market**, Bulgaria adopted a new energy law in November 2003 which sets the framework for gradual opening up of its electricity and gas markets. It aims to comply with Electricity and Gas Directives. A package of implementing legislation to the Energy Law was adopted during the reporting period. The ordinances regulating electricity, heat and gas prices contribute to improving the competitive environment and cost recovery as do the further electricity and heating price increases. Bulgaria further opened up its domestic *electricity market*, achieving 22% market opening in July (eligible customers are those consuming at least 40 GWh per annum). The National Electricity Company (NEK) maintains the monopoly on imports. The NEK’s Dispatching Center is currently working as a Transmission System Operator (TSO). Account unbundling took effect at the beginning of 2004.

There is no major development to be reported with regard to the opening of the *gas market*. The new Energy Law has strengthened the position of the energy regulator (SERC) vis-à-vis the market players. Its budget is fixed annually by the Council of Ministers; any surplus goes to the State budget. The Prime Minister appoints the members including the chair of SERC. SERC currently employs 79 people, and has 8 vacancies.

In December 2003, Bulgaria signed the Athens Memorandum aiming at the creation of regional electricity and gas markets in South East Europe on the basis of the internal energy market principles. Partner countries are currently developing this Memorandum into a legally binding Energy Community in South East Europe. Two agreements on building power lines between Bulgaria and FYROM were signed in November 2003. In December 2003, a power line linking Bulgaria and Turkey was commissioned. Interconnection with Albania and Greece is under development.

The privatisation of 7 electricity distribution companies has advanced to its final phase through the selection of the successful bidders. The Bobov Dol coal fired power plant was sold. The privatisation of three district heating companies has been completed.

Bulgaria continued with restructuring of the *solid fuels* sector including privatisation of three additional mines.

As regards **energy efficiency and the use of renewable energy sources**, Bulgaria adopted the Energy Efficiency Act. The Act, which defines energy efficiency as a priority for successful integration into the EU, establishes the institutional, legal and financial conditions for the implementation of a national energy efficiency policy. The abovementioned new Energy Law includes provisions regarding the promotion of the use of renewable energy sources in electricity generation. Implementing legislation on the requirements for labelling household appliances in respect to energy consumption was adopted in October 2003. The Energy Efficiency Agency employs 31 persons, the same number as last year. In December 2003, the responsibility for the Centre for Energy Efficiency in Industry was moved from the Ministry of Economy to the Ministry of Energy. Bulgaria renewed its participation in the SAVE and ALTENER programmes in November 2003.

In the field of **nuclear energy**, Bulgaria operates the Kozloduy nuclear power plant (NPP) with two units of the VVER 440/230 design type (Units 3 and 4), and two units of the VVER 1000/320 design type (Units 5 and 6). Units 1 and 2, which are of the VVER 440/230 design type, were closed down for decommissioning in December 2002, in line with closure commitments. In 2003, Kozloduy NPP produced around 17 TWh (40% of the country's electricity) against 20 TWh in the previous year, when six units were in operation. In addition to the Kozloduy reactors, Bulgaria has one research reactor close to Sofia, which presently is still shut down but re-commissioning works started at the end of 2002. Spent fuel from the power reactors is stored at Kozloduy and spent research fuel at the research reactor. Existing waste treatment and disposal facilities are being upgraded and new ones are under construction or planned.

As regards nuclear safety, Bulgaria has continued to implement the recommendations contained in the June 2001 Council Report on Nuclear Safety in the Context of Enlargement and the subsequent Peer Review Status Report of June 2002. A Peer Review Expert Mission under the auspices of the Council took place in November 2003. The purpose of this peer review was to monitor the status of implementation of the relevant recommendations contained in the two above-mentioned reports of the Council. The Peer Review Report on Nuclear Safety in Bulgaria, following this mission, was adopted in April 2004 and concluded that most of the recommendations had already been implemented; those remaining were in progress according to established schedules. The planned actions, which still need to be carried out, seem to be adequate and feasible in terms of human and financial resources. The Report did not consider in its conclusion that further monitoring activity on the recommendations would be necessary. For the first year of operation following the adoption of the law on the Safe Use of Nuclear Energy, the Nuclear Regulatory Authority (NRA) has issued 82 permits for nuclear facilities and 3 licences. The NRA was reinforced with the recruitment of new staff and has now almost reached its target total of 102 people. Fees collected from the licensing of nuclear energy activities are enabling wages to be increased to higher levels than in the central government. The NRA now has a training centre, with the help of international donors.

Reactors 1 to 4 of the Kozloduy nuclear power plant are subject to closure commitments entered into by the Bulgarian government in the framework of the accession negotiations, on the basis of an Understanding signed in 1999 with the Commission. In line with these commitments, Units 1 and 2 were shut down for decommissioning in December 2002. Units 3 and 4 will be closed down for decommissioning in 2006.

The Commission and Bulgaria have continued their dialogue regarding the economic, environmental and social consequences of the closure on agreed dates of these four units. Following the results of an independent evaluation, the Commission proposed to supplement the already agreed assistance of €200 million under a Special Phare Programme with an additional €140 million for the remaining years until accession. Within the framework of the accession negotiations, a further €210 million was agreed with the EU Member States, to be committed in equal annual tranches of €70 million for the years 2007, 2008 and 2009. In total, the financial assistance in support of the decommissioning efforts of certain units of the Kozloduy nuclear power plant, allocated under the principle of solidarity, amounts to €550 million in the period 2000-2009. The assistance will cover measures including support for the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant; environmental upgrading in line with the *acquis*; modernisation of the conventional energy production, transmission and distribution sectors in Bulgaria; and improvements in energy efficiency, use of renewable energy sources and security of energy supply.

The Kozloduy International Decommissioning Support Fund (KIDSF), managed by the EBRD, is the main channel for the assistance granted under the Special Phare Programme to Support the Decommissioning of Nuclear Power Plants and Consequential Measures in the Energy Sector. The EBRD Assembly of Contributors is chaired by the Commission representing the European Community (which is the main contributor to the Fund). Several other donors, including some Member States, also contribute to the Fund. As a result of the KIDSF activities, a number of projects are in progress, some of which have been reinforced this year, while others have been agreed both under the nuclear and the energy efficiency windows of the Fund, notably:

- the establishment of a Project Management Unit on the site of the Kozloduy nuclear power plant (€8.3 million), operational since last year;
- the construction of a dry store for spent fuel assemblies arising from the KNPP units 1 to 4 (€53.9 million), for which a contract was signed in May 2004;
- a decommissioning package, comprising several projects (€5 million), some of which have already started;
- the replacement of electricity metering devices (€3.3 million), a project close to completion;
- the contribution to the Sofia district heating rehabilitation (€20 million), as part of a project to replace 60 km of pipes and 8030 sub-stations, as well as improving insulation over the whole network. Substantial reductions of water consumption and heat losses have been achieved.
- a credit-line facility for energy efficiency and renewable energy loans for enterprises (€10 million), blended with loans and financial engineering by the EBRD and local banks;

- a pilot project for energy efficiency improvements in public buildings (€5 million).

Including administrative costs, this means that close to €110 million has already been committed under the KIDSF. Further projects in the area of technical decommissioning works and energy efficiency are under preparation.

Units 3 & 4 have been through a modernisation programme. The modernisation programmes for Units 5 and 6 are continuing with the support of the European Union. Five tranches of the Euratom loan of €212.5 million for the modernisation of these units, totalling €140 million, have been disbursed. The Bulgarian government is considering the construction or completion of a nuclear power plant on the site at Belene, on the Danube river, where construction was stopped in 1990. An Environmental Impact Assessment has been prepared and a feasibility study engaged.

Regarding radioactive waste management, a State-owned radioactive waste management company was created in February 2004, following the requirements of the Law on the Safe Use of Nuclear Energy adopted last year. It is responsible for setting up a radioactive waste management strategy and for the collection, transport, treatment and conditioning, storage and disposal of radioactive waste.

Overall assessment

As regards oil stocks, legislation to increase oil stocks to the mandatory 90 days by the end of 2012 is largely in place. The State Reserves and Wartime Stocks is agency has been set up, but should be reinforced including through filling the current vacancies as soon as possible. Bulgaria must continue to ensure sufficient financial means to build up progressively its stocks in accordance with the agreed schedule and to renovate the storage tanks.

In the area of the internal energy market (electricity and gas), Bulgaria is making good progress in preparing for the implementation of the Electricity and Gas Directives. The reform of the energy sector and its restructuring, including legal unbundling, the setting up of a transmission system operator in line with the *acquis* and privatisation have progressed. These processes should be completed. In addition to the progress achieved regarding prices including the adoption of pricing rules, Bulgaria should now remove any remaining price distortions. It should also address possible “stranded costs”. The recent adoption of the Energy Law and a package of implementing legislation must be noted. Further legislative alignment is necessary to achieve compliance with the *acquis*, notably as regards public service obligation, unbundling of the transmission and distribution systems and consumer protection. Bulgaria should in particular adopt the necessary implementing legislation and ensure proper enforcement. Market opening is advancing, but reinforced efforts are needed to meet the full market opening requirements of the Directives by accession. In this context, Bulgaria should remove the import and export monopoly of the NEK. Bulgaria should also consider the envisaged market opening schedules in the framework of the creation of the Energy Community in South East Europe for electricity and gas.

SERC is progressively achieving a measure of independence from market operators. However, the financial and human resources of the regulator remain to be further strengthened to allow it to properly fulfil its tasks in line with the *acquis*. Annual budget negotiations hamper its functioning.

Bulgaria is strengthening its position as an energy transit country, including through the development of projects of common interest the guidelines for Trans European energy Networks. It is increasing its role as transit country for gas from Russian, the Caspian sea region and the Middle-East, including through the development of the Nabucco gas pipeline, and for electricity through improving the interconnection with its neighbouring countries. Bulgaria is encouraged to continue its efforts to improve its gas and electricity interconnections, which are essential in order to meet the needs of the internal market, to strengthen the security of supply and also the future Energy Community in South East Europe.

Following the increasing awareness in the EU on the need to protect energy infrastructures from malicious acts, Bulgaria will be expected to actively participate to all initiatives that the EU may take in view of a stronger security in the energy sector.

In the solid fuel sector, part of the restructuring process has been completed. Attention must be paid to fully implementing the restructuring plan by the envisaged date of 2007 and to ensuring that State intervention in the coal sector is in line with the *acquis*.

Despite the fact that Bulgaria has achieved a good level of legal alignment (e.g. adopting the Energy Efficiency Act and the majority of implementing legislation) and has improved awareness of energy efficiency and the use of renewable energy, much more remains to be done. Efforts should focus on completing legal alignment through the adoption of implementing legislation and effectively promoting energy efficiency and the use of renewable energies through appropriate measures and incentives. An Energy Efficiency Fund is being established with the financial support of international donors, to support investment projects in the field of energy efficiency and renewable energy sources. Other initiatives in this area have been supported with EU funds and by other donors, in particular within the framework of the Kozloduy International Decommissioning Support Fund (*see above*). Ensuring sufficient financial means and making effective use of the available financial support should be further stepped up. The draft National Plan for Renewable Energy Sources 2004-2014, which should include ambitious targets, should be adopted and implemented.

The Energy Efficiency Agency must be further strengthened in terms of budget, staff, training and equipment.

The European Union has repeatedly emphasised the importance of a high level of nuclear safety in candidate countries. As indicated in previous Regular Reports, Units 3 and 4 of the Kozloduy Nuclear Power Plant have a number of deviations from safety requirements due to their original design. Like Units 1 and 2, which were effectively shut down for decommissioning at the end of 2002, they are subject to closure commitments made within the context of the accession negotiations which must be duly respected.

Following the Peer Review Report on Nuclear Safety in Bulgaria adopted by the Council in April 2004, Bulgaria should continue with its implementation of all the recommendations contained in the Report on Nuclear Safety in the Context of Enlargement (June 2001) and the Peer Review Status Report (June 2002) according to established schedules and with regard to the priorities assigned in these reports. These include in particular the strengthening of the resources and capacity of its nuclear regulatory authority (NRA) and the full implementation of the safety improvement programmes in place. Several international programmes are in place to support the NRA. The creation of a national company for the management of radioactive waste is a

welcome step, although a clear interrelationship with other nuclear bodies should be established. Bulgaria should continue to strengthen its capacity in the area of radioactive waste management and in the definition of a clear waste management strategy, identifying the gaps and shortcomings in current management schemes.

Bulgaria will need to ensure compliance with Euratom Treaty requirements and procedures. In this respect, due attention will need to be paid to preparing the implementation of Euratom safeguards, in particular regarding the reporting of nuclear material flows and inventories directly by the persons or undertakings operating nuclear installations or storing nuclear materials. This includes small holders like universities and medical facilities.

It is recalled that Bulgaria has signed a safeguards agreement with the IAEA which entered into force in 1972 and it has also ratified an Additional protocol to the Agreement, which entered into force in October 2000.

Conclusion

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

Since the Opinion, Bulgaria has made continuous progress, in particular after 2001. Progress is to be noted regarding energy sector restructuring including privatisation, alignment and administrative capacity on oil stocks, the internal energy market (electricity and gas), solid fuels and nuclear energy. Despite a good level of legal alignment, progress on energy efficiency and renewable energies remains weak. Bulgaria has accepted and addressed all the recommendations contained in the 2001 Council Report on Nuclear Safety in the Context of Enlargement and its subsequent 2002 Peer Review Status Report. Bulgaria has respected early closure commitments for Units 1 and 2 of the Kozloduy nuclear power plant and confirmed its commitment to shut down for decommissioning Units 3 and 4 in 2006.

Negotiations on this chapter have been provisionally closed. Bulgaria has been granted one transitional period, until 31 December 2012, for the building-up of 90 days of oil stocks. Bulgaria is generally meeting the commitments and requirements arising from accession negotiations for this chapter.

In order to complete its preparations for membership, Bulgaria's efforts should now focus on the full and timely adoption of implementing legislation in this field, in particular regarding the internal energy market (electricity and gas) and on strengthening the administrative capacity (e.g. the regulator SERC and the Energy Efficiency Agency). The energy sector restructuring programmes including those for solid fuels, should be completed, with due regard to social consequences. Remaining price distortions need to be eliminated. Bulgaria should devote appropriate attention to the progressive building

up of oil stocks and ensure the necessary financial means for this. Particular efforts should be made to improve energy efficiency and the use of renewable energy. Regarding nuclear safety, Bulgaria is encouraged to maintain its efforts for improving the safety of nuclear installations following the recommendations of the Council reports and other international organizations and with regard to the preparation for closure and decommissioning of certain units of the Kozloduy nuclear power plant; Bulgaria should further strengthen the administrative capacity of the nuclear regulatory authority.

Chapter 15: Industrial policy⁷

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

Progress since the last Regular Report

Since the last Regular Report, Bulgaria has made further progress with regard to industrial policy, including privatisation and restructuring.

Regarding the government's **industrial strategy** and policy, some progress can be noted. In April 2004, the Law on Investment Promotion was adopted, amending the previous Law on Foreign Investment. This seeks to set uniform investment conditions for both local and foreign investors and introduces incentives differentiated by the size of investment project. At the end of April 2004, the Minister of the Economy presented the government's key priorities for economic policy, which include raising incomes, speeding up growth, infrastructure and taxation policy. In August, the Council of Ministers adopted an Innovation Strategy for Bulgaria. However, these elements should also be embedded in a coherent industrial policy strategy targeting improvements in the business environment

Business and investment conditions improved further with progress on abolishing or simplifying licensing and permission regimes and the reduction of the corporate tax rate to 19.5% in early 2004 (from 23.5% a year earlier). Procedures for establishing a company are very lengthy. In May 2004, the Foreign Investment Agency announced the establishment of the first industrial zone. However, the initial plans to establish one-stop-shops as focal points providing services to potential investors and entrepreneurs and take measures to boost research and development have not been followed up.

In 2003 the ratio of gross fixed capital formation to GDP increased to 19.6%. Foreign direct investment reached a record high of €1,190 million in 2003, up from €923 million in 2002, and already stood at €962 million in the first six months of 2004 alone.⁸ The

⁷ Developments concerning industrial policy should be seen in relation to overall enterprise policy, including SME policy (*see also Chapter 16 - Small and medium-sized enterprises*).

⁸ Provisional balance of payments figures.

number of significant greenfield investments remained modest, with the lion's share of foreign direct investment split between investment as a result of privatisation deals and investment on expanding operations, the latter being a sign of increased confidence to invest in Bulgaria.

Further progress has been made as regards **privatisation and restructuring**. The number of large companies remaining for privatisation has been considerably reduced. The process of privatising two of the biggest state enterprises, the ex-monopolies for telecommunication and tobacco, has advanced by overcoming the procedural problems of the past. The sale of the Bulgarian Telecommunication Company was finalised in June 2004. *Bulgartabac's* four best-performing subsidiaries, in two packages of two each, as well as twelve of its tobacco-processing factories have been published for sale. In the energy sector, preferred buyers have been selected for the electricity distribution companies and negotiations on the specific conditions have started. 27 out of 42 hydroelectric power plants have been sold already. The completion of the privatisation process remains a priority, in particular in the energy sector. With regard to the restructuring of the steel industry, in March 2004 Bulgaria presented a national programme for restructuring and developing the steel industry by 2007, the adoption of which is dependent on a European Council decision. This will allow for the extension of the grace period provided for in Protocol II of the Europe Agreement, during which state aid for restructuring the steel sector may be granted (*see also Chapter 6 – Competition policy*).

With regard to administrative capacity, the internal organisation of the Ministry of the Economy has been revised to include three new directorates, for General Economic Policy, Enterprise Policy and Investment Policy. The new Law on Investment Promotion enabled the establishment of the Investment Agency for which rules of procedure were adopted in August 2004. This is an executive agency under the control of the Minister of the Economy and the successor body to the State Agency for Foreign Investment, which will provide information and services for both foreign and domestic investors and explore investment opportunities abroad. The entry into force of the SME Law and the adoption of rules of procedure in August 2004 lead to the creation of an Agency for Promotion of Small and Medium-sized Enterprises (SMEs) through merger of the Agency for SMEs and the Trade Promotion Agency. The Post-Privatisation Control Agency has raised its profile by proposing, amongst other things, the termination of the sell-off contracts for 5 companies which had failed to fulfil their obligations.

Overall assessment

Bulgaria has pursued an industrial policy based on privatisation and restructuring, investment promotion and improving the business environment. However, the Government's policy in this area lacks strategic orientation and co-ordination, and the recently prepared Innovation strategy should be finalised and implemented. Partly owing to Bulgaria's specialisation in labour-intensive and resource-intensive industries, innovation, technology transfer and research and development initiatives by either public or private sectors, remain rare in Bulgaria. While the government has made some progress with regard to simplifying or abolishing certification and registration procedures, many administrative obstacles for businesses remain, in particular as regards the registration of companies. Bulgaria should focus its efforts on further improving the business environment, including the reduction of red tape and the provision of quality

business-support services. Efforts to promote innovation, technology transfer and research and development should be stepped up.

