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Monitoring of Bulgaria's Accession to the European Union 2001

Under the supervision of

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Preface

In 2000, the Regional Office of the Friedrich Ebert Stiftung launched the project „Monitoring of Bulgaria's Accession to the European Union". The strong response to this report confirmed our belief in the necessity and benefits of the project. The interest in the book was so great that additional copies in Bulgarian had to be printed. Also, a large number of international and foreign institutions asked for the English version. This encouraged us to continue with a second report for the period July 2000 to July 2001 which we hereby present to the public.

During the period to which the second report refers the negotiations with the EU continued successfully. Bulgaria's macroeconomic stability and the abolition of visa requirements by the EU for Bulgarian citizens may be seen as particularly positive signs in this process. At the same time structural deficits continue to exist, which need to be analyzed and for which solutions need to be found: poverty, corruption, crime, an insufficient judiciary system, lack of legislation in the field of insolvency; just to name a few.

In this second study some of the problems are analyzed, thus informing the Bulgarian public of the degree of preparedness of the country for EU accession. The discussion rounds and seminars which the Friedrich-Ebert-Stiftung is organizing in connection with this report serve to initiate a process of public debate which hopefully will also generate suggestions and ideas for improvements and easier implementation. If this contributes to a smoother process of negotiations with the EU and to the reform of the country than the study will have served its purpose.

I would like to thank everyone who has been involved in the preparation of this report, in particular Irina Bokova as the team leader and Dr. Pentcho Houbtchev from our office.

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Chapter 1.
ASSESSMENT OF BULGARIA'S ACCESSION TO THE EU

1.1. Assessment of the Negotiations

Irina Bokova

The present study is a continuation of the efforts of a team of researchers and experts in the area of the European Integration, who last year published their first book „Monitoring of Bulgaria's Accession to the European Union". In contrast to our previous publication, this time our aim is to examine only some aspects of the criteria of the meeting of Copenhagen which have been developed during the period July 2000 – July 2001 on one hand, and to pay particular attention to some important fields during the accession process which were not studied in our last year's book, on the other. These are particularly the infrastructure sectors – transport, telecommunications and energy, as well as the two broad areas of co-operation and coordination of policies such as Common Foreign and Security Policy and Justice and Home Affairs.

Attention is drawn to the infrastructure sectors for several reasons. The effective functioning of these sectors is of vital importance for sustained economic growth and international competitiveness. The infrastructure sectors provide services which are an extremely significant component of the end product of industry, transport and trade. They also offer services, which are of primary importance for the increase of economic activity and competition through the widening of the productivity range and the geographical sphere of distribution. The lack of timely and appropriate steps in these sectors poses the risk of turning them into a serious burden for the economy as a whole and for the development of competitive markets in particular.

Second, during the last decade an essential re-evaluation of the policy of the society towards the infrastructure sectors has been observed world wide, as well as towards the specific role of the state in them. At present in the whole world governments actively promote institutional, regulative and structural reforms, aimed at the improvement of production effectiveness and quality of services. The states that carried out such reforms reached significant economic benefits.

Third, direct foreign investments may play an important role for the speedy progress of the Bulgarian economy.

The evidence that has lately emerged in international practice determines that the problems of the functioning of the infrastructure sectors are normally not linked to the funding of projects or to the lack of technical skills of the personnel but rather to the organization and the functioning of the management structures of these sectors.

The previous study „Monitoring of Bulgaria's Accession to the EU" was published in the autumn of 2000, which was one of the reasons why the European Commission Regular Report on Bulgaria's Progress Towards Accession was not carefully analyzed, although we will often refer to it in the present study. The intention is rather to examine the processes and the problems in their integrated framework, based on the understanding that the process of Bulgaria's integration info the EU means not simply harmonization of the legislation but adoption and alignment of policies, approaches and standards in different areas of the political, economic and social life of the country.

It is becoming more obvious that the Republic of Bulgaria may become a member of the European Union only when it „puts its own home in order" – in other words, only when the country meets the criteria for membership, when it achieves a standard and quality of life comparable to a certain extent with the standard in the European Union. European Integration undoubtedly includes the specific, practical activities of all the bodies of state power, all ministries and agencies, the judiciary system, economic players, emerging civic society, etc. Without any exaggeration, it may be affirmed that the subject of the negotiations with the European Union is the whole of Bulgarian economic and political life. At this historical stage, the negotiations with the EU are the strongest motivation for modernization of the Bulgarian society.

The preparation for membership and the meeting of the adopted criteria, known as the Copenhagen criteria, are namely that accelerator for modernization and „europeanization" which is particularly necessary for Bulgaria during the difficult years of transition.

What were the main conclusions of the EU Regular Report 2000 in view of medium and long term objectives during the accession process and which of them are essential for the negotiations and for the activities of the new Government, elected after the Parliamentary elections on June 17, 2000?

In the political aspect, it was once again stated that Bulgaria „meets the political criteria". However, for the first time some specific notes were formulated – concerning corruption, the judicial system and the situation of the Roma population, as it is noted that „further efforts need to be undertaken to strengthen the rule of law and protect human and minority rights, particularly of the Roma population, where recent government decisions need to be followed by concrete measures with appropriate financial resources. Particular attention needs to be paid to the fight against corruption and improving the functioning of the judicial system."

More specifically the European Commission makes the following recommendations:

- The fight against corruption needs to be strengthened; there is a need for overall and transparent strategy against corruption, supported categorically by the Government and Parliament;
- Major efforts are necessary for the development of a strong, independent, effective and professional judicial system;

- Further specific actions and adequate financial resources are needed in relation to the situation of the Roma population.

The strongest criticism is against the judicial system:

- Insufficient financing of the Bulgarian judicial institutions in spite of the findings of the previous report about the serious problems of their financing and the working conditions in them.
- The administration of the courts is inefficient; procedures for caseload management are cumbersome; the computerization of these activities is not at the appropriate level;
- The situation of judges and other staff in the judiciary is unsatisfactory; the criteria applied for their selection are not transparent and there is no national competition for recruitment; there is no system for promotion or for mobility around the country, or any evaluation of judges' performance; judges' immunity needs to be clarified; there is very little training of staff within the judiciary;
- There are no significant improvements in the level of backlogs in handling court cases or