With regard to administrative capacity, the main institutions involved have continued to perform soundly, including the Commission for the Protection of Competition, the Foreign Investment Agency, the Privatisation Agency and the Post-Privatisation Control Agency. The restructuring of the Ministry of the Economy should be used to effectively increase its capacity to formulate and implement a coherent industrial policy strategy targeting further improvements in the business environment. The merger of the Agency for Small and Medium-sized Enterprises with the Trade Promotion Agency forming the new executive Agency for Promotion of SMEs should be seen as an opportunity to profoundly improve the efficiency and profile of the two areas formerly covered by those agencies, i.e. business support and trade promotion. Despite the fact that the government has started consulting and dialoguing with the business community and its representatives, there is scope for improving the formulation and implementation of enterprise policy. Coordination of the various business-support structures and branch organisations also needs to be significantly improved and the capacity of the different bodies enhanced. Attention should also focus on improving inter-ministerial coordination with regard to formulating industrial and enterprise policy.

The privatisation process should be completed and last obstacles to the sale of major state-owned companies overcome. Efforts should continue to be made regarding the privatisation of companies, in particular in the energy sector and the sale or liquidation of small state-owned companies. The adopted steel restructuring plan should be implemented decisively.

It should be noted that an important element of any industrial policy is controlling state aid and ensuring support schemes are in line with EC rules, both of which remain to be assessed (*see also Chapter 6 - Competition policy*).

Conclusion

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

Since the Opinion, Bulgaria has made progress with regard to privatisation and restructuring, improving the business environment, consolidating the banking sector and attracting foreign investments. Bulgaria's policy towards industry is broadly in line with the principles and objectives of EC industrial policy.

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

In order to complete preparations for membership, Bulgaria's efforts should now focus on formulating and implementing an industrial policy conducive to growth and innovation that will enhance economic competitiveness. This will include further improvements to the business environment, promoting innovation and research and

development and efficiently completing the privatisation and restructuring process. Institutional changes that have been decided recently need to be implemented successfully and capacity within the different authorities and bodies further improved. Coordination with business-support structures and branch organisations and the consultation of the business community by the government also provide scope for improvement.

Chapter 16: Small and medium-sized enterprises⁹

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

Progress since the last Regular Report

Since the last Regular Report, Bulgaria has made further progress with regard to SME policy and the improvement of the business environment.

As regards **SME policy**, in July 2004 Bulgaria adopted a Law for Small and Medium-sized Enterprises (SME) amending the former SME Law. This law includes provisions, on the one hand, for better coordination of SME Policy and the definition of SMEs and, on the other, for the establishment of an executive agency under the Ministry of Economy in charge of implementing SME Policy, including services provision to SMEs. Bulgaria continued to take part in the EC Multi-annual programme for Enterprise and Entrepreneurship for SME and in the process linked to the European Charter for Small Enterprises. Following a Council of Ministers decision of October 2003, the Ministry of Economy was restructured to include an Enterprise/SME Policy department.

Bulgaria has made some progress in relation to the improvement of the **business environment**. Work on the simplification or abolition of licensing, permission and registration regimes has continued and access over the Internet of the public register of the different regimes has been further facilitated. The Law on Reduction of Administrative Regulation and Administrative Control entered into force in December 2003. It provides, on the one hand, for a tacit consent procedure with regard to certification and permission regimes and, on the other, it introduces the requirement of a regulatory impact assessment of draft laws, which contains provisions on licensing or registration regimes. Bulgaria has improved the dialogue between the government and business by initiating two bodies: the Council for Economic Growth, which is a forum to discuss general economic and business development issues, and the Joint Consultative Council, which aims to inform business on EU legislation and commitments under the accession negotiations. The large informal economy also makes competition harder for those SMEs which play by the rules.

⁹ Developments concerning SME policy should be seen in relation to overall enterprise policy, including industrial policy (see Chapter 15 - Industrial policy).

Access to finance for SMEs has further improved due to both the positive development of the banking sector and specific credit lines targeting SMEs. Beside the government's 'guarantee fund for micro-crediting', EU-assisted SME credit lines provided by IFIS through local partner banks and a new credit line by the EBRD (supported by the Kozloduy International Decommissioning Support Fund; see also chapter 14 – Energy) for investments in energy efficiency by SMEs, private sector lending to SMEs remains buoyant. Non-banking financial instruments, however, are still largely underdeveloped.

While the new law for SMEs did revise Bulgaria's **SME definition**, this is still not fully in line with Commission recommendations.

Overall assessment

Bulgaria's SME Policy is broadly in line with the principles and objectives of EU enterprise policy, except with regard to restricted parts of the SME definition. However, SME policy-making and especially implementation remain uncoordinated and at a rather low level compared to EU practices. Therefore, recent promising legal and institutional changes should be effectively implemented and pursued. At policy level, the planned national strategy for entrepreneurship promotion and SMEs and the annual programmes for its implementation need to be prepared and put into effect. Attention should be given to efficient involvement of the business community and to effective policy implementation, including business services provision, at local and regional level. Representatives of small business should be included in fora such as the Council for Economic Growth and be more actively consulted on policy-making.

The administrative and regulatory burdens and deficiencies in the judicial system remain key factors impeding the business environment. Developments with regard to the deregulation process are promising and should be pursued, particularly with regard to the revision of secondary legislation. In order to reduce the informal economy, the tax burden needs to decrease and incentives allowing informal businesses to legalise have to be increased.

Access of SMEs to finance has considerably improved. However, there is scope for improving the regulatory framework and availability of non-banking financial instruments, e.g. credit unions and mutual credit cooperatives.

The key administrative structures, i.e. the Ministry of Economy and the Agency for Small and Medium-Sized Enterprises, have so far lacked sufficient capacity and institutional clarity to prepare and implement a credible and efficient SME policy. However, recently decided institutional changes and processes provide a better basis for developments in SME policy. Attention has to be paid to increasing the capacity of the different bodies involved, including regional and local level bodies, such as the new Agency for Promotion of SMEs. Implementation of SME policy will be a major challenge for these institutions, including, amongst others, the crucial role of coordination and facilitating the coherent provision of SME support services across the country. Administrative capacity to implement EU-funded projects and the creation of local business support structures needs to be further improved. Equally, NGOs representing SMEs at national and regional levels (Chambers, Branch Associations, Regional Development Agencies) should be encouraged to make their cooperation and coordination of service provision to companies more professional. The consultation mechanisms of business associations on the formulation of SME policy should be further improved.

Implementation of the European Charter for Small Enterprises is continuing in a satisfactory manner and as planned. However, recommendations made should be implemented more actively.

Bulgaria should complete its full alignment of its definition of SMEs with the relevant Commission recommendations.

Conclusion

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

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

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

In order to complete preparations for accession, Bulgaria's efforts should now focus on preparing and implementing a credible and efficient SME policy. It should further improve the business environment by continuing in particular to simplify licensing and registration regimes. Business support measures by governmental and non-governmental bodies have to be better coordinated and improved in terms of efficiency and consistency. This will require, amongst other things, further significant improvements in the administrative capacity of the Ministries, agencies and other bodies involved.

Chapter 17: Science and research

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

Progress since the last Regular Report

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

During the reference period, Bulgaria continued to be associated with the **Sixth EC Framework Programme** and with the **Sixth Euratom Framework Programme**.

In October 2003, a law on the promotion of scientific research was adopted, establishing both the objectives of scientific research and methods of selection and funding of research activities. The law stipulates the basic functions of the National Council for scientific research, aims at establishing a fund on scientific research and provides for the development of a National Strategy for Scientific Research.

Some limited indirect forms of financial and tax relief for scientific activities were introduced, for instance through the adoption of legislation on public procurement. A new Directorate for scientific research and research development was established within the Ministry of Education and Science. Its task is to propose legislation in this area, to coordinate national research and technological development projects, to analyse state budget allocations to research and to encourage participation in research projects. Implementing legislation adopted in May 2004 clarifies the fact that the National Council on Scientific Research, consisting of the Minister for Education and Science and 19 members from the relevant ministries, higher education schools, and employers' organisations, should support the Ministry of Education and Science in implementing policies in the science and research areas.

An innovation strategy aiming to increase the competitiveness of the Bulgarian industry was adopted in August 2004 and envisages the stimulation of research and technological development in enterprises and the fostering of applied research.

Overall assessment

The framework for cooperation in the field of science and technology (including National Contact Points) continues to be well established. Representatives of Bulgaria continue to participate as observers in programme committee meetings under the Sixth EC Framework Programme. Currently fifteen Bulgarian partner institutions co-operate with thirteen research networks of the Joint Research Centre of the European Commission.

An overall strategy for scientific research and technological development is still lacking, although an analysis for such a strategy has been completed. The planned Fund on scientific research has not yet been established. In order to achieve the objectives of the law on the promotion of scientific research, further implementing legislation should be adopted.

To ensure Bulgaria's successful association of with the relevant Framework Programmes as well as effective participation in the European Research Area, research-related administrative capacity and infrastructure should be further reinforced. Both Government and business expenditure on research is still relatively low and needs to be increased in view of the target of three per cent of GDP by 2010 set by the Barcelona European Council. Furthermore, the links between research institutes, industries and SMEs should be strengthened and the development of research infrastructure and research-related administrative capacity should be encouraged.

Conclusion

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

Since the Opinion, Bulgaria has made continuous progress and stepped up its cooperation with the EU in this field.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area and is generally meeting the commitments and requirements arising from the accession negotiations for this chapter.

In order to complete preparations for membership, Bulgaria's efforts now need to focus on developing an overall strategy for scientific research and technological development and further reinforcing research-related administrative capacity and infrastructure.

Chapter 18: Education and training

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

Progress since the last Regular Report

Some progress has been made since the last Regular Report.

Bulgaria continues to participate in the second generation of the relevant **Community programmes**, namely Leonardo da Vinci, Socrates and Youth.

Concerning implementation of the Directive on the **education of the children of migrant workers**, comprehensive information on the requirements of this *acquis* was disseminated to all 28 regional educational inspectorates where specific contact points are to facilitate the implementation of the Directive.

Some progress has been made in **reforming the education and training system**. Implementing legislation on the conditions of final school examinations and on support to talented children was adopted. The transformation of the vocational education and training system to better meet the needs of a market-oriented economy continued: an updated list of occupations was adopted in January 2004. The process of establishment of National Educational Requirements (standards) for acquiring vocational qualifications continued and up to July 2004, 36 standards were approved by the Ministry of Education and Science. These standards aim at ensuring transparency and comparability of qualifications with relevant European standards.

In May 2004, a new lifelong learning department with six staff was established within the Ministry of Education and Science. It aims at ensuring a link between the formal

vocational education system and continuing education. Staff of the National Vocational Education and Training Agency was increased to 24. A regulation on practical training (in cooperation with employers) was worked out and with a view to developing adult education a new department on continuing education in the Ministry of Education started its activities end 2003.

Some steps have been taken to optimise the school network though clear indicators on the end result are lacking.

Amendments to the higher education act aim to introduce issues related to the Bologna process, including a European Credit Transfer System and envisage measures to increase the effectiveness of the National Accreditation and Evaluation Agency.

Overall assessment

Participation in relevant Community programmes is satisfactory, and measures have been taken to resolve the longstanding problem of inadequate support for the Socrates and Leonardo da Vinci National Agencies by the national authorities and to improve the management capacities of the three programmes.

Bulgarian legislation is in line with the Directive on the education of the children of migrant workers. Investment in education measured as a share of GDP as well as enterprise expenditure on continuing vocational training is still below the EU average (*see also section B.2. - Economic criteria*). Funding for vocational education and training has been increased but is still considered low given modernisation needs. In order to further develop vocational education and training reforms in line with economic needs, more cooperation between training systems of different Ministries is needed. Various Ministries and agencies are still trying to find their role in implementing the lifelong learning system and an overall strategy for lifelong learning and continuing vocational training (CVT) needs to be finalised in cooperation with the social partners. Improving access to CVT and raising the skills level of the workforce should be considered a major priority. Cooperation between schools and enterprises needs to be improved while the system of teacher training needs to be reformed in the context of new training standards for initial vocational education and training.

Assuming that approximately 40 training standards for all occupations are approved annually, the process of developing them will continue until 2006 or 2007.

The Bulgarian vocational education and training system remains centralised. Initial vocational education and training is financed by the state with few exceptions where the funding is ensured by the municipalities.

The share of people aged between 25 and 64 with higher education is equivalent to the EU average.

Conclusion

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

Since the Opinion, Bulgaria has achieved steady progress, including with regard to its participation in relevant Community programmes. Legislation is generally in line with the *acquis* in this area and administrative capacity is in place.

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

In order to complete preparations for membership, Bulgaria's efforts should now focus on further developing its administrative capacity in this domain.

Chapter 19: Telecommunications and information technologies

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

Progress since the last Regular Report

Some progress has been made since the last Regular Report.

After the adoption of the **Telecommunication** Act in October 2003 as referred to in last year's report, implementing legislation on licensing for fixed networks and cable TV was approved during the reference period and five new operators of fixed networks have been licensed. Many registrations have been made under the ten general licences in force. Realignment of the incumbent's prices with costs has proceeded further. The incumbent's Reference Interconnection Offer was approved by the regulator.

During the reference period, the frequency allocation table was updated and some measures were taken to increase the amount of radiofrequency spectrum available for civil needs.

Despite difficult market conditions, the 65% privatisation of the incumbent operator, the Bulgarian Telecommunications Company, was achieved and a third GSM licence, making use of unused spectrum, was issued.

Some progress has been made in improving the regulatory body's monitoring of the market. The Commission for the Regulation of Communication (CRC) is headed by five members, one of them appointed by the Council of Ministers, three by the Parliament and one by the President. The chairman of this body was dismissed in May 2004 by the Council of Ministers, an appeal was launched and judicial proceedings are continuing.

Concerning the information society, an action plan for the implementation of the Bulgarian e-Government strategy was adopted in March 2004. It envisages measures to ensure qualitative, effective and easy-to-access public services by electronic means.

In the area of **postal services**, implementing legislation was adopted on postal security and confidentiality during the reference period. In summer 2004, methodologies defining the affordability of the price of the universal postal service as well as on proving the deficit of universal service provision under economically unprofitable conditions were adopted. Finally, implementing legislation refer to standard quality levels for universal postal service.

Overall assessment

Bulgaria has reached a reasonable degree of alignment with the telecommunications *acquis*. However, some implementing legislation for the existing Telecommunications Act is still needed and the updated telecommunications *acquis* remains to be transposed. Moreover, the regulatory authority should be given power to resolve commercial disputes as required by the *acquis*.

The telecommunications market was in principle opened in January 2003, but further steps need to be taken to ensure effective liberalisation. The entry of new players to the market has been hindered by late availability of implementing measures. The delay in approving a Reference Interconnection Offer (RIO) hampered the interconnection of operators with the incumbent and the participation of licensed operators in the fixed telecommunications service market. Due to this lack of interconnection, carrier selection has not been implemented, although it is envisaged through existing legislation. Only in July 2004, the incumbent operator signed an interconnection agreement.

The 65% privatisation of the incumbent operator contributes to removing the uncertainty over the future of the incumbent and should have a generally positive effect on inward investment. The expansion of the mobile sector has continued and the quality of service has improved.

The regulatory body's monitoring of the market is good and a reasonable basis has been established for the market analysis that will be required when the updated telecommunications *acquis* (of 2002) is transposed. The dismissal of the CRC chairman raises questions with respect to the structural separation of regulatory functions from activities associated with ownership or control of telecommunications operators as required by the *acquis*. Full separation therefore remains to be ensured.

Concerning postal services, further implementing legislation is needed, notably to ensure an effective supply of universal services and to complete transposition of the second postal services directive especially concerning the reserved area. . Systems for quality measurement, cost accounting and accounting mechanisms still need to be put in place. Further steps need to be taken to improve the administrative capacity and independence of the regulator in this area (Communications Regulation Commission).

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria would have difficulties in adopting the EU model of telecommunications liberalisation because of the slow development of this sector and delays in the field of regulatory reforms. Furthermore, it was outlined that the competitiveness of the public network operator will crucially depend on a substantial increase in foreign investment and an in-depth internal

restructuring, aimed in particular at improving the commercial flexibility of the company.

Since the Opinion, Bulgaria has made good progress in aligning with the *acquis*. However, Bulgaria will need to adopt further legislation for implementing existing telecommunication legislation. The updated telecommunications *acquis* needs to be transposed before accession.

Negotiations on this chapter have been provisionally closed. Bulgaria has been granted a transitional arrangement until 31 December 2008 as regards the implementation of number portability as required by Directive 98/61/EC. Bulgaria is meeting the majority of the commitments and requirements arising from accession negotiations for this chapter.

In order to complete preparations for membership, Bulgaria's efforts should now focus on ensuring entry of new players in the market through swift implementation of effective interconnection and promotion of pro-competitive pricing policies by the larger operators. Bulgaria also needs to focus attention on improving the separation of functions and reaffirming the full independence of the regulatory body. An affordable universal service needs to be ensured and alignment with the *acquis* in the telecommunications and postal services sectors needs to be completed.

Chapter 20: Culture and audiovisual policy

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

Progress since the last Regular Report

There are few developments to be reported since the last Regular Report.

Concerning **audiovisual policy**, a long-envisaged Strategy for Development of Radio and Television activities has still not been adopted. The purpose of this Strategy is to define national priorities and public interests when granting radio and television licenses with a view to ensuring a more efficient allocation of remaining frequencies. The absence of the Strategy creates legal difficulties for the Council of Electronic Media, the independent regulatory authority, as it should issue radio and television licences in accordance with it. Amendments to the Law on Radio and Television adopted in October 2003 have provided an interim solution allowing the issue of temporary broadcasting licences by the Commission for the Regulation of Communications until the adoption of the Strategy.

The Telecommunications Law in force since October 2003 includes an obligation for cable operators to disseminate free of charge the national and regional programmes of the national public operators the Bulgarian National Television and the Bulgarian National Radio within their networks.

Since the last Regular Report, three additional staff members have been recruited for the Council of Electronic Media though 18 of the 76 posts remain vacant. Administrative capacity is being enhanced through training and a focus on improved monitoring, particularly in the regions.

Bulgaria continued to participate in the Media Plus and Media Training Community programmes. A Bulgarian Media Desk was established and a Director selected in April 2004.

In the area of **culture**, Bulgaria continued to participate in the Culture 2000 programme.

Overall assessment

Bulgarian legislation is in line with the *acquis*. However, Bulgaria still needs to take further steps to ensure predictable, transparent and effective implementation of the regulatory framework. The fact that the Head of Bulgarian National Television has frequently been changed during the last ten years has not been conducive to stability of management or strategic planning. Despite the interim solution found, legal uncertainty in the issuing of licences continues. The Radio and Television Fund, which should provide additional financing for the Bulgarian public service broadcasting and the CEM, has not yet been set up due to the lack of a mechanism to collect fees from subscribers, although its establishment was envisaged for 2003.

There is a need to continue enhancing the administrative capacity of the regulator in the audiovisual field, particularly concerning the monitoring of regional and local broadcasters.

Conclusion

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

Since the Opinion, Bulgaria has made significant progress. Bulgaria's legislation is in line with the *acquis* and the necessary administrative structures are in place.

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

In order to complete preparations for membership, Bulgaria's efforts should now focus on strengthening the administrative capacity of the regulator and ensuring predictable, transparent and effective implementation of the regulatory framework, including licensing.

Chapter 21: Regional policy and coordination of structural instruments

The *acquis* under this chapter consists mostly of framework and implementing regulations, which do not require transposition into national legislation. They define the rules for drawing up, approving and implementing Structural Funds programmes and

Cohesion Fund actions. These programmes are negotiated and agreed with the Commission, but implementation is the responsibility of the Member States. It should be noted that the Structural Funds regulations will be revised by the end of 2006 at the latest. It is essential that Member States respect Community legislation in general, for example in the areas of public procurement, competition and environment, when selecting and implementing projects, and have the necessary institutional structures in place to ensure implementation in a sound and cost-effective manner from the point of view of both management and financial control.

Progress since the last Regular Report

Bulgaria has made good progress since the last Regular Report in the area of regional policy and coordination of structural instruments.

Bulgaria has further refined its **territorial organisation** by dividing its territory into two NUTS level 1 statistical regions.

As regards the **legislative framework**, several new pieces of legislation have been adopted, including the Regional Development Law establishing a framework for regional policy planning, and new legislation in the area of public procurement and equality between men and women. Furthermore, secondary legislation has been adopted aimed at setting up necessary bodies or leading to institutional/organisational changes in relevant Ministries with a view to preparing for the implementation of the Structural Funds.

Further progress has been achieved in relation to setting up the necessary **institutional framework** for the implementation of structural instruments essentially at central level. The Management of EU Funds Directorate in the Ministry of Finance, the future managing authority for the Community Support Framework, has created a new 'Monitoring and Evaluation' unit, prepared an Organisational Development Strategy and was involved in a number of relevant training activities. Monitoring Units are being established in each Operational Programme (OP) managing authority. The Regional Development Directorate General in the Ministry for Regional Development and Public Works was restructured in the reference period to take account of future tasks as managing authority of the Regional Operational Programme, including monitoring and evaluation, and to integrate cross-border activities. The Pre-accession Programmes and Projects Directorate in the Ministry of Economy, the future managing authority of the Competitiveness OP, was also restructured in view of its future role of managing structural instruments, and new staff were hired. The Coordination of Programmes and Projects Directorate in the Ministry of Transport and Communication was designated future managing authority of the Transport OP. The Pre-Accession Funds and International Programmes and Projects Directorate at the Ministry of Labour and Social Policy has been involved in training and other measures in preparation for its future role as managing authority of the Human Resources Development OP.

As regards **programming**, work on the preparation of the 2007-2013 National Development Plan (NDP) has started with the setting-up of the Coordination Council for the NDP, the subsequent approval by this body of the methodology for the preparation of the NDP and the establishment of the first working group on the NDP. Work on the socio-economic analysis and the definition of strategic priorities is at an advanced stage.

Some progress can be noted with regard to the implementation of the partnership principle with the involvement of a broad spectrum of partners in the NDP working group and the provision of specialised training for different partner organisations.

In relation to **monitoring and evaluation**, progress remains limited with the only significant step being the start of the establishment of specialised units dealing with this area in several future managing authorities.

With regard to **financial management and control**, internal auditors of the Public Internal Financial Control Agency have been delegated to all relevant Ministries to carry out an analysis of the functioning of the respective financial management and control systems.

In relation to **statistics**, the units dealing with regional statistics at the National Statistical Institute were strengthened and staff numbers were increased.

Overall assessment

On territorial organisation, Bulgaria has agreed on a provisional NUTS level 2 classification of regions with the Commission and decided on a NUTS level 1 division of its territory in line with the relevant EC regulation.

With regard to the legislative framework, important decisions are outstanding, including on the administrative centres of NUTS level 2 regions and about the indicators for determining the types of regions for targeted support/impact. Secondary legislation needs to be prepared with regard to the setting up of institutional structures at NUTS level 2. Further legislation has to be amended to allow for full multi-annual budget programming and financial flexibility. Bulgaria must give particular attention to ensuring future compliance with other Community policies and legislation as required by the Structural Funds Regulations, especially in the fields of public procurement, environment and competition.

While progress was made with regard to the institutional framework, Bulgaria needs to complete the designation of some managing authorities and of several intermediate bodies. Efforts to improve the administrative capacity of key bodies and ministries have to be accelerated. While some Ministries at central level still have a lot of catching up to do in this context, particular attention on matters of capacity building also has to be given to bodies at central and even more at regional level, which either have not yet or only recently been designated. Organisational development and human resources strategies, so far only produced in the Ministry of Finance, now need to be prepared and implemented in all key bodies. Inter-ministerial co-ordination and even more so relations and coordination between central and regional level need to be considerably further improved in order to ensure the effectiveness of future implementation mechanisms. In its preparations for the Structural Funds, Bulgaria should make best use of the pre-accession instruments and pay particular attention to a timely and effective implementation of projects funded under Phare and ISPA.

With regard to programming, Bulgaria has embarked on a very ambitious schedule of producing the National Development Plan (NDP) and other programming documents. All relevant players should be aware of their role, the quality requirements of the documents and the tightness of the schedule. Particular attention has to be devoted to improving the involvement of regional, socio-economic and non-governmental partners in this process.

This holds true also for the setting up of a high quality 'project pipeline', which now needs to be given priority, using pre-accession and other available funds. Further improvements in the process of inter-ministerial coordination should also be a priority.

Bulgaria is still at an early stage in relation to monitoring and evaluation tasks. Measures to build up integrated management information systems have to be implemented speedily and effectively.

With regard to financial management and control, further progress is needed, including the establishment of clear procedures for financial control, auditing, certification of expenditure and correction of irregularities. Attention must still be paid to a clearer separation of functions with regard to financial management and control.

On statistics, in view of the preparation of the National Development Plan and Operational Programmes, notably the Regional Operational Programme, rapid further improvements are now needed, notably with regard to regional statistics.

Conclusion

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

Since the Opinion, Bulgaria made progress notably with regard to the legal and institutional framework as well as with regard to budget programming and to some extent with regard to inter-ministerial coordination. Significant progress, however, is needed in order to bring administrative capacity up to the necessary levels.

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

In order to complete preparations for membership, Bulgaria's efforts should now focus on proceeding with planned measures for the improvement of administrative capacity in key Ministries and improving the capacity of other relevant bodies, such as the intermediate bodies, and other relevant players notably at regional and central level. The setting up of efficient and integrated monitoring and evaluation systems, and fully transparent procurement procedures must be a priority as well as further improvement of the financial management and control systems. Attention must also be paid to observance of an ambitious planning schedule for the NDP and to the full involvement of relevant partner organisations in this process.

Chapter 22: Environment

Community environment policy aims to promote sustainable development and protect the environment for present and future generations. It is based on the integration of environmental protection into other Community policies, preventive action, the polluter

pays principle, fighting environmental damage at source and shared responsibility. The *acquis* comprises over 200 legal acts covering horizontal legislation, water and air pollution, management of waste and chemicals, biotechnology, nature protection, industrial pollution and risk management, noise and radiation protection. Ensuring compliance with the *acquis* requires significant investment, but also brings significant benefits for public health and reduces costly damage to forests, buildings, landscapes and fisheries. A strong and well-equipped administration at national, regional and local level is imperative for the application and enforcement of the environment *acquis*.

Progress since the last Regular Report

Since the last Regular Report, Bulgaria has continued its steady progress in terms of transposition and implementation of the environment *acquis*.

Some progress can be noted concerning the **integration of environmental issues into other policies**, although more attention is needed for areas such as energy, transport and large infrastructure projects. In the field of **horizontal legislation**, legislation on strategic environmental impact assessment was adopted. Progress can also be registered as regards implementation. A competent authority for strategic environmental impact assessment was appointed, and recruiting and training of additional staff at central and regional level took place. A considerable number of EIA-related decisions were issued. Regarding access to information, centres were established at the executive environmental agency and at nine regional inspectorates. Preparations were made for setting up an operational reporting system. The legal basis for a national pollutants register was established.

As regards **air quality**, some progress can be reported. Legislation was adopted on quality and distribution of fuels. A plan for the development of a national environmental monitoring system was adopted. Additional staff was recruited and trained and preliminary assessments of carbon dioxide, benzene and ozone levels were carried out. Some progress was made in the area of **waste management**, in relation to packaging and packaging waste, and through the updating of the national waste management programme. Closing and reconstruction of existing landfills and the establishment of new ones is ongoing. Some steps have been taken regarding waste separation and processing of hazardous waste. In the field of **water quality**, further progress was accomplished, namely with the identification of vulnerable zones, the preparation of programmes for pollution caused by certain dangerous substances, as well as progress in implementing requirements on urban waste water treatment. The number of staff at the river basin management authorities was increased considerably, as well as in the executive environment agency.

As regards **nature protection**, some progress was achieved with the adoption of legislation on animals kept in zoos and handling of permits for CITES species. As regards implementation, progress continues to be registered in activities relating to the preparation of the Natura 2000 network. Additional staff was hired for central and regional level, for the executive environment agency and for the national parks directorates. Training and other public awareness measures on certain aspects of nature protection were organised for administrative staff and non-governmental organisations.

As regards **industrial pollution control and risk management**, some progress can be reported in implementation. Further to the development of a methodology for issuing integrated permits, an inventory of facilities was completed along with a schedule for

issuing permits. Rules were adopted on large combustion plants and on volatile organic compound emissions from solvents. Regarding administrative capacity, competent authorities at all levels received additional staff. Some training on issuing integrated permits and aspects of risk management took place.

In the field of **chemicals and genetically modified organisms**, limited progress can be registered. Legislation was adopted on biocides. Furthermore, steps were taken as regards imports and exports of dangerous chemical substances. The institutions involved were strengthened with some additional staff and training.

Some progress can be recorded in the area of **noise**, where legislation on household appliances and outdoor equipment was adopted. The state agency of metrology and technical supervision was designated as the competent authority; testing bodies were approved and conformity assessment procedures established.

In the field of **nuclear safety and radiation protection**, further progress in legal alignment was achieved regarding management of radioactive waste (*see also Chapter 14 – Energy*).

As regards **administrative capacity**, the implementation of plans for recruiting new staff and reinforcing governmental bodies are close to completion. In total 441 additional posts have been created: 42 for the central and 130 for the regional level and 269 for the executive environment agency and other environment authorities.

Overall assessment

In the field of horizontal legislation, transposition of Community rules on environmental impact assessment still needs to be completed.

As regards air quality, the same applies to measures regarding technical and quality requirements for fuels and values for ozone in ambient air. Various assessments regarding air quality need to be completed, and action plans and monitoring systems prepared and implemented.

In the field of waste management, some delays have occurred in transposition, in particular concerning landfills and PCB/PCT. Further alignment is also necessary for shipments of waste, end of life vehicles and sewage sludge. With regard to enforcement, the necessary procedures and management systems are in place, but there is a need to strengthen administrative capacity at regional and municipal level and to ensure coordination between authorities in the implementation of the national waste management plan. Waste collection systems and facilities for recovery and disposal need to be set up and enhanced. In this context, particular attention should be paid to the issue of hazardous waste.

In the water quality field full transposition of the water framework Directive needs to be achieved and implementation measures, such as preparation of inventories, programmes, permits and monitoring for discharges of dangerous substances, need to be completed.

Steps to implement measures in the nature protection sector continue. Work is ongoing with regard to the collection of data for the establishment of the Natura 2000 network. More efforts are required in relation to awareness raising and the involvement and participation of stakeholders in implementation. Administrative capacity needs to be

enhanced with a view to preparing the protection measures that need to be applied by accession. Training is needed.

As regards industrial pollution and risk management, continued efforts are needed to ensure permitting. The industry needs to be made better aware of its obligations in implementing the *acquis*. Legislation needs to be adopted concerning national emission ceilings and incineration of waste. Compliance programmes and monitoring systems need to be finalised.

As regards chemicals and genetically modified organisms, legislation on genetically modified organisms needs to be adopted. Continued efforts are needed to ensure implementation of provisions relating to ozone-depleting substances, risk assessment of existing substances and export and import of certain dangerous chemicals by accession.

In the field of noise, transposition needs to be completed as regards the assessment and management of environmental noise.

As regards nuclear safety and radiation protection, transposition remains to be completed, and implementation to be ensured for the *acquis* concerning Basic Safety Standards, outside workers, medical exposure and shipments of radioactive waste. The corresponding administrative capacities need to be strengthened.

Bulgaria needs to continue integrating environmental protection requirements into the definition and implementation of all other sectoral policies, and to promote sustainable development.

Reinforcing Bulgaria's administrative capacity to implement the *acquis* has led the Government to continue strengthening government bodies at central and regional level. However, for existing and newly recruited staff continuous professional development schemes should be put in place. Special attention should also be paid to human and financial resources needs at local level. There is also a need to establish a clear definition of responsibilities and adequate procedures for cooperation and coordination between the administrative structures at national, regional and local level. Bulgaria needs to make continued efforts to ensure that sufficient budgetary resources are allocated to the field of environment in order to finalise preparations for accession, including the strengthening of administrative capacity. Considerable investments need to be secured, including in the medium term, to ensure implementation of the environment *acquis*.

Conclusion

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

Since the Opinion, Bulgaria has made good progress in aligning its legislation with the *acquis* in most of the environment sectors and in preparing for its implementation. Bulgaria has achieved a generally satisfactory level of legislative alignment and strengthened its administrative structures, notably at central level. It has started to implement strategies for enforcing the environment *acquis*, but full implementation still poses a major challenge, including in terms of investment.

Negotiations on this chapter have been provisionally closed. Bulgaria has been granted transitional arrangements with regard to sulphur content of liquid fuels (until 31 December 2011), emissions of volatile organic compounds from storage and distribution of petrol from selected installations (until 31 December 2009), recovery and recycling of packaging waste (until 31 December 2011), shipments of waste (until 31 December 2009), landfilling of certain liquid wastes within selected installations (until 31 December 2014), treatment and collection of urban waste water (until 31 December 2014), integrated pollution prevention and control within selected installations (until 31 December 2011) and air pollution from certain large combustion plants (until 31 December 2014). Bulgaria is meeting the majority of the commitments and requirements arising from accession negotiations for this chapter. However, some delays have occurred in legal alignment in the waste management sector.

In order to be ready for membership, attention should be paid to completing the transposition process concerning certain aspects of horizontal legislation, air quality, waste management, water quality, industrial pollution, chemicals, noise, and nuclear safety and radiation protection. Particular attention must be paid to the implementation of legislation in the sectors of air quality, waste management (hazardous waste), water quality, nature protection (preparation of Natura 2000), and the issuing of integrated permits, and chemicals. Establishment of the necessary implementation structures needs to be completed, including further strengthening of the administrative capacities at national, regional and local levels. Adequate investment and financing plans must be developed and implemented. On the whole, the continuation of the progress made to improve administrative capacity, an adequate allocation of resources and the full and timely completion of the planned remaining legislative alignment should allow addressing the bulk of issues covered by this chapter and ensure the enforcement of the rules.

Chapter 23: Consumers and health protection

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

Progress since the last Regular Report

Little progress can be reported since the last Regular Report.

No further progress was made in alignment with the *acquis* in the areas of **safety-related and non-safety-related measures**.

In November 2003, a Consumer Policy Strategy for the period 2004-2007 was adopted. The Strategy identifies the following priorities: completion of alignment with the *acquis* in this area; creation of the necessary conditions for effective implementation, including improvement of administrative capacity and setting up of an effective market surveillance system; assistance to non-governmental associations in the area of consumer protection; and better consumer access to justice.

In late 2003, the Consumer Protection Department of the Ministry of Economy, which is responsible for consumer protection policy and drafting legislation, was transferred from the responsibility of the Deputy Minister for European Integration to the Directorate dealing with multilateral trade policy and regional cooperation, which in turn is under the responsibility of the deputy minister dealing with foreign trade issues. The National Council on Consumer Protection, a consultative body to the Ministry of Economy, met only once between October 2003 and May 2004.

Little progress has been made in further developing a functioning **market surveillance** system. As the main enforcement body, the Commission for Trade and Consumer Protection (CTCP) undertook some training activities, including training on the enforcement of the Law on Tourism, which entered into force in January 2003. CTCP continued to develop its system for exchange of information on dangerous products. It launched an internet-based information system which makes for improved monitoring. This system is now integrated in the Transitional Rapid Exchange of Information (TRAPEX) System.

The overall number of inspections undertaken by CTCP has increased somewhat. However, as a result of wider enforcement powers and shared responsibility between CTCP and other market surveillance institutions, the share of inspections under the Law on Trade and Consumer Protection decreased. Following the entry into force of the Law on Tourism in January 2003, the CTCP is also responsible for consumer protection under this law, particularly the *acquis* on package travel. The number of inspections to enforce the Law on Tourism increased.

Consumer disputes were settled more by intermediation of the CTCP through agreements with traders than by the 24 Conciliation Commissions which have been established on a tripartite basis with a view to out-of-court settlements. In 2003, 58 cases were initiated with Conciliation Commissions (compared to 50 cases in 2002) and in 11 cases an agreement on dispute settlement between the consumer and the traders was reached.

The number of **consumer organisations** increased from 11 to 14 as of March 2004 and financial support from the Government targeting consumer associations has increased slightly. Two clusters of organisations can be discerned, namely one around the Federation of Consumers in Bulgaria and one around the National Union of Consumer Organisations, of which the Bulgarian National Consumer Association is the more dominant one.

Overall assessment

Bulgaria has achieved a reasonable degree of alignment with the *acquis* in the area of safety-related measures, but it still needs to finalise its legislative framework through full

transposition of the relevant *acquis* on liability for defective products, general product safety and dangerous imitations.

The market surveillance system should be improved in order to guarantee the safety of non-food consumer products. As the main enforcement body, the Commission on Trade and Consumer Protection still does not have the staff and laboratories to test the safety of products. Coordination with other agencies and bodies involved in implementation of consumer policy, including the State Agency for Metrology and Technical Surveillance, should be enhanced and the range of products controlled by market supervision authorities should be widened in type and quantity in order to include more products covered by the EC *acquis* on general product safety.

With regard to non-safety-related measures, further alignment is needed, i.e. on certain aspects of the sales of consumer goods and associated guarantees, injunctions for the protection of consumer interests, timeshare, consumer credit, distance contracts and distance marketing of consumer financial services.

The relevant institutional and administrative framework is in place but further strengthening in terms of both staffing and technical facilities is needed. Consumer protection remains an underestimated policy and consumer protection issues are still not sufficiently integrated into other policy areas. The location in late 2003 of the Consumer Protection Department within one of the foreign trade policy directorates did not result in the necessary strengthening of consumer protection policy vis-à-vis other policies and could contribute to a further marginalisation of consumer protection policy. The Consumer Protection Department remains weak and understaffed (only seven posts), with little prestige and many responsibilities. The National Council for Consumer Protection should play a higher role in formulating the main principles and objectives of Bulgarian consumer policy. At present, it has not yet the capacity to contribute to an autonomous and strong consumer policy.

Furthermore, considerable efforts are needed to strengthen the Conciliation Commissions and to promote confidence in these out-of-court bodies for dispute settlement. The consumer protection units at local level should also be further strengthened. The government should encourage the development of a strong, credible, representative, streamlined and effective consumer movement. It should continue to support consumer organisations and ensure that they can play an effective role in consumer policy-making, market surveillance, consumer assistance and education.

Conclusion

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

Since the Opinion, Bulgaria has continued to make good progress. Legislation is now in line with most of the *acquis* in the safety-related area and with part of the *acquis* in the non-safety-related area.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements and is meeting the majority of the commitments and requirements arising from the accession negotiations for this chapter.

In order to complete preparations for membership, Bulgaria's efforts should now focus on completing the transposition and implementation of the *acquis* in the consumer protection area and ensuring that the administrative structures in place can effectively enforce legislation and carry out market surveillance activities. Further support should be devoted to integrating consumer protection concerns into other policies, to promoting independent, representative and effective consumer organisations and to increasing consumers' and producers' awareness of their rights and obligations. On the whole, the government should give higher priority to consumer protection.

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

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

Progress since the last Regular Report

Since the last Regular Report, Bulgaria has continued to step up progress in several areas. However, further reforms are necessary.

In the field of **data protection**, there is no progress to be reported.

As regards **visa policy**, Bulgaria terminated the visa-free regime with Tunisia in January 2004. Installation of the technical equipment necessary for issuing the new visa sticker continued throughout the reporting period. To date the system has been installed and functions in 87 diplomatic and consular missions. Alignment with the so-called positive list continued throughout the reporting period with agreements for lifting the visa requirements with Switzerland and Malaysia and agreements extending the period of visa-free stays with Estonia and the Czech Republic. Further negotiations were held on draft agreements providing for visa-free regimes with the other 15 countries and special administrative regions on the positive list - Argentina, Bolivia, Brunei, Costa Rica, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Salvador, Singapore, Uruguay, Venezuela, SAR Hong Kong and SAR Macao.

Bulgaria continued its alignment with the **Schengen** *acquis*. In November 2003, amendments to the Ministry of Interior Act and its implementing regulation were adopted which provide the border police with the power to carry out activities outside the

border areas when necessary for the investigation of criminal offences related to illegal migration or trafficking in human beings as well as for carrying out border surveillance and recording. Moreover, they regulate in detail the powers of the different border control authorities in line with the Schengen *acquis*, introduce provisions on the separation of passenger flows at international ports and airports, and regulate the powers of the border police in connection with the provisions on carriers' liability. In March 2004, Bulgaria updated its **Schengen Action Plan** to cover the year 2004 and presented a report on its implementation covering the period March 2003–March 2004.

Further progress can be reported as regards the level of control at the **external borders**. The operational capacity of the border police was strengthened by the introduction of a three-level management system and professional training continued on a regular basis. New equipment was deployed according to schedule. During the reporting period, significant investments were made at the Danube, the Black Sea Coast and the border with Turkey. As regards bilateral and international cooperation in border management, the heads of the border police of the Black Sea countries signed a protocol in October 2004 on the establishment of an international coordination and information centre in the Bulgarian town of Burgas. In March 2004, the Bulgarian border police signed a cooperation protocol with its Turkish counterpart.

Alignment with the **migration acquis** has continued. A new specialised body, the Migration Directorate, was created within the Ministry of Interior by amendments to the Law on the Ministry of Interior in November 2003. In February 2004, secondary legislation on the operation of the Directorate was adopted. The Directorate is in charge of residence permits and Bulgarian citizenship, administrative enforcement of measures with regard to foreign nationals, removal of illegally present foreign nationals, activities related to coordination, information and analysis, and specialized facilities for temporary accommodation of illegally present foreign nationals pending removal. Recruitment of staff is underway. The number of apprehended persons who attempted to illegally cross Bulgaria's border checkpoints with Turkey in 2003 increased compared to 2002. As regards international cooperation in this area, a Memorandum of Understanding on mutual information exchange on illegal migration was signed with the Netherlands in November 2003. In February 2004, the Ministry of Labour and Social Policy signed a Memorandum for Joint Activity with the International Organization for Migration. The readmission agreement with Estonia entered into force in November 2003. In January 2004, a regulation on the organisation of the special facilities for temporary accommodation of foreign nationals pending removal from the country was adopted.

. As concerns the right to **asylum**, an automated information system for refugees has been in active use since November 2003. At the end of 2003, a training centre was established to strengthen the administrative capacity of the State Refugees Agency. The number of asylum seekers in Bulgaria is decreasing, which may indicate a lack of effective access to the procedure. According to UNHCR, the number of asylum applications filed in 2003 decreased by 54% compared to the previous year and this trend continued during the first quarter of 2004 (*see also Section B.1.1 – Democracy and the rule of law*).

In the area of **police cooperation and combating organised crime**, a Code of Ethics for Ministry of Interior Officials was approved in October 2003. In December 2003, the Implementing Rules of the Control of Explosives, Firearms and Ammunitions Act were amended. In January 2004, Parliament endorsed the updated National Strategy against Crime. The updated strategy covers the period 2002-2005 and focuses on the fight

against serious criminal acts. In March 2004, a strategy for police career and for optimisation of human resources management at the Ministry of Interior was adopted. The strategy aims at putting in place the basic conditions for a professional police career system. In January 2004, the Law on Trafficking in Human Beings entered into force. To prevent trafficking in human beings, the Bulgarian authorities organised information campaigns in cooperation with non-governmental and intergovernmental organisations on the hidden risks of irregular job offers, as well as on legal possibilities to reside and work abroad. In March 2004, Bulgaria approved rules on the organisation and the activity of the National Committee on Combating Trafficking in Human Beings and rules on shelters for temporary accommodation and centres for protection of and assistance to the victims of trafficking. In 2003 the border police arrested 23 foreign nationals for involvement in organised crime channels specialised in trafficking in human beings. In the period January–May 2004, 6 foreign nationals were detained.

As regards the **fight against terrorism**, further progress was made with the ratification of three legal instruments of the Council of Europe (see below under judicial cooperation in criminal and civil matters). In March 2004, the Government updated the List of Natural Persons, Legal Entities, Groups and Organisations against whom the measures under the Act on Measures against Financing Terrorism are to be implemented.

Some progress was made in the area of the **fight against fraud and corruption**. In March 2004, the Bulgarian Anti-Fraud Co-ordinating Service adopted the first annual report of the Council coordinating the fight against the infringements affecting the financial interests of the European Communities (*see also Chapter 28 – Financial control*). It also constituted a working group to draft the required amendments to the Penal Code for full alignment with the Convention on the Protection of the European Communities' Financial Interests. As regards counterfeiting of the euro, an agreement between the Bulgarian National Bank (BNB) and the Ministry of the Interior was concluded in November 2003. An analytical centre for counterfeit currency was established at the BNB in order to collect and analyse technical and statistical data that will enable the identification of counterfeit notes or coins. By virtue of the same agreement, a coordination centre was established at the Ministry of the Interior to collect and analyse the available intelligence related to currency counterfeiting and ensure a mechanism to deliver to the BNB the counterfeit currency seized by the police authorities, save for the ones that are used as evidence in pre-trial and trial proceedings. As regards the fight against corruption, the Ministry of Interior adopted a code of ethics for police officers in October 2003. Implementation of the Bulgarian government's anti-corruption strategy continued throughout the reporting period. In December 2003 the action plan for the implementation of the strategy was updated to cover the period 2004-2005. As regards corruption within the ranks of the traffic and border police, the measures include efforts to improve the efficiency of internal investigation by making it easier for complainants to identify police officers, and an extensive public-awareness campaign. Information posters at the border posts and booklets distributed to the public in Bulgarian, English and Turkish indicate that it is possible to complain by calling a 24hr hotline or lodging a written complaint at any border post or police station. According to the figures provided by the Ministry of Interior for 2003, investigations were opened against 307 officials and sanctions were imposed on 172 officials. In the period January-April 2004, investigations were opened against 80 officials and sanctions were imposed on 57 officials (*see also Section B.1.1 – Democracy and the rule of law and Chapter 25 – Customs union*).

In the area of the **fight against drugs**, a decision to establish the National Drugs Intelligence Unit (NDIU) at the National Service for Combating Organised Crime (NSCOC) was taken in September 2003 in the context of the implementation of the National Anti-Drugs Strategy. In December 2003, a Coordination and Analysis Unit (CAU) was established at the Ministry of the Interior to carry out coordination and monitoring of the implementation of the National Anti-Drugs Strategy. The CAU is functioning as a permanent support body to the National Drugs Council. In September 2004, an agreement was initialled between Bulgaria and the European Monitoring Centre for Drugs and Drug Addiction on Bulgaria's participation in the activities of the Centre. Since last year's report, Bulgarian law enforcement agencies were able to record major seizures of heroin at the border to Turkey and close ten illegal laboratories for the production of synthetic drugs.

Further progress can be reported in the field of **money laundering** (*see also Chapter 4 – Free movement of capital*). In December 2003, the Financial Intelligence Agency and the Prosecution Office signed a joint instruction for cooperation. Since the beginning of 2004, the Agency uses a new system for electronic reporting and analysis of transactions. In 2003, the Agency received 275 suspicious transaction reports resulting in 236 operational files. In October 2003, the Director of the Customs Agency endorsed internal rules on the control and prevention of money laundering and financing of terrorism.

In the area of **customs cooperation**, an instruction on the interaction between the Customs Agency and the Tax Administration was signed in March 2004. The instruction covers exchange of information, execution of joint activities, mutual assistance and joint forms of training. In the same month an agreement on cooperation and interaction between the Supreme Cassation Prosecutor's Office and the Customs Agency was signed, with the aim of increasing efficiency in execution of the functions and tasks of the Prosecutor's Office and the Customs Administration in the fight against crime. As regards international cooperation, the agreement between Bulgaria and Albania on mutual administrative assistance in the customs area entered into force in February 2004.

Further progress can be reported in the field of **judicial cooperation in criminal and civil matters**. The European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children (1980) entered into force on 1 October 2003. In January 2004, the European Convention on the International Validity of Criminal Judgments and the European Convention on the Transfer of Proceedings in Criminal Matters were ratified. Amendments to the Penal Code were adopted in March 2004. They adapt the provisions criminalising acts in areas such as child abuse, child labour, robbery of weapons, unauthorised trade in weapons or dual-purpose goods, money laundering, classified information and treatment of detainees or defendants. They also eliminate the provision that allowed drug-dependent individuals not to be prosecuted for buying and carrying small quantities of drugs, and abolish discriminatory provisions on sexual abuse by homosexuals. In the first two months of 2004, Bulgaria ratified three legal instruments of the Council of Europe: the Additional Protocol to the Convention on the Transfer of Sentenced Persons, the European Convention on the Transfer of Proceedings in Criminal Matters and the Second Additional Protocol to the European Convention for Mutual Assistance in Criminal Matters.

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

Overall assessment

Bulgaria has largely completed its legislative alignment in the area of data protection, including the use of personal data by the police. However, practical difficulties in applying the new rules suggest that further amendments to the Law on Protection of Personal Data are needed to ensure proper implementation of the *acquis*. The Commission for Personal Data Protection (CPDP) cannot yet be considered as operational and needs to be strengthened. It currently employs 15 persons and lacks suitable premises, training and equipment. Further efforts are required in order to make it fully operational. Suitable premises should be allocated as a matter of priority. Bulgaria also needs to continue to strengthen the security unit in the Ministry of Interior.

On visa policy, Bulgaria has not yet achieved full alignment with the EU visa *acquis*. Bulgaria still has to terminate the visa-free agreements with Serbia and Montenegro and FYROM. The administrative capacity of the visa centre has been further enhanced and Bulgaria is in the process of extending to all embassies and consulates the on-line system capable of securing direct contact between visa-issuing authorities and the central authorities. The full range of equipment necessary to detect forged and falsified documents have not yet been provided to all diplomatic and consular missions and considerable efforts are still needed in this area. As regards the so-called EU positive visa list, Bulgaria still has to align its visa policy for 15 countries, most of them Latin American countries.

As regards external borders and preparations for Schengen, Bulgaria has continued to implement its Schengen Action Plan broadly according to schedule. It is in the process of developing the required databases and is preparing an information system in line with the requirements of the Schengen Information System. It is important that Bulgaria accomplishes the above tasks within the deadlines and follows the developments as regards the next generation of this system. Recent assessments have concluded that the Bulgarian borders benefit from strong concepts as regards border surveillance and that the border police is making further progress as regards border control. However, a more pro-active attitude as regards the latter would be beneficial for the overall management of Bulgaria's borders. The information technology used by the border police is considered to be satisfactory and covering a very wide platform. The borders with Turkey, the Black Sea Coast and the Danube river border with Romania have benefited from important investments. There is however room for improvement as regards equipment and infrastructure at the future western external border with Serbia and Montenegro and the future southern external border with FYROM. The National Training Centre of the Border Police provides a solid backbone for a modern training system, but further efforts are needed as regards the modernisation of training equipment.

The reported progress in the field of migration, in particular the establishment of the Migration Directorate, will allow Bulgaria to enhance policy coordination in this field, provided that the necessary staff is recruited and properly trained. There must be no further delays in establishing infrastructure for accommodation centres, as the increase in the number of apprehended persons in combination with the already limited capacity of accommodation centres point to the need for the urgent establishment of infrastructure for temporary accommodation. Over the past years, efforts to combat trafficking in human beings have increased. The adoption and implementation of the Law on Trafficking in Human Beings in 2003 was a milestone. However, Bulgaria remains a country of origin and transit and, to a lesser extent, of destination. Bulgaria should take steps to remedy the absence of reliable statistics on missing persons. Good relations have

been established with non-governmental organizations involved in the fight against human trafficking including in prevention and in the protection of the victims of trafficking and their motivation to co-operate in the detection and disclosure of this particular type of crime. The non-implementation of a witness protection scheme in Bulgaria is clearly a weakness and hampers the efficiency of police forces to combat this form of crime. The challenge therefore remains important and will require an appropriate budget. This will remain an area where various Bulgarian ministries will have to continue to be actively involved.

The Bulgarian legislation on asylum is broadly in compliance with the Geneva Convention. Proper implementation, as well as adequate resources for integration of refugees and a rapid extension of the reception capacity, is necessary to reverse the trend of decreasing numbers of asylum applications. The training centre of the State Agency for Refugees will be useful in ensuring follow up on recent developments in the asylum *acquis* and should engage in capacity-building activities with the authorities and the judiciary on international law. Bulgaria should accelerate its preparations for full implementation upon accession of the EURODAC Regulation by adopting as soon as possible a Dublin/EURODAC implementation plan.

As regards police cooperation and organised crime, significant efforts are still needed to ensure that Bulgaria has an accountable, reliable and fully co-ordinated police organisation by accession. Recent reports indicate that the current arrangements for dealing with recruitment, promotion and demotion of police officers are non-transparent and that a new human resources management approach is urgently needed. The training system is in need of further modernisation and rationalisation in line with EU practices. International police cooperation is efficient and the National Contact Point, which has been functioning since February 2004, is well-staffed. At present, Bulgaria has dispatched police liaison officers to several European capitals. Police databases exist, but linkage with other databases, such as those of the customs agency, should be improved in order to make inter-agency cooperation more efficient. The fight against organised crime and all forms of trafficking, including of human beings, remains an area of major concern. Despite the ongoing implementation of a second national crime strategy, the National Service to Combat Organised Crime (NSCOC) is not in a position to effectively address the situation and does not have the means to act efficiently in the absence of clear rules on the possibilities to use undercover investigations. There is significant room for improvement as regards the cooperation with other law enforcement bodies. The flaws in the pre-trial investigation phase partly explain the relative lack of success in the fight against organised crime syndicates. Bulgaria should urgently put in place an efficient witness protection scheme. Bulgaria is party to the major international agreements in the area of the fight against terrorism. It has ratified the second additional protocol to the Council of Europe Convention on Mutual Legal Assistance in Criminal Matters, but needs to review its Penal Procedure Code in order to introduce the concepts of joint investigation teams, trans-border hot pursuit, controlled deliveries, audio and videoconferences, and interception of telecommunications.

As regards the fight against fraud and corruption, Bulgaria has partly aligned its legislation with the *acquis*. However, it has still to complete alignment with the provisions of the Convention on the Protection of the Communities' Financial Interests and its Protocols, in particular as regards the definition of fraud. Bulgaria also needs to complete alignment as regards the criminalisation of VAT fraud, the criminal liability of heads of businesses and liability of as well as sanctions for legal persons. The administrative capacity of the Council coordinating the fight against the infringements

affecting the financial interests of the European Communities should be strengthened by reinforcing the secretariat, so as to ensure continuity in its operation and effective cooperation with OLAF in full independence. Moreover, a national anti-fraud strategy is needed. As regards the fight against corruption, progress has been made in implementing the anti-corruption strategy and it is generally acknowledged that this policy is starting to have visible results on the ground as regards petty corruption. The Ministry of Interior has made considerable efforts to fight corruption in its agencies. However, it is a point of concern that internal disciplinary procedures against police officers accused of corruption tend to be very long, non-transparent and prone to irregularities and procedural errors. A clear, transparent, objective way of dealing with those cases should be established as a matter of priority.

On the fight against drugs, Bulgaria has largely completed its legislative measures. The Government has continued to implement the National Drugs Strategy, which covers the period 2003-2008 and the National Programme for Prevention, Medical Treatment and Rehabilitation of Drug Addictions for the period 2001-2005. As regards preparations for cooperation with the European Monitoring Centre for Drugs and Drug Addiction, a National Focal Point has a legal basis but no legal status and is not yet operational. The Focal Point should urgently be given adequate funding and staff as well as an appropriate legal status allowing it to perform its activities. Further efforts, including the development of an information system, are needed to make the National Drugs Intelligence Unit fully operational. Law enforcement capacity would also benefit from a review of the legal framework for controlled deliveries and undercover operations. The situation in prisons calls for stronger state involvement in areas such as the methadone programmes and the specialised therapeutic programmes. Despite major seizures of heroin at the border with Turkey and the closure of ten illegal laboratories for the production of synthetic drugs, reports on the developments on the drug distribution market indicate that the law enforcement agencies are faced with growing challenges. Bulgaria remains an important transit country for marihuana and heroin with an increasing production of synthetic drugs on its territory.

Bulgaria has completed its legislative alignment with the *acquis* on money laundering. The Financial Intelligence Agency (FIA) has put in place the required administrative capacity. However, there are still problems with institutions regarding the reporting obligation (especially the banking sector) and the FIA receives little or no feedback from the Prosecutor's Office on cases referred to the prosecution. Shortcomings in the pre-trial investigation phase also hamper efficient prosecution of money laundering offences. Furthermore, the established judicial practice that money laundering offences can only be prosecuted once there has been a conviction for the predicate offence contradicts the recommendations of the Financial Action Task Force and should be reviewed. The fact that there have never been convictions for money laundering in Bulgaria is a matter of serious concern.

Further legal and administrative progress has been registered in the area of customs cooperation. Bulgaria is well on track as regards its preparation for full alignment with the third pillar customs cooperation *acquis*. The combat of fraud and corruption within customs is receiving continuous attention but it remains an area where swift and continuous action is needed.

As regards judicial cooperation in criminal and civil matters, Bulgaria has largely aligned its legislation with the most recent *acquis* in the area of judicial cooperation. However, a number of civil law instruments still need to be transposed in the planned Private Law

Act (2005) and the planned new Civil Procedure Code (2006). The ongoing reform of the judicial system as well as the establishment of the National Judicial Institute are expected to have positive influences on the capacity of Bulgarian magistrates to handle court-to-court dealings at a European level. The capacity to fully implement the *acquis* in this area, including the principle of mutual recognition of court decisions, will depend on successful reform of the judiciary, including the pre-trial phase.

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

Conclusion

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

Since the Opinion, Bulgaria has made substantial progress in strengthening the relevant institutions and in aligning with the *acquis*. Fundamental reforms have been initiated in several areas. The level of approximation achieved so far is encouraging.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is meeting the majority of the commitments and requirements arising from accession negotiations for this chapter. However, delays have occurred on judicial reform and the fight against crime and corruption.

In order to be ready for membership, urgent attention should be paid to the capacity of the judiciary and the law enforcement agencies and to inter-agency cooperation in order to correctly implement the *acquis* in this area. Due attention and adequate resources should be given to the full and timely implementation of the main strategies and action plans in the area of justice and home affairs, in particular as regards judicial reform, including the reform of the pre-trial phase, and to the fight against organised crime. Their full and timely implementation, together with the entry into force of the planned amendments to the legislation on the penal procedure, legal aid, asylum, mediation and forfeiture of criminal assets should allow addressing the bulk of the issues covered in this chapter.

Chapter 25: Customs union

The Customs union *acquis* consists almost exclusively of legislation which is directly binding on the Member States and does not require transposition into national law. It includes the Community's Customs Code and its implementing provisions; the Combined Nomenclature, Common Customs Tariff and provisions on tariff classification, customs duty relief, duty suspensions and certain tariff quotas; and other provisions such as those on customs control of counterfeit and pirated goods, drugs precursors and cultural goods and on mutual administrative assistance in customs matters, together with Community agreements in the areas concerned, including transit. Member States must ensure that the necessary enforcement capacity, including links to the relevant EC computerised customs systems, is in place.

Progress since the last Regular Report

Since last year's Regular Report, Bulgaria has continued to make progress in the area of customs.

As regards the **customs *acquis***, amendments to the Rules on the application of the Law on customs were adopted in October 2003. These amendments relate notably to transit, customs procedures with economic impact, free zones and free warehouses. They reflect the amendments to the Community Customs Code that were introduced in 1999 and 2000. In addition, amendments were adopted in December 2003 as regards the implementing legislation on the combined nomenclature, which was aimed at integrating into Bulgaria's customs tariffs the changes introduced in the Community's combined nomenclature. Implementing legislation was also adopted in December 2003 in the field of tariff quota management, notably with a view to providing details to economic operators (through the web site of the National Customs Agency) on conditions for the allocation of specific tariff quota.

In the field of cultural goods, a new law was adopted in June 2004, with a view to complying with the *acquis* in this field.

The International Convention on the simplification and harmonisation of customs procedures (the revised Kyoto Convention) was ratified in November 2003.

Concerning the **administrative and operational capacity** to implement the *acquis*, progress was noted, particularly as regards, on the one hand, intelligence and investigation and, on the other hand, internal control over customs receipts. In spring 2004, the National Customs Agency moved into a renovated and modernised building, equipped with all necessary facilities (notably as regards laboratories).

Cooperation with customs authorities of neighbouring countries has continued to be enhanced. The Agreement on mutual administrative assistance in customs matters with Albania, signed in September 2003, entered into force on 1 February 2004. Meetings have been held between IT experts from Bulgaria and representatives from Turkey, Serbia, Macedonia and Romania to discuss technical capacity for automated exchange of information. Activities have continued in the framework of the "Trade and transport facilitation in South-Eastern Europe" project.

Cooperation between the National Customs Agency and the other national enforcement bodies in the field of border control and combating crime has been further developed. In particular, agreements or arrangements have been concluded with the Supreme Prosecution of Cassation, the Commission on trade and consumer protection in the Ministry of Economy, the specialised sanitary bodies in the Ministry of Health, and the Tax Administration. During the reporting period, several joint actions have been carried out with the participation of representatives of the National Service for Combating Organised Crime, the National Border Police Service Directorate, the National Police Service Directorate (Economic Policy Unit), the General Tax Administration and the National Customs Agency. A trilateral Agreement on cooperation has been signed by the National Customs Agency, the Association of Bulgarian International Freight Companies and the International Road Transport Union.

Over the reference period, training of customs officers continued. The training covered such fields as customs surveillance and control, customs ethics, duty reliefs, and customs procedures with economic impact.

As regards computerisation, the Bulgarian Integrated Customs Information System has been further developed and work continued on achieving interconnectivity with EC systems by the time of accession. The deployment and integration of CCN/CSI (Common Communication Network / Common System Interface) infrastructure is in progress: the installation of the communication infrastructure and the back-up server has been completed.

Overall assessment

Bulgaria has achieved a high degree of legislative alignment with the EU *acquis* up to the year 2000. It has also made good progress towards alignment with regard to new *acquis*, notably with regard to customs procedures, cultural goods, duty suspension and tariff quota management. Further efforts are, however, required to complete alignment, in particular with regard to the new *acquis* on economic regimes.

The implementation of the 2002-2006 Business Strategy for the rationalisation of border operations is ongoing. The objectives of this strategy are to adapt the customs administration to EU standards, strengthen cooperation between customs, economic operators, businesses and the public, improve the collection of customs duties and other levies, and counteract customs and currency violations.

The administrative capacity of the National Customs Agency is steadily improving. Customs revenues are steadily increasing (there was 18.3% increase in 2003 compared to the previous year). There is growing activity as regards the prevention, detection and investigation of customs and currency offences and crimes, also in the field of intellectual and industrial property rights. The reform of the National Customs Agency, particularly in the area of intelligence and investigation, should be assessed as positive. Bulgaria should continue its efforts to modernise and strengthen its customs administration. Further progress would be needed as regards post-clearance control, including on the legislative side, strengthening the powers of investigation of customs officials.

The National Customs Agency currently employs 2,428 officials under the Civil Servant Law and 1,402 customs officials under the Labour Code. Both categories are subject to the same internal rules of procedures and participate on an equal footing in training programmes. All the officials enjoy permanent, stable status. Temporary contracts may only be used for people entering the civil service for the first time.

The implementation of the customs aspects of the national strategy against corruption shows a steady commitment by the Bulgarian authorities to tackle the issue of corruption, which remains a problem amongst customs officers. The fight against corruption and the promotion of customs officials' integrity continued to figure among the main priorities of the National Customs Agency.

Steps have been taken to improve cooperation between the various enforcement bodies, especially in mounting joint operations with the border police, economic police and tax administration. However, Bulgaria still lacks an overall border control strategy to be used as a framework for all relevant agencies operating at the borders. The risk of

inconsistencies between the strategies of various agencies operating at the border, and duplication of effort, therefore continues.

In the field of computerisation, Bulgaria has in place a clear strategy and adequate financial plans to ensure the necessary resources. Despite previous delays in the development of the Bulgarian Integrated Customs Information System (BICIS), if Bulgaria continues to make progress at the present pace, it is likely that it will reach a satisfactory level of operational IT capacity upon accession and will meet its interoperability requirements.

Conclusion

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

Since the Opinion, Bulgaria has made steady progress and has achieved a high degree of legislative alignment. The administrative and operational capacity of the National Customs Agency improved considerably, although at a slower pace, especially as regards implementation and enforcement.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area and is generally meeting the commitments and requirements arising from accession negotiations on this chapter.

In order to complete preparations for membership, Bulgaria's efforts should now focus on continued implementation of the business strategy, which is of great importance with a view to ensuring the necessary administrative and operational capacity to implement the *acquis*. Bulgaria needs in particular to focus on further alignment with the Community customs *acquis*, and to continue progress in information technology and in human resource policy. Further improvement of revenue collection, controls (including post-clearance controls) and enforcement should remain a priority for Bulgaria. Additional efforts are also needed to prepare for the application of measures and provisions that will be introduced only at the time of accession.

Chapter 26: External relations

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

Progress since the last Regular Report

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

As regards the **common commercial policy**, upon accession Bulgaria will be required to align its tariffs with those of the EC. Bulgaria's applied tariffs increased slightly to an average of 12% (MFN – Most Favoured Nation) on all products in 2004 (compared to 11.7% a year ago). This is due to a slight increase of applied tariffs to 24.9% on agricultural products, while tariffs on fishery products and on industrial products remained stable at 11.7% and 8.7% respectively. By comparison, EC tariffs currently stand at 6.3% on all products, 16.2% on agricultural products, 12.4% on fishery products and 3.6% on industrial products.

With regard to the *acquis* in the area of dual-use goods, progress made includes the adoption of further amendments to implementing legislation regulating the law on control of foreign trade with arms and dual-use goods and technologies, the adoption of a "list of dual-use items and technologies of the EU" and amendments to the Penal Code laying down legal consequences for unauthorised trade in dual-use goods and technologies. Administrative capacity in this area has been reinforced.

Bulgaria is a member of all plurilateral export control regimes; its application to join the Missile Technology Control Regime was accepted in April 2004 by the members of the Regime.

With regard to export credits, legislation on short-term export credits has been brought in line with the *acquis*.

As regards **bilateral agreements with third countries**, a Free Trade Agreement (FTA) with Serbia-Montenegro entered into force in June 2004. The FTA with Bosnia and Herzegovina was ratified on the Bulgarian side in January 2004. With regard to Moldova, negotiations were completed and the FTA was signed in May 2004. CEFTA membership was amended to take account of the accession to the EU of a number of member countries and Bulgaria took over the chair of CEFTA in February 2004.

Regarding the bilateral investment treaty (BIT) between Bulgaria and the USA, Bulgaria completed the necessary adjustments by ratifying the Additional Protocols to the BIT in January 2004. Bulgaria has started analysing its other bilateral agreements with third countries and identifying those which, in view of accession, are not compatible with the *acquis*.

With regard to **development policy** and **humanitarian aid**, beside the setting-up of a sub-working group of its existing 'external relations' working group in this area, no significant developments can be reported.

Overall assessment

With regard to the WTO, Bulgaria has continued to efficiently coordinate positions and policies within the World Trade Organisation with the EU. Bulgaria should continue close coordination and co-operation with the Commission in GATS negotiations - mainly in order to facilitate the future convergence of its GATS commitments and MFN exemptions with those of the EU.

Negotiations on Bulgaria's accession to the WTO plurilateral agreement on Government Procurement are ongoing.

In view of the time-consuming and complex nature of adjusting or denouncing bilateral agreements, Bulgaria should now give priority to completing its analysis of the compatibility of its bilateral agreements with its EU membership obligations and establish an implementation schedule to bring them in line with the *acquis* by the time of its accession to the EU. Among other agreements, the Friendship, Commerce and Navigation Treaty with Japan still has to be brought into conformity with the *acquis*; Bulgaria is in contact with Japan in this context.

Bulgaria has fully complied with commitments made under the Stability Pact's 2001 Memorandum of Understanding and concluded free trade agreements with all countries involved.

In the area of dual-use goods Bulgaria has taken further steps and has made progress; full alignment with the *acquis*, in particular the general export authorisations, can only take place upon accession.

In relation to export credits, Bulgaria has made progress by aligning some relevant legislation. However, it needs to apply the OECD Export Credit Arrangement concerning medium- and long-term export credits. The administrative capacity and effectiveness of the Bulgarian Export Insurance Agency needs further improvement.

The administrative infrastructure with respect to customs services is discussed in the chapter on customs union (*see also Chapter 25 – Customs union*). Administrative capacity in the relevant departments of the Ministry of Economy, in charge of alignment with and future participation in the common commercial policy, is satisfactory.

Bulgaria needs to take steps with regard to designing a development and humanitarian aid policy and to establish adequate administrative structures and procedures along EU lines. In this context, account must be taken of the commitments taken at the Monterrey International Conference and confirmed by the EU in Barcelona, that all Member States donate a minimum of 0.33% of their GDP for official development assistance by 2006. Capacity building measures to ensure adequate expertise of representatives from the relevant ministries should be scheduled.

Conclusion

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

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

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

In order to complete its preparations for membership, Bulgaria's efforts should now focus on taking further steps to renegotiate or denounce its bilateral treaties so as to bring them in conformity with its EU membership obligations by its date of accession. Further

efforts are necessary to ensure the necessary application of the EU *acquis* in the field of dual-use goods and export credits. Bulgaria should develop a credible development and humanitarian aid policy and build up the necessary institutions and administrative capacity.

Chapter 27: Common foreign and security policy

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

Progress since the last Regular Report

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

Besides the effective and smooth continuation of the regular **political dialogue** established by the EU-Bulgaria Association Agreement, Bulgaria participated in a constructive way in the political dialogue within the framework of the common foreign and security policy (CFSP). This included participation in all relevant meetings including meetings at Political Director, European Correspondent and Working Group level.

Bulgaria has demonstrated and reiterated its strong interest in active contribution to the development of the European Security and Defence Policy (ESDP). It has taken part in exchanges on this subject in the EU + 15 format and after EU enlargement in May 2004 in EU + 5 format (i.e. non-EU European NATO members and candidate countries to EU accession).

Bulgaria aligned its positions with **EU sanctions and restrictive measures, statements, declarations and démarches** as well as with UN sanctions and measures. It has associated itself with EU common positions, joint actions and other CFSP instruments if invited to do so, including regarding negative measures.

Bulgaria has confirmed its willingness to adopt the entire CFSP *acquis* upon accession and to comply with the commitments resulting from it.

The designated customs offices and border crossing points for customs clearance of arms and dual use goods became fully operational in the reference period. Training of customs officers to improve the efficiency of controls of exports and imports of arms and dual-use goods and technologies has continued (*with regard to dual-use goods see also Chapter 26 – External Relations*). In the area of non-proliferation, Bulgaria enacted legislation concerning prohibition of restriction of the sale and supply of arms and related equipment in accordance with UNSC resolutions and respective EU and OSCE policy. Bulgaria is taking part in the EU Police Mission (EUPM) in Bosnia and Herzegovina and took part in the EU military operation CONCORDIA in FYROM that expired on 15 December 2003. In January 2004, Bulgaria accepted an invitation to participate in the new police mission in FYROM, “EUPOL Proxima” that succeeded the Concordia peacekeeping military mission. Bulgaria continued to be very active in supporting

international peacekeeping missions including its sustained participation in a series of UN, KFOR, SFOR, ISAF and OSCE peacekeeping and observer operations.

Bulgaria has confirmed its willingness to contribute both to the EU Rapid Intervention Force missions and to EU civilian instruments for crisis management. As chair of the OSCE in 2004, Bulgaria has focused on ways and means of implementing the new OSCE comprehensive Strategy to address Threats to Security and Stability in the 21st Century. As OSCE chair, it is promoting OSCE police-related activities and programmes and cooperation with the EU, and it is contributing to the process of conflict resolution in the Caucasus, the Black Sea region and in South Eastern Europe.

Amendments were introduced to the Internal Regulations of the Ministry of Foreign Affairs in August 2004, making appointments to the posts of Political Director and European Correspondent and giving a more precise definition of their responsibilities.

Overall assessment

Bulgaria has been an active player in international peacekeeping and crisis-prevention measures, including EU, UN and OSCE missions and actions. It continued to actively take part in the Stability Pact and to play an important role in regional fora such as the South-East Europe Defence Ministerial Process (SEDM), the South-East Europe Cooperation Process (SEECP) and the South-East Europe Security Cooperation Steering Group (SEEGROUP). Bulgaria has trilateral cooperation relationships with Greece and Romania, Romania and Turkey, FYROM and Albania, and Greece and Turkey. It took an active interest in the European Neighbourhood Policy.

Bulgaria has a good enforcement track record with regard to aligning its positions with EU sanctions and restrictive measures, statements, declarations and demarches as well as with UN sanctions and measures.

Bulgaria ratified the Rome Statute establishing the International Criminal Court. It has ratified all international conventions relating to terrorism.

While relevant legislation is being continuously updated, the full implementation of the Code of Conduct for Arms Exports and the fight against unauthorised weapons transfers deserve further attention.

The Bulgarian Ministry of Foreign Affairs (MFA) essentially has the administrative capacity to implement the provisions related to the CFSP. It has completed its administrative measures enabling a more precise definition of the posts of Political Director and European Correspondent. Further administrative capacity measures should be envisaged where necessary.

The MFA is connected to and continues to take part in the Associated Correspondents' Network information system through which the EU communicates within the CFSP with the associated partners.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria was well placed to effectively fulfil its obligations in this field.

Since the Opinion, Bulgaria has made steady progress in aligning with the CFSP *acquis*, and its alignment is, overall, satisfactory at this stage.

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

In order to complete preparations for membership, Bulgaria's efforts should now focus on maintaining its foreign and security policy in line with that of the European Union. Administrative capacity should be further strengthened where necessary and attention should be paid to the full implementation of the Code of Conduct for Arms Exports and the fight against unauthorised weapons transfers.

Chapter 28: Financial control

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

Progress since the last Regular Report

Since last year's Report, Bulgaria has made good progress in the financial control area.

In the area of **public internal financial control**, no major legislative developments can be reported. As regards secondary legislation, the Bulgarian Public Internal Financial Control Agency (PIFCA) introduced changes to its administrative structure and functions at central and regional level by amending its rules of procedure in January 2004. The amendments aim at achieving better coordination of audit activities by reducing the number of regional offices from 28 to 9. A new unit within the structure of the State treasury directorate of the Ministry of Finance was established in January 2004 with responsibility in the harmonisation of the financial management and control systems.

As regards **external audit**, further amendments to the National Audit Office (NAO) Law were adopted in April 2004. The amendments extend the NAO remit to audit of the formation and management of state-guaranteed debt and the debt of municipalities as well as state-owned companies, following a decision of the National Assembly. The amendments also cover the relationship with Parliament, the management of budgetary and other public funds based on NAO opinions on amendments of legal acts, the follow-up of audit activities, and liability in case of violations or mismanagement of budgetary or other public funds.

With regard to **control of EU pre-accession funding and structural action expenditure**, Bulgaria continued to prepare for the extended decentralised implementation system (EDIS) and the third stage, Compliance Assessment, was

launched. Gap assessment audits regarding the minimum criteria and conditions for introduction of EDIS, the PIFCA certification report on SAPARD for the financial year 2003 and the certification audits of financial reports on the Socrates and Leonardo da Vinci programmes revealed weaknesses, for which corrective measures have been undertaken by or requested from the implementing agencies and the National Fund or other relevant authorities. Implementation of Bulgaria's strategy for transition to the Structural Funds, including developing its administrative capacity in this regard, is broadly on track (*see also Chapter 21 - Regional policy and coordination of structural instruments*).

Some progress can be reported in the field of the **protection of the financial interests of the European Communities**. In March 2004, the Bulgarian Anti-Fraud Coordinating Service adopted the first annual report of the Council coordinating the fight against infringements affecting the financial interests of the European Communities. It also constituted a working group to draft the required amendments to the Penal Code for full alignment with the Convention on the Protection of the European Communities' Financial Interests.

As regards the **protection of the euro against counterfeiting**, an agreement between the Bulgarian National Bank (BNB) and the Ministry of the Interior was concluded in November 2003. An analytical centre for counterfeit currency was established at the BNB in order to collect and analyse technical and statistical data that will enable the identification of counterfeit notes or coins. By virtue of the same agreement, a coordination centre was established at the Ministry of the Interior to collect and analyse the available intelligence related to currency counterfeiting and ensure a mechanism to deliver to the BNB the counterfeit currency seized by the police authorities, save for that used as evidence in pre-trial and trial proceedings.

Overall assessment

In the area of public internal financial control, Bulgaria's framework and implementing legislation is generally in line with the *acquis*. The Public Internal Financial Control Agency (PIFCA) has been strengthened. All auditors are civil servants and the Director of the Agency is appointed for a period of 4 years. However, Bulgaria needs to further elaborate the concept of managerial accountability, which is not yet fully implemented. The present PIFCA Law should be amended to reflect the transfer of *ex ante* financial control and to strengthen the concept of managerial accountability. In this context, it is necessary to disentangle the functions of inspection and internal audit, to develop inspection as *ex post* financial control subject to managerial responsibility and to develop internal audit beyond purely formal controls of legality and regularity. Internal auditors should increasingly develop their skills relating to systems-based tools. Reconsideration of the further decentralisation of internal audit towards income and spending centres by PIFCA in order to make the function of internal audit compliant with international practice is necessary.

As regards external audit, legislative alignment has been largely completed, although the tertiary regulations need further improvement. The necessary administrative structures are in place. The National Audit Office (NAO) is functionally and operationally independent and its administrative capacity has been strengthened. National auditing standards have been elaborated and tested in pilot projects. However, there is a need for more training and further improvement of auditors' qualifications.

As regards the protection of EC financial interests, the administrative capacity of the Council coordinating the fight against infringements affecting the financial interests of the European Communities should be considerably strengthened, so as to ensure continuity in its operation and effective cooperation with OLAF in full independence. This should include reinforcing the secretariat as an independent entity and clearly defining its competencies and its relations with other relevant institutions. Bulgaria also needs to develop a national anti-fraud strategy. Preparations are ongoing with a view to the conclusion of an administrative co-operation agreement with OLAF.

In the field of the protection of the euro against counterfeiting, Bulgaria has established a National Analysis Centre, a Coin National Analysis Centre and a National Operational Coordination Centre. In order to assess compliance with the *acquis*, a review of the relevant legislation is necessary. Particular attention will be given to the requirement for financial institutions to withdraw counterfeit currency from circulation and hand it over to the competent authorities. Appropriate sanctions should be provided for to that effect.

Further efforts are needed to achieve the extended decentralisation of Phare and ISPA implementation (EDIS). Bulgaria needs to continue to strengthen the capacity of the implementing agencies dealing with pre-accession funds in preparation for EDIS, as well as the capacity of PIFCA and NAO to conduct effective audits in the EDIS context.

The Commission adopted a decision provisionally conferring management authority for three SAPARD measures, on a fully decentralised basis, to the SAPARD Agency in May 2001 and for seven additional measures in August 2003. The implementation of the European Union's accreditation criteria related to the SAPARD Agency and National Fund procedures has been judged satisfactory.

Conclusion

In its 1997 Opinion, the Commission concluded that, provided the current commitment persisted, the National Audit Office would be able to function in accordance with EC standards within the medium term. It noted that major efforts would be essential to strengthen internal financial control functions.

Since the Opinion, Bulgaria has made considerable progress towards adequate financial control. In the areas of public internal financial control and external audit, the legislation is broadly in line with the *acquis* and the necessary administrative capacity is being put in place. The preparations for the management of future Structural Funds are ongoing and the administrative structures for cooperation with OLAF are in place.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area and is generally meeting the commitments and requirements arising from the accession negotiations for this chapter.

In order to be ready for membership, particular attention should be paid to ensuring the protection of the financial interests of the European Communities. The timely development of a national anti-fraud strategy and the strengthening of the council coordinating the fight against infringements affecting EC financial interests would go a long way to ensure that the current gaps in administrative capacity are filled. Further efforts are necessary to strengthening managerial accountability as well as to further strengthening the administrative capacity to implement sound financial control systems.

Chapter 29: Financial and budgetary provisions

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

Progress since the last Regular Report

Bulgaria has continued to record progress in the area of financial and budgetary provisions.

As regards **national budget formulation and execution**, further progress has been made as regards the introduction of budget revenue reporting on an accrual basis in line with ESA95. The European Statistical Office was consulted on the first assessments of taxes on an accrual basis for the period 2000- 2003. The system for electronic budgetary payments was expanded to include the national broadcasting stations, the Financial Supervision Commission, the National Health Insurance Fund and the State Commission for Information Security.

As regards the underlying policy areas affecting the **application of the own resources system**, further progress was made in improving administrative capacity in this area with the ongoing reform and modernisation of the Bulgarian Tax Administration, in particular the establishment of the National Revenue Agency. The capacity of the Customs Administration was also further strengthened, resulting in increasing revenues during the reporting period. The National Statistics Institute further improved its capacity for producing high-quality financial and macroeconomic statistics according to European standards.

Overall assessment

In general, the progress made by the Bulgarian institutions in assuming their responsibilities under the financial and budgetary provisions chapter is satisfactory. The necessary steps have been taken to achieve better coordination and to establish the relevant institutional set-up needed for the smooth functioning of the system of own resources. Nevertheless, significant further efforts should be made to strengthen administrative capacity to properly calculate Bulgaria's contribution to the EU budget and additional action remains to be undertaken to complete preparations for membership.

As regards traditional own resources, Bulgarian customs legislation is largely in line with the *acquis*. Whilst the ongoing reform of the customs system has resulted in increasing revenues, further efforts are still needed to strengthen the administrative capacity necessary for adequate enforcement of the legislation. Also, with regard to the control of future EC own resources, Bulgaria should reinforce instruments intended to combat VAT and customs duty fraud. The necessary legal framework and procedures for the establishment, collection and control of sugar levies have still to be set up. Also,

attention should be paid to the accounting and reporting requirements for traditional own resources, including the integration of the accounting module and the module to calculate customs duties into the customs clearance IT system.

Bulgaria should also make further efforts to strengthen and reform the tax administration so as to enhance the collection of tax revenues and voluntary taxpayer compliance.

The capacity to calculate in a reliable, accurate and transparent way the level of customs duties and VAT collected by Bulgaria and to calculate Bulgaria's GNI still needs to be improved to allow calculations to be made in a harmonised and controllable way. A satisfactory level of compliance with ESA95 has been reached but there is still some way to go before full compliance can be certified, in particular as regards the exhaustiveness of the accounts. Reaching this stage will depend strongly on the availability of sufficient staff and resources. Further efforts are needed to fully implement programme budgeting and the Financial Management Information System.

In addition to the need for central coordination of the proper collection, monitoring and payment of funds to and from the EC budget, administrative capacity should continue to be strengthened in the context of the relevant policy areas described elsewhere in this Report, such as agriculture, taxation, customs, statistics and financial control.

Conclusion

In its 1997 Opinion, the Commission concluded that, in order to ensure that own resources were established, monitored and made available in line with Community regulations, Bulgaria would have to overhaul its current customs system. In addition, for the purposes of accurately calculating the GNP resource, considerable improvements would have to be made to the national accounts to ensure that they were reliable, homogeneous and complete. The Commission added that improving the statistics would also be essential for drawing up the VAT own resources base, which would mean bringing Bulgaria's VAT system fully into line with the Community directives.

Since the Opinion, Bulgaria has made substantial progress in these areas. Overall preparations are progressing thanks to an acceleration of preparations in 2004 and the setting up of an adequate coordination mechanism. However, significant further efforts are needed to develop the administrative capacity to properly calculate Bulgaria's contribution to the EU budget.

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

In order to complete preparations for membership, Bulgaria's efforts should now focus on improving administrative structures and developing an adequate level of administrative capacity to properly calculate the various own resources to be contributed to the EU budget.

3.2 Translation of the *acquis* into Bulgarian

Applicant countries are required to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. Primary and

secondary legislation alone represents a considerable volume of texts, roughly estimated at 90,000 pages of the Official Journal. In the framework of the translation of the *acquis*, the Court of Justice has defined a set of key judgements to be translated as a priority (representing about 15,000 pages). To help the candidate countries in this process, assistance is being provided under the Phare programme. With the help of TAIEX, a dedicated database has been set up to act as a repository of all translated acts and as a tool through which candidate countries forward their translations to the Commission and the Council. The legal revisers of the Commission and the Council vet the submitted texts; they meet regularly and liaise with representatives of the centralised Translation Co-ordination Units in each country.

The Bulgarian Translation and Revision Centre (created in May 2001) is an independent body under the responsibility of the Minister of State Administration with its own budget. It is currently staffed with 8 in-house revisers who carry out linguistic and legal revisions of translations done by approximately 100 external specialised free-lance translators, who are selected through competitive procedures. Priorities for translation of legislation are set by the European integration directorate in the Council of Ministers, based on needs identified by heads of the working groups on the *acquis* chapters. 2005 is the target set for translation of all the *acquis* into Bulgarian.

As already reported, the basic treaties have been translated. During the reference period about 18,000 additional pages had been translated, thus reaching a total of around 63,000 pages translated from the Official Journal. The total number of revised pages was around 21,000 at the end of the reporting period. Efforts in this area need to be maintained if targets are to be met. Due attention must also be paid to the training of conference interpreters.

3.3 General evaluation

Since the Opinion, Bulgaria has made good progress in adopting the *acquis* and more recently, has also made progress in gradually building up the administrative capacity to implement and effectively enforce the *acquis*.

Over the past year, Bulgaria has made further progress in the vast majority of the chapters of the *acquis* and is on track to complete the required legislative transposition before the planned date of accession if the current pace of progress is maintained.

Overall, Bulgaria has now achieved a reasonable degree of alignment with the *acquis* in the large majority of areas. It is also on track in developing adequate administrative capacity to implement the *acquis* in a considerable number of fields. Bulgaria has established most of the necessary institutional structures. Nevertheless, in some sectors, further efforts and resources are required to strengthen the capacities of these institutions and to ensure their effective functioning. In order to cover the remaining gaps, due attention should be given to the full and timely implementation of the strategies and action plans for the reinforcement of administrative capacity already approved in these areas.

In the field of internal market, Bulgaria has continued to make progress in most areas as regards the free *movement of goods* in terms of transposition of the *acquis* and the development of the administrative capacity. However, further efforts are required to develop the administrative capacity to implement the *acquis* on industrial products and as regards foodstuff and food safety. Mutual recognition clauses are still to be introduced into the Bulgarian legislation falling under the non-harmonised areas. Alignment of the legislation on public procurement needs to be completed. As regards *free movement of persons*, some progress was made in the field of mutual recognition of professional qualifications but work is still needed on the framework legislation for mutual recognition and with regard to the future co-ordination of social security systems. As regard the right for establishment and the *freedom to provide services*, efforts are required to unequivocally eliminate the remaining restrictions and discriminatory measures on foreigners despite some corrective actions. As regard financial services, major parts of the *acquis* on insurance remain to be transposed. In the area of *free movement of capital*, Bulgaria still has to adopt legislation on capital movements and payment systems. Efforts to improve the framework in the fight against money laundering should be maintained.

As regards *company law*, particular attention should be paid to the effective enforcement of industrial and intellectual property rights, in particular through strengthening border controls and improving co-ordination between the law enforcement bodies. In the area of *competition*, Bulgarian has further updated its legislative framework and further strengthened its administrative capacity. Sustained efforts are required in order to continue to improve the quality of its State aid enforcement.

Regarding *agriculture*, Bulgaria has continued to make good progress in the transposition process. Further strengthening of administrative structures has been noted. However, significant work is still needed in the veterinary field and in the setting up of the paying agency and IACS. With regard to *fisheries*, legal alignment has taken place according to schedule. However, further progress has to be made regarding the administrative and technical capacity for inspection and control.

As regard *transport*, Bulgaria has made steady progress in transposing the *acquis* in most sectors, however administrative capacity should be further strengthened. Further efforts are needed to align the inland waterway legislation. Particular attention should be devoted to improving the maritime safety record and to the building up and reinforcement of the necessary capacities and structures for Port State and Flag State control.

In the area of *taxation*, Bulgaria's indirect legislation is to a significant extent aligned with the *acquis*, notably as far as VAT is concerned. Further transposition is required as regards excise duties and direct taxation. Efforts should continue as concerns specifically interconnectivity with EU systems.

On *social policy and employment*, progress has continued in alignment with the *acquis*. Further efforts for the effective implementation of the transposed legislation need to be undertaken in particular in the areas of labour law, occupational safety and health, public health, anti-discrimination as well as equal opportunities for women and men. Administrative capacity needs to be strengthened, *inter alia* with regard to ESF management and implementation.

Regarding *energy*, Bulgaria is making good progress in its legislative alignment and in its preparation to the internal energy market. The restructuring and privatisation of the energy sector is progressing well but particular efforts are still needed to improve energy efficiency and the use of renewable energy. Bulgaria must continue to respect its commitments on nuclear safety, notably as regards closure commitments for certain units of the Kozloduy nuclear power plant, and to ensure a high level of nuclear safety in its installations.

Although a reasonable degree of alignment with *acquis* in the *telecommunications* has been reached, Bulgaria needs to adopt further implementing legislation and ensure that the regulatory body is strengthened.

Concerning *regional policy and co-ordination of structural instruments*, Bulgaria has made progress notably with regard to establishing the legal framework and designating institutional structures. However, considerable efforts are still needed to improve the administrative capacity in key Ministries and improving the capacity of other relevant bodies, such as the intermediate bodies, and other relevant players both at central and regional level. Priority must also be given to the setting up of efficient and integrated monitoring and evaluation systems as well as to further improving the financial management and control systems. Attention must be paid to observance of an ambitious planning schedule for the National Development Plan and to the full involvement of relevant partner organisations in this process.

With regard to the *environment*, Bulgaria has achieved a reasonable degree of alignment with the *acquis* and the necessary administrative structures are in place. However, further strengthening of the enforcement authorities notably at regional and local level is required as well as the provision of adequate financial resources for State and private sector investment.

In the area of *consumer and health protection*, a reasonable degree of alignment with the *acquis* has been reached in the area of safety related measures. However, further alignment is particularly needed with regard to the non-safety related measures and

Bulgaria should ensure that the administrative structures in place can effectively enforce legislation and carry out market surveillance activities.

In the area of *justice and home affairs*, further good progress could be noted as regards the management of the future external borders. However, significant further efforts are needed to strengthen the law enforcement capacity and policy formulation in order to step up the fight against organised crime and corruption. Bulgaria needs to press ahead and dedicate adequate resources to fundamental reforms of the police and of the judiciary, including the reform of the pre-trial phase and the implementation of the strategies against crime. Overall, the full and timely implementation of the main strategies and action plans in the area of justice and home affairs, together with the entry into force of the planned amendments to the legislation on the penal procedure, legal aid, asylum, mediation and forfeiture of criminal assets should address the bulk of the issues covered in this chapter.

Regarding *customs*, Bulgaria has achieved a high degree of legislative alignment and has improved its administrative capacity. Efforts should continue in the IT area as well as to further improve revenue-collection and controls.

Further progress has been made in strengthening *financial control* in Bulgaria. More effort is needed to ensure the protection of the EC financial interests and of the euro against counterfeiting, as to well as to further strengthening the administrative capacity to implement sound financial control systems.

Overall, the capacity of the law enforcement and regulatory bodies to ensure a level playing field within the internal market through effective implementation and enforcement of the *acquis* must be enhanced. The continued reinforcement of the judicial system and administrative structures in certain areas will require particular attention, notably as regards public procurement, competition and justice and home affairs. Bulgaria should devote more efforts and financial resources to make the necessary investments to apply the *acquis*, notably in agriculture (in particular in the veterinary field), transport and environment. Continued efforts are required to establish the necessary administrative capacity to ensure the sound and efficient management of EU funds, notably the Structural Funds.

In the accession negotiations, all 31 chapters have been provisionally closed. The commitments made in the negotiations are with a view to accession in 2007. Bulgaria is generally meeting the commitments that it has made during the negotiations although delays have been noted in specific areas.

Bearing in mind the progress achieved since the Opinion, the level of alignment and administrative capacity that Bulgaria has achieved at this point in time and its track record in implementing the commitments that it has made in the negotiations, and taking into account their preparatory work in progress, the Commission expects Bulgaria to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Bulgaria needs to continue its preparations, in line with the commitments it has made in the accession negotiations.

C. CONCLUSION

Since the Commission concluded in its 1997 Opinion that Bulgaria fulfilled the political criteria, the country has further consolidated and deepened the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. This trend has been confirmed over the past year. Bulgaria continues to fulfil the political criteria.

Tangible progress was made in public administration reform with the adoption of amendments to the Civil service law. The specific structures for co-ordinating European integration continue to function well, and in view of Bulgaria's aim of building a qualified and efficient civil service by the time of accession this progress needs to spread throughout the public administration. Also, interdepartmental coordination should improve. Attention should be given to the legal framework for local and regional administration, which will play an important role in the implementation of the *acquis*.

Building on important reforms of the judiciary system achieved in recent years, there have been positive developments with regard to the recruitment and appointment of judges. Still, certain key parts of the reform of the judiciary remain to be adopted. The complexity and efficiency of the penal structures, in particular in the pre-trial phase, is a matter of concern. Strong efforts will be necessary to foster Bulgaria's capacity to prosecute organised crime and corruption, which involves further reforms in the structures of the judiciary and of the police.

Bulgaria has implemented several measures in the fight against corruption, but it remains a problem. Renewed efforts are needed, including tackling high level corruption.

Bulgaria continues to respect human rights and fundamental freedoms. Further progress should be pursued in specific areas to improve their implementation in practice. Comprehensive legislation on anti-discrimination was adopted but the independent body required by the law has not yet been established. The freedom of expression is ensured by law. However, the legal framework regarding libel and defamation by journalists needs to be revised. Efforts to address inadequate living conditions in certain prisons and problems of ill-treatment in custody need to be sustained. Trafficking in human beings is a serious problem and needs to be addressed. A new law on public health should address most of the issues related to the placement of mentally disabled people. The structures responsible for child welfare and their co-ordination with the relevant ministries need to be reinforced.

Efforts have been made in the past years to develop a framework to tackle the problems faced by minorities, but the situation on the ground has not evolved much. Sustained efforts including allocation of appropriate financial resources will be necessary to effectively implement the intentions and to combat in particular anti-Roma prejudice.

The 1997 Opinion already acknowledged the substantial reform efforts undertaken by the Bulgarian authorities to transform their economy. Since the Opinion economic structure and performance have significantly improved. Macroeconomic stability has been achieved soon after the Opinion, profound economic reforms have been carried out over the entire period while the Bulgarian authorities' commitment to the economic requirements of EU accession has been sustained.

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

Improvements can be made in sustaining macroeconomic stability and in deepening structural reforms. The current account deficit has widened substantially in 2003 and could, if continuing, warrant a further policy response. The business environment, in particular the efficiency of the administrative and judicial system as well as regulatory procedures, should be further improved to increase Bulgaria's attractiveness for investment. In spite of significant achievements, privatisation still needs to be completed. While the legal framework is largely in place, the actual restructuring and liberalisation of the network industries need to progress further in order to enhance competition and efficiency. The ongoing reduction in unemployment should be further supported by reducing rigidities in labour market regulation.

Since the Opinion, Bulgaria has made good progress in adopting the *acquis* and more recently, has also made progress in gradually building up the administrative capacity to implement and effectively enforce the *acquis*.

Over the past year, Bulgaria has made further progress in the vast majority of the chapters of the *acquis* and is on track to complete the required legislative transposition before the planned date of accession if the current pace of progress is maintained.

Overall, Bulgaria has now achieved a reasonable degree of alignment with the *acquis* in the large majority of areas. It is also on track in developing adequate administrative capacity to implement the *acquis* in a considerable number of fields. Bulgaria has established most of the necessary institutional structures. Nevertheless, in some sectors, further efforts and resources are required to strengthen the capacities of these institutions and to ensure their effective functioning. In order to cover the remaining gaps, due attention should be given to the full and timely implementation of the strategies and action plans for the reinforcement of administrative capacity already approved in these areas.

In the field of internal market, Bulgaria has continued to make progress in most areas as regards the free *movement of goods* in terms of transposition of the *acquis* and the development of the administrative capacity. However, further efforts are required to develop the administrative capacity to implement the *acquis* on industrial products and as regards foodstuff and food safety. Mutual recognition clauses are still to be introduced into the Bulgarian legislation falling under the non-harmonised areas. Alignment of the legislation on public procurement needs to be completed. As regards *free movement of persons*, some progress was made in the field of mutual recognition of professional qualifications but work is still needed on the framework legislation for mutual recognition and with regard to the future co-ordination of social security systems. As regard the right for establishment and the *freedom to provide services*, efforts are required to unequivocally eliminate the remaining restrictions and discriminatory measures on foreigners despite some corrective actions. As regard financial services, major parts of the *acquis* on insurance remain to be transposed. In the area of *free movement of capital*, Bulgaria still has to adopt legislation on capital movements and payment systems. Efforts to improve the framework in the fight against money laundering should be maintained.

As regards *company law*, particular attention should be paid to the effective enforcement of industrial and intellectual property rights, in particular through strengthening border controls and improving co-ordination between the law enforcement bodies. In the area of *competition*, Bulgarian has further updated its legislative framework and further strengthened its administrative capacity. Sustained efforts are required in order to continue to improve the quality of its State aid enforcement.

Regarding *agriculture*, Bulgaria has continued to make good progress in the transposition process. Further strengthening of administrative structures has been noted. However, significant work is still needed in the veterinary field and in the setting up of the paying agency and IACS. With regard to *fisheries*, legal alignment has taken place according to schedule. However, further progress has to be made regarding the administrative and technical capacity for inspection and control.

As regard *transport*, Bulgaria has made steady progress in transposing the *acquis* in most sectors, however administrative capacity should be further strengthened. Further efforts are needed to align the inland waterway legislation. Particular attention should be devoted to improving the maritime safety record and to the building up and reinforcement of the necessary capacities and structures for Port State and Flag State control.

In the area of *taxation*, Bulgaria's indirect legislation is to a significant extent aligned with the *acquis*, notably as far as VAT is concerned. Further transposition is required as regards excise duties and direct taxation. Efforts should continue as concerns specifically interconnectivity with EU systems.

On *social policy and employment*, progress has continued in alignment with the *acquis*. Further efforts for the effective implementation of the transposed legislation need to be undertaken in particular in the areas of labour law, occupational safety and health, public health, anti-discrimination as well as equal opportunities for women and men. Administrative capacity needs to be strengthened, *inter alia* with regard to ESF management and implementation.

Regarding *energy*, Bulgaria is making good progress in its legislative alignment and in its preparation to the internal energy market. The restructuring and privatisation of the energy sector is progressing well but particular efforts are still needed to improve energy efficiency and the use of renewable energy. Bulgaria must continue to respect its commitments on nuclear safety, notably as regards closure commitments for certain units of the Kozloduy nuclear power plant, and to ensure a high level of nuclear safety in its installations.

Although a reasonable degree of alignment with *acquis* in the *telecommunications* has been reached, Bulgaria needs to adopt further implementing legislation and ensure that the regulatory body is strengthened.

Concerning *regional policy and co-ordination of structural instruments*, Bulgaria has made progress notably with regard to establishing the legal framework and designating institutional structures. However, considerable efforts are still needed to improve the administrative capacity in key Ministries and improving the capacity of other relevant bodies, such as the intermediate bodies, and other relevant players both at central and regional level. Priority must also be given to the setting up of efficient and integrated monitoring and evaluation systems as well as to further improving the financial

management and control systems. Attention must be paid to observance of an ambitious planning schedule for the National Development Plan and to the full involvement of relevant partner organisations in this process.

With regard to the *environment*, Bulgaria has achieved a reasonable degree of alignment with the *acquis* and the necessary administrative structures are in place. However, further strengthening of the enforcement authorities notably at regional and local level is required as well as the provision of adequate financial resources for State and private sector investment.

In the area of *consumer and health protection*, a reasonable degree of alignment with the *acquis* has been reached in the area of safety related measures. However, further alignment is particularly needed with regard to the non-safety related measures and Bulgaria should ensure that the administrative structures in place can effectively enforce legislation and carry out market surveillance activities.

In the area of *justice and home affairs*, further good progress could be noted as regards the management of the future external borders. However, significant further efforts are needed to strengthen the law enforcement capacity and policy formulation in order to step up the fight against organised crime and corruption. Bulgaria needs to press ahead and dedicate adequate resources to fundamental reforms of the police and of the judiciary, including the reform of the pre-trial phase and the implementation of the strategies against crime. Overall, the full and timely implementation of the main strategies and action plans in the area of justice and home affairs, together with the entry into force of the planned amendments to the legislation on the penal procedure, legal aid, asylum, mediation and forfeiture of criminal assets should address the bulk of the issues covered in this chapter.

Regarding *customs*, Bulgaria has achieved a high degree of legislative alignment and has improved its administrative capacity. Efforts should continue in the IT area as well as to further improve revenue-collection and controls.

Further progress has been made in strengthening *financial control* in Bulgaria. More effort is needed to ensure the protection of the EC financial interests and of the euro against counterfeiting, as to well as to further strengthening the administrative capacity to implement sound financial control systems.

Overall, the capacity of the law enforcement and regulatory bodies to ensure a level playing field within the internal market through effective implementation and enforcement of the *acquis* must be enhanced. The continued reinforcement of the judicial system and administrative structures in certain areas will require particular attention, notably as regards public procurement, competition and justice and home affairs. Bulgaria should devote more efforts and financial resources to make the necessary investments to apply the *acquis*, notably in agriculture (in particular in the veterinary field), transport and environment. Continued efforts are required to establish the necessary administrative capacity to ensure the sound and efficient management of EU funds, notably the Structural Funds.

In the accession negotiations, all 31 chapters have been provisionally closed. The commitments made in the negotiations are with a view to accession in 2007. Bulgaria is generally meeting the commitments that it has made during the negotiations although delays have been noted in specific areas.

Bearing in mind the progress achieved since the Opinion, the level of alignment and administrative capacity that Bulgaria has achieved at this point in time and its track record in implementing the commitments that it has made in the negotiations, and taking into account their preparatory work in progress, the Commission expects Bulgaria to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Bulgaria needs to continue its preparations, in line with the commitments it has made in the accession negotiations.

D. ACCESSION PARTNERSHIP: GLOBAL ASSESSMENT

Bulgaria's progress and overall state of preparation in respect of the Copenhagen criteria has been examined and conclusions drawn above. This section assesses briefly the overall extent to which the priorities of the Accession Partnership have been met.

A revised Accession Partnership for Bulgaria was adopted in May 2003.¹⁰ The purpose of the Accession Partnership is to assist the Bulgarian authorities in their efforts to meet the accession criteria. It covers in detail the priorities for accession preparations, in particular implementing the *acquis*, and forms the basis for programming pre-accession assistance from Community funds such as the Phare programme.

Bulgaria has continued to address the priorities defined by the revised Accession Partnership. Overall, good progress has been made, but substantial efforts are still necessary to complete the tasks foreseen. For a number of priorities, the government will benefit from Phare assistance, as projects directly related to these priorities have been included in the 2004 Phare programme (see more details in part A.2 of this report).

With regard to the **political criteria** and with the aim of reinforcing *democracy and the rule of law*, Bulgaria has made progress with the implementation of the reform of the public administration and of the judiciary. Bulgaria should start to implement the necessary reforms of the structures of the judiciary, notably vis-à-vis the pre-trial phase, and enhance its progress in the fight against corruption. Some progress can be reported in meeting the priorities relating to respect for *human rights and protection of minorities*, but efforts need to be fostered with regard to improving the situation of the Roma community.

With regard to the **economic criteria**, Bulgaria has continued to make progress towards meeting priorities of the 2003 Accession Partnership. This holds true in particular for the near completion of the privatisation process, some further achievements with regard to simplifying licensing schemes and the improvement of the efficiency of bankruptcy procedures. Work, however, still lies ahead notably with regard to reducing subsidies to the energy and transport sectors, improving the quality of public investment in infrastructure, education and health as well as implementing reform plans in the area of customs and tax administrations.

Bulgaria continues to make good progress with the adoption and implementation of the *acquis*. In the field of internal market, the priorities of the Accession Partnership are generally met, and improvements have been recorded in competition policy. In the other areas, Bulgaria is generally making good progress in meeting the Accession Partnership priorities with regard to legislative alignment, but further efforts are necessary with regard to implementation, notably where investments are needed.

Progress on the issues identified as priorities in the Accession Partnership is discussed in more detail in other parts of this report, notably in part B.3. The revised Accession Partnership follows the same structure as the Regular Report.

¹⁰ Council Decision 2003/396/EC of 19 May 2003 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with Bulgaria (OJ L 145, 12.6.2003, p. 1).

The revised Accession Partnership continues to be a main tool guiding Bulgaria's preparations for accession. Implementation of the Accession Partnership needs to continue. It should be given the necessary political attention and should help Bulgaria to set its legislative and institution-building agenda.

ANNEXES

ANNEX I

HUMAN RIGHTS CONVENTIONS RATIFIED BY THE CANDIDATE COUNTRIES

(as at end of September 2004)

| <i>Adherence to following conventions and protocols</i> | Bulgaria | Romania | Turkey |
|---|-----------------|----------------|---------------|
| ECHR (European Convention on Human Rights) | ✓ | ✓ | ✓ |
| Protocol 1 (right of property) | ✓ | ✓ | ✓ |
| Protocol 4 (freedom movement et al.) | ✓ | ✓ | |
| Protocol 6 (death penalty) | ✓ | ✓ | ✓ |
| Protocol 7 (ne bis in idem) | ✓ | ✓ | |
| European Convention for the Prevention of Torture | ✓ | ✓ | ✓ |
| European Social Charter | n/a | n/a | ✓ |
| Revised European Social Charter | ✓ | ✓ | |
| Framework Convention for National Minorities | ✓ | ✓ | |
| ICCPR (International Covenant on Civil and Political Rights) | ✓ | ✓ | ✓ |
| Optional Protocol to the ICCPR (right of individual communication) | ✓ | ✓ | |
| Second Optional Protocol to ICCPR (death penalty) | ✓ | ✓ | |
| ICESCR (International Covenant on Economic, Social and Cultural rights) | ✓ | ✓ | ✓ |
| CAT (Convention against Torture) | ✓ | ✓ | ✓ |
| CERD (Convention on the Elimination of All Forms of Racial Discrimination) | ✓ | ✓ | ✓ |
| CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) | ✓ | ✓ | ✓ |
| Optional Protocol to the CEDAW | | | |
| CRC (Convention on the Rights of the Child) | ✓ | ✓ | ✓ |

ANNEX II

STATISTICAL ANNEX

| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|-------|--|--------|--------|--------|--------|------------|
| Basic data | | in 1000 | | | | | |
| Population (average) | 8,312 | 8,257 | 8,211 | 8,170 | 7,913 | 7,869 | 7,824 |
| | | in km² | | | | | |
| Total area | 110,9 | 110,9 | 110,9 | 111,0 | 111,0 | 111,0 | 111,0 |
| National accounts | | 1000 Mio Lev | | | | | |
| Gross domestic product at current prices a) | 17,4 | 22,4 | 23,8 | 26,8 | 29,7 | 32,3 | 34,4 |
| | | 1000 Mio ECU/euro | | | | | |
| Gross domestic product at current prices | 9,2 | 11,4 | 12,2 | 13,7 | 15,2 | 16,6 | 17,7 |
| | | ECU/Euro | | | | | |
| Gross domestic product per capita at current prices | 1.100 | 1.380 | 1.480 | 1.680 | 1.930 | 2.100 | 2.260 |
| | | % change over the previous year | | | | | |
| Gross domestic product at constant prices | -5,4 | 3,9 | 2,3 | 5,4 | 4,1 | 4,9 | 4,3 |
| Employment growth | -3,9 | -0,2 | -2,1 | -3,5 | -0,4 | 0,3 | 3,4 |
| Labour productivity growth f) | : | 4,0 | 4,5 | 9,2 | 4,5 | 4,1 | 0,8 |
| Unit labour cost growth | -8,0 | 18,4 | -2,2 | -5,4 | 0,8 | -0,8 | 0.1F |
| | | in Purchasing Power Standards | | | | | |
| Gross domestic product per capita at current prices | 4.360 | 4.620 | 4.880 | 5.310 | 5.830 | 6.100 | 6.520 |
| | | in % of EU-25 average | | | | | |
| GDP per capita b) at current prices in PPS | 26,1 | 26,6 | 26,6 | 27,2 | 28,8 | 29,1 | 29.6F |
| | | in % of EU-15 average | | | | | |
| Labour productivity (GDP per person employed in PPS) f) | 26,3 | 27,0 | 27,9 | 29,9 | 31,1 | 31.1F | 30.5F |
| Structure of production | | % of Gross Value Added c) | | | | | |
| - Agriculture | | 18,8 | 16,3 | 13,9 | 13,4 | 12,1 | 11,4 |
| - Industry (excluding construction) | | 25,7 | 23,1 | 24,5 | 24,1 | 24,6 | 25,5 |
| - Construction | | 4,8 | 5,0 | 4,6 | 4,6 | 4,5 | 4,5 |
| - Services | | 50,7 | 55,5 | 56,9 | 57,9 | 58,8 | 58,5 |
| Structure of expenditure | | as % of Gross Domestic Product | | | | | |
| - Final consumption expenditure | 85,5 | 82,9 | 87,9 | 87,1 | 86,9 | 86,8 | 88,1 |
| - household and NPISH | 73,0 | 67,6 | 71,3 | 69,2 | 69,5 | 68,8 | 69,1 |
| - general government | 12,6 | 14,5 | 15,2 | 16,8 | 17,4 | 18,0 | 18,3 |
| - Gross fixed capital formation | 11,0 | 13,0 | 15,1 | 15,7 | 18,2 | 18,3 | 19,6 |
| - Stock variation d) | -1,1 | 3,8 | 2,8 | 2,6 | 2,4 | 1,5 | 2,1 |
| - Exports of goods and services | 58,3 | 47,1 | 44,6 | 55,7 | 55,6 | 53,1 | 53,2 |
| - Imports of goods and services | 53,7 | 46,8 | 50,3 | 61,1 | 63,1 | 59,8 | 63,0 |
| Inflation rate | | % change over the previous year | | | | | |
| Consumer price index | : | 18,7 | 2,6 | 10,3 | 7,4 | 5,8 | 2,3 |
| Balance of payments | | in Mio ECU/euro | | | | | |
| -Current account | 923 | -55 | -642 | -760 | -1.106 | -929 | -1.504 |
| -Trade balance | 283 | -340 | -1.014 | -1.273 | -1.785 | -1.698 | -2.204 |
| <i>Exports of goods</i> | 4.241 | 3.741 | 3.759 | 5.224 | 5.737 | 6.084 | 6.686 |
| <i>Imports of goods</i> | 3.958 | 4.080 | 4.773 | 6.496 | 7.522 | 7.781 | 8.890 |
| -Net services | 745 | 332 | 296 | 547 | 456 | 487 | 526 |
| -Net income | -315 | -253 | -205 | -348 | -341 | -286 | -440 |
| -Net current transfers | 209 | 205 | 281 | 314 | 564 | 567 | 615 |
| - of which: government transfers | 114 | 53 | 64 | 59 | 157 | 129 | 122 |
| - FDI (net) inflows | 375 | 479 | 747 | 1.114 | 755 | 923P | 1,190 P |
| Public finance | | in % of Gross Domestic Product | | | | | |
| General government deficit/surplus | -0,3 | 1,7 | 0,4 | -0,5 | 0,2 | -0,8 | -0.1P |

| | | | | | | | |
|-------------------------|-------|------|------|------|------|------|-------|
| General government debt | 105,1 | 79,6 | 79,3 | 73,6 | 66,2 | 53,2 | 46.2P |
|-------------------------|-------|------|------|------|------|------|-------|

| Financial indicators | in % of Gross Domestic Product | | | | | | |
|---|---------------------------------------|------------------------------|-------|-------|-------|-------|-------|
| Gross foreign debt of the whole economy | 100,5 | 70,9 | 77,5 | 74,0 | 66,3 | 49,4 | : |
| | | as % of exports | | | | | |
| Gross foreign debt of the whole economy | 172,5 | 150,6 | 173,9 | 132,8 | 119,3 | 93,0 | : |
| Monetary aggregates | | 1000 Mio ECU/euro | | | | | |
| - M1 | 1,6 | 1,9 | 2,1 | 2,5 | 3,1 | 3,4 | 4,1 |
| - M2 | 3,0 | 3,4 | 3,9 | 5,0 | 6,4 | 7,1 | 8,4 |
| - M3 | 3,0 | 3,4 | 3,9 | 5,0 | 6,4 | 7,1 | 8,5 |
| Total credit | 2,8 | 2,9 | 3,2 | 3,6 | 4,2 | 5,3 | 6,8 |
| Average short-term interest rates | | % per annum | | | | | |
| - Day-to-day money rate | 61,9 | 2,4 | 2,6 | 2,9 | 3,6 | 2,4 | 2,0 |
| - Lending rate | 79,6 | 13,9 | 13,7 | 12,9 | 12,4 | 11,9 | 10,5 |
| - Deposit rate | 46,3 | 3,0 | 3,2 | 3,1 | 3,3 | 3,2 | 3,2 |
| ECU/EUR exchange rates | | (1ECU/euro=..New Lev) | | | | | |
| - Average of period | 1,902 | 1,969 | 1,956 | 1,948 | 1,948 | 1,949 | 1,949 |
| - End of period | 1,976 | 1,956 | 1,956 | 1,954 | 1,946 | 1,955 | 1,956 |
| | | 1995=100 | | | | | |
| - Effective exchange rate index | 4,9 | 5,1 | 5,2 | 5,2 | 5,6 | 5,7 | 6,0 |
| Reserve assets | | Mio ECU/euro | | | | | |
| -Reserve assets (including gold) | 2.257 | 2.619 | 3.234 | 3.756 | 4.120 | 4.565 | 5.302 |
| -Reserve assets (excluding gold) | 1.986 | 2.361 | 2.943 | 3.455 | 3.798 | 4.159 | 4.889 |

| External trade | Mio ECU/euro | | | | | | |
|-----------------------|---------------------|--------------------------|--------|--------|--------|--------|--------|
| Trade balance | 337 | -328 | -1.007 | -1.280 | -1.778 | -1.692 | -2.200 |
| Exports | 4.386 | 3.747 | 3.734 | 5.253 | 5.714 | 6.063 | 6.668 |
| Imports | 4.049 | 4.075 | 4.741 | 6.533 | 7.492 | 7.755 | 8.868 |
| | | previous year=100 | | | | | |
| Terms of trade | : | : | : | : | 99,1 | 98,9 | 104,9 |
| | | as % of total | | | | | |
| Exports with EU-15 | 43,2 | 50,4 | 52,1 | 51,1 | 54,7 | 55,6 | 56,5 |
| Imports with EU-15 | 37,7 | 45,2 | 48,4 | 44,0 | 49,3 | 50,2 | 49,6 |

| Demography | per 1000 of population | | | | | | |
|--|-------------------------------|-----------------------------|------|------|--------|------|------|
| Natural growth rate | -7,0 | -6,4 | -4,8 | -5,1 | -5,6 | -5,8 | -5,7 |
| Net migration rate (including corrections) | : | : | : | : | -2,7e) | : | : |
| | | per 1000 live-births | | | | | |
| Infant mortality rate | 17,5 | 14,4 | 14,6 | 13,3 | 14,4 | 13,3 | 12,3 |
| Life expectancy : | | at birth | | | | | |
| Males: | 67,1 | : | 67,6 | 68,2 | 68,5 | 68,5 | 68,7 |
| Females: | 74,3 | : | 74,6 | 75,3 | 75,2 | 75,4 | 75,6 |

| Labour market (Labour Force Survey) | as % of the total population of the same age group | | | | | | |
|--|---|---|------|------|------|------|------|
| Economic activity rate (15-64) | : | : | : | 60,7 | 62,5 | 61,9 | 60,9 |
| Employment rate (15-64), total | : | : | : | 50,4 | 49,7 | 50,6 | 52,5 |
| Employment rate (15-64), males | : | : | : | 54,7 | 52,7 | 53,7 | 56,0 |
| Employment rate (15-64), females | : | : | : | 46,3 | 46,8 | 47,5 | 49,0 |
| | | as % of the total population of the same age group | | | | | |
| Employment rate of older workers (55-64) | : | : | : | 20,8 | 24,0 | 27,0 | 30,0 |
| Average employment by NACE branches | | in % of total employment | | | | | |
| - Agriculture and forestry | 25,3 | 26,2 | 25,8 | 26,2 | 26,3 | 26,7 | 27,7 |
| - Industry (excluding construction) | 27,6 | 26,5 | 24,6 | 24,0 | 23,3 | 23,0 | 22,7 |
| - Construction | 4,4 | 4,1 | 4,3 | 4,3 | 4,3 | 4,5 | 4,8 |
| - Services | 42,7 | 43,2 | 45,4 | 45,5 | 46,0 | 45,7 | 44,8 |
| | | % of labour force | | | | | |
| Unemployment rate, total | : | : | : | 16,4 | 19,2 | 17,8 | 13,6 |
| Unemployment rate, males | : | : | : | 16,7 | 20,0 | 18,5 | 13,9 |
| Unemployment rate, females | : | : | : | 16,2 | 18,4 | 17,0 | 13,2 |
| Unemployment rate of persons < 25 years | : | : | : | 33,7 | 38,0 | 35,0 | 26,8 |

| | | | | | | | | |
|--|-------|---|-------|-------|-------|-------|------------|--|
| Long-term unemployment rate | : | : | : | 9,3 | 11,9 | 11,7 | 8,9 | |
| Social cohesion | | ratio of top quintile to lowest quintile | | | | | | |
| Inequality of income distribution | : | 3,9 | 3,8 | 3,8 | 3,8 | : | : | |
| | | % of population aged 18-24 | | | | | | |
| Early school-leavers | : | : | : | : | 20,3 | 21,0 | 22,4 | |
| | | as % of the total population of the same age group | | | | | | |
| Children aged 0-17 living in jobless households | : | : | : | : | 19,0 | 18,7 | 16,6 | |
| People aged 18-59 living in jobless households | : | : | : | 15,5 | 17,3B | 16,6 | 15,3 | |
| Standard of living | | per 1000 inhabitants | | | | | | |
| Number of cars | 208,9 | 219,1 | 232,4 | 243,9 | 263,6 | 276,3 | 295,2 | |
| Main telephone lines | 323,7 | 335,1 | 345,9 | 353,6 | 370,3 | 370,4 | 366,1 | |
| Number of subscriptions to cellular mobile services | 4,5 | 15,9 | 40,1 | 90,6 | 204,7 | 318,3 | 452,9 | |
| Infrastructure | | in km per 1000 km² | | | | | | |
| Railway network | 38,7 | 38,7 | 38,7 | 38,9 | 38,9 | 38,9 | 38,9 | |
| | | km | | | | | | |
| Length of motorways | 314 | 319 | 324 | 324 | 328 | 328 | 328 | |
| Industry and agriculture | | previous year=100 | | | | | | |
| Industrial production volume indices | 90,0 | 91,5 | 92,1 | 108,2 | 101,6 | 106,5 | 108,3 P | |
| Gross agricultural production volume indices | 113,1 | 98,7 | 102,7 | 90,6 | 99,5 | 104,3 | 99,1P | |
| Innovation and research | | as % of GDP | | | | | | |
| Spending on Human Resources (public expenditure on education) | | 3,23 | 3,66 | 4,41 | 3,53 | : | : | |
| | | as % of GDP | | | | | | |
| Gross domestic expenditure on Research & Development | 0,51 | 0,57 | 0,57B | 0,52 | 0,47 | : | : | |
| | | per 1000 inhabitants | | | | | | |
| Level of Internet access - households | : | 0,1 | 0,4 | 0,7 | 17,1 | 18,3 | 18,7 | |
| Environment | | tonnes CO2 equivalent per capita | | | | | | |
| Total greenhouse gases emissions | 55,3 | 49,4 | 45,3 | 44,8 | 46,4 | 44,0 | : | |
| | | kg of oil equivalent per 1000 euro of GDP | | | | | | |
| Energy intensity of the economy | 2432 | 2.223 | 1.987 | 1.900 | 1885 | 1781 | : | |
| | | as % of total electricity consumption | | | | | | |
| Share of renewable energy | 7,0 | 8,1 | 7,7 | 7,4 | 4,7 | 6,0 | : | |
| | | as % of total freight transport | | | | | | |
| Modal split of road transport | 76.7E | 77.0E | 77.8E | 52,3 | 60,2 | 62,9 | : | |
| P=provisional figures | | | | | | | | |
| E=estimated data | | | | | | | | |
| B=break in series | | | | | | | | |
| F=forecast | | | | | | | | |
| a) Note that Bulgaria has rebased its currency in July 99, dividing it by 1000. The currency is now called "New Bulgarian Lev". | | | | | | | | |
| b) Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics. | | | | | | | | |
| c) Including FISIM. | | | | | | | | |
| d) These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components. | | | | | | | | |
| e) The Net migration rate for 2001 refers to the period 1993-2001 between the two last censuses. | | | | | | | | |
| f) 'Labour productivity growth' is calculated from GDP at constant price Euros, while the structural indicator 'Labour productivity (in % of EU15)' is calculated from current price figures in PPS. | | | | | | | | |

Methodological Notes

Inflation rate

As part of the preparations for the common currency EU Member States (MSs) have designed a new *consumer price index* in order to comply with the obligations of the EU Treaty. The aim was to produce

CPIs comparable among Member States. The main task was to harmonise methodologies and coverage. The result was the Harmonised Index of Consumer Prices (HICP). A similar exercise has been started with Candidate Countries (CC). In respect to enlargement it is equally important that their economic performance is assessed on the basis of comparable indices. CCs have monthly transmitted proxy HICPs to Eurostat since January 1999. These proxy HICPs comply essentially with the HICP regulations in force in MSs.

Finance

Public finance: The general government deficit / surplus refers to the national accounts concept of consolidated general government net borrowing / net lending (EDP B.9) of ESA95. General government debt is defined as consolidated gross debt at end-year nominal value.

Gross foreign debt is of the whole economy, covering both short- and long-term, but excluding equity investment and money market instruments. The source for stock of outstanding debt is OECD, while the source of GDP is Eurostat. For the ratio of gross foreign debt to exports, the national accounts definition of exports of goods and services is used (source: Eurostat).

Monetary aggregates are end-year stock data, as reported to Eurostat. Generally, M1 means notes and coin in circulation plus bank sight deposits. M2 means M1 plus savings deposits plus other short-term claims on banks. M3 means M2 plus certain placements in a less liquid or longer-term form. Total credit means loans by resident monetary financial institutions (MFIs) to non-MFI residents.

Interest rates: Annual average rates based on monthly series reported to Eurostat. Lending rates refer to bank lending to enterprises for over 1 year. Deposit rates refer to bank deposits with an agreed maturity of up to one year. Day-to-day money rates are overnight interbank rates.

Exchange rates: ECU exchange rates are those that were officially notified to DG ECFIN until 1 January 1999, when the ECU was replaced by the euro. Euro exchange rates are reference rates of the European Central Bank. The effective exchange rate index (nominal), is from the IMF and is weighted by major trading partners.

Reserve assets are end-year stock data, as reported to Eurostat. They are defined as the sum of central bank holdings of gold, foreign exchange, SDRs, reserve position in the IMF, and other claims on non-residents. Gold is valued at end-year market price.

External trade

Imports and exports (current prices). The data is based upon the special trade system according to which external trade comprises goods crossing the customs border of the country. Trade data excludes direct re-exports and trade in services and trade with customs free zones as well as licenses know-how and patents. Value of external trade turnover includes the market value of the goods and the additional costs (freight, insurance, etc.). The term FOB means that all costs incurred in the course of transport up to the customs frontier are charged to the seller. The term CIF means that the purchaser pays the additional costs. Exports are recorded here on FOB basis. Imports are recorded on CIF basis.

Trade Classifications. Merchandise trade flows are recorded according to Combined Nomenclature (CN) and the Single Administrative Document (SAD).

Imports and exports with EU-15. Data declared by Bulgaria.

Demography

Net migration rate. Crude rate of net migration (recalculated by EUROSTAT) for year X. is: population (X+1) - population (X) - Deaths (X) + Births (X). This assumes that any change in population not attributable to births and deaths is attributable to migration. This indicator includes therefore also administrative corrections (and projection errors if the total population is based on estimates and the births and deaths on registers). Figures are in this case more consistent. Further most of the difference between the Crude rate of net migration provided by a country and the one calculated by Eurostat is caused by an under reporting or delay in reporting of migration.

Life expectancy. Data are compiled on the basis of a survey carried out with three-years periodicity.

Labour market

The results are based on the European Union Labour Force Survey (LFS). The EU LFS is conducted on a quarterly basis each year in accordance with Council Regulation (EEC) No. 577/98 of 9 March 1998. A detailed description of the sampling methods, the adjustment procedures, the definitions and the common EU coding currently used in the labour force survey is presented in the publications 'Labour Force Survey

– Methods and definitions. 2001’ and ‘Labour Force Survey in central and east European countries – Methods and definitions 2000’.

All definitions apply to persons aged 15 years and over living in private households. The concepts and definitions used in the survey follow the guidelines of the International Labour Organisation. Persons carrying out obligatory military service are not included. *Employed persons* were those who during the reference week did any work for pay or profit for at least one hour, or were not working but had jobs from which they were temporarily absent. Family workers are included.

Unemployed persons comprise persons aged 15 to 74 who were without work during the reference week, were currently available for work and were actively seeking work or who found a job to start later.

The active population (labour force) is defined as the sum of employed and unemployed persons.

Employment rates (respectively economic activity rates) represent employed persons (respectively economic active persons) as a percentage of the same age population. *Unemployment rates* represent unemployed persons as a percentage of the active population.

Duration of unemployment is defined as (a) the duration of search for a job, or (b) the length of the period since the last job was held (if this period is shorter than the duration of search for a job). *Long term unemployment rates* represent persons unemployed for one year and more as a percentage of the active population.

Early school-leavers includes all the persons aged 18 to 24 who are not in education/training and with at most lower secondary education (ISCED 0-2). Population in education includes persons who had followed any kind of education during the 4 weeks preceding the week of reference. Students who were on holidays in this period are not included.

The indicators of « Population in jobless households » are calculated:

- for children, as a share of persons aged 0-17 who are living in households where no-one is working;

- for adults, as a share of persons aged 18 - 59 who are living in households where no-one works. Students aged 18 -24 who live in households composed solely of students of the same age class are not counted in either numerator or denominator.

The reference period is quarter 2 for the following indicators: employment by activity, early school-leavers and population in jobless households. For all other indicators, annual averages are derived from the LFS quarterly data. In case of incomplete series, missing quarters are estimated by Eurostat.

Social cohesion

Inequality of income distribution (income quintile share ratio): The ratio of total income received by the 20% of the population with the highest income (top quintile) to that received by the 20% of the population with the lowest income (lowest quintile). Income must be understood as equivalised disposable income. The total net income of each household is calculated by adding together the income received by all the members of the household from all sources. For each person, the 'equivalised total net income' is calculated as its household total net income divided by equivalised household size according to the modified OECD scale (which gives a weight of 1.0 to the first adult, 0.5 to other persons aged 14 or over who are living in the household and 0.3 to each child aged less than 14). Consequently, each person in the same household receives the same 'equivalised total net income'.

The population consists of all the persons living in private households of a country. The term person therefore includes all the members of the households, whether they are adults or children.

Persons with missing 'equivalised total net income' are excluded from the calculations (ie. people with missing household income or households with missing composition details).

As the Candidate countries do not participate in ECHP, income data from national Household Budget surveys were used. The methodology of calculation of the indicators for the Candidate Countries is the same as the one used for Member States. Every effort has been made to ensure that the definition of income used is as comparable as possible to the ECHP definition. Nevertheless, the indicators for the Candidate Countries cannot be considered to be fully comparable with the EU ones, or between Candidate Countries, due to the differences of underlying data sources.

Standard of living

Number of cars. Passenger car, road motor vehicle, other than a motor cycle, intended for the carriage of passengers and designed to seat no more than nine persons (including the driver).

The term "passenger car" therefore covers microcars (need no permit to be driven). Taxis and hired passenger cars. provided that they have less than ten seats. This category may also include pick-ups.

Infrastructure

Railway network. All railways in a given area. This does not include stretches of road or water even if rolling stock should be conveyed over such routes; e.g. by wagon-carrying trailers or ferries. Lines solely used for tourist purposes during the season are excluded as are railways constructed solely to serve mines; forests or other industrial or agricultural undertakings and which are not open to public traffic. The data considers the construction length of railways.

Length of motorways. Road specially designed and built for motor traffic which does not serve properties bordering on it. and which:

(a) is provided except at special points or temporarily with separate carriageways for the two directions of traffic, separated from each other, either by a dividing strip not intended for traffic, or exceptionally by other means;

(b) does not cross at level with any road, railway or tramway track, or footpath; (c) is specially sign-posted as a motorway and is reserved for specific categories of road motor vehicles.

Entry and exit lanes of motorways are included irrespectively of the location of the signposts. Urban motorways are also included.

Industry and agriculture

Industrial production volume indices. Industrial production covers mining and quarrying, manufacturing and electricity, gas, steam and water supply (according to the NACE Rev.1 Classification Sections C.D.E).

The index of annual industrial production is based on the exhaustive survey of enterprises (public and private) assigned to industrial sector.

Gross agricultural production volume indices. Data are based on SNA methodology and include agriculture and forestry (NACE sections A and B).

Innovation and research

Total public expenditure on education includes direct public expenditure on educational institutions, public subsidies to other private entities for education matters (e.g. subsidies to companies or labour market organisations that operate apprenticeship programmes) and public subsidies to households such as scholarships and loans to students for tuition fees and student living costs. Educational institutions are defined as entities that provide instructional services to individuals or education-related services to individuals and other educational institutions.

Data are collected through the joint UNESCO-OECD-EUROSTAT data collection (UOE) questionnaires on educational finance.

Gross domestic expenditure on R&D (GERD) is composed of: Business enterprise expenditure in R&D (BERD), Higher Education expenditure in R&D (HERD), Government expenditure in R&D (GOVERD) and Private Non-profit expenditure in R&D (PNRD).

The figures relating to GDP are compiled in accordance with ESA '95. Where GDP data using ESA '95 were missing, the year on year growth rates of GDP in the ESA '79 system were applied retrospectively to the years for which data were missing in the ESA '95 national accounts database.

Indicators are calculated using current ECU/EUR.

Internet access of households: Annual data on percentages of households with Internet access at home compiled via household surveys (telephone interviews).

Environment

Total greenhouse gases emissions: This indicator shows trends in anthropogenic emissions of the greenhouse gases: carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄) and three halocarbons, hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF₆), weighted by their global warming potentials (GWP). The GWP relates to the ability of the different gases to contribute to global warming over a 100 year time horizon. GWPs are provided by the Intergovernmental Panel on Climate Change. The figures are given in CO₂ equivalents.

Energy intensity of the economy The energy intensity ratio is the result of dividing the Gross Inland Consumption by the GDP. Since Gross Inland Consumption is measured in kgoe (kilogram of oil equivalent) and GDP in 1000 EUR, this ratio is measured in kgoe per 1000 EUR.

The Gross Inland Consumption of Energy is calculated as the sum of the Gross Inland Consumption of the five types of energy: coal, electricity, oil, natural gas and renewable energy sources. In addition, each of these figures is calculated as an aggregation of different data on production, storage, trade (imports/exports) and consumption/use of energy. The GDP figures are taken at constant prices to avoid the impact of inflation, base year 1995 (ESA95).

Share of renewable energy: This indicator measures the contribution of electricity produced from renewable energy sources to the national electricity consumption. It is a ratio between the electricity produced from renewable energy sources and the gross national electricity consumption calculated for a calendar year.

The main definitions involved in this indicator are the following:

1. Renewable energy sources: renewable non-fossil energy sources (wind, solar, geothermal, hydro and biomass/wastes)

2. Electricity produced from renewable energy sources : it comprises the electricity generation from hydro plants (excluding pumping), wind, solar, geothermal and electricity from biomass/wastes. Biomass/wastes electricity comprises electricity generated from burning of wood/wood wastes and other solid wastes of renewable nature (straw, black liquor), municipal solid waste incineration, biogas (incl. landfill, sewage, farm gas) and liquid biofuels.

3. Gross national electricity consumption : it comprises the total gross national electricity generation from all fuels (including autoproduction), plus electricity imports, minus exports.

These data have been traditionally compiled by Eurostat through the annual Joint Questionnaires (joint, because they are shared by Eurostat and the International Energy Agency) following a well established and harmonised methodology.

Modal split of freight transport: Percentage share of road in total inland freight transport (road, rail and inland waterways), tonne-km.

Bulgaria: Inland waterways: public sector only. International movements refer to the whole distance of the journey not only on national territory.

Sources

Total area, External trade, Demography, Standard of living, Infrastructure, Industry and agriculture: National sources. Other indicators: Eurostat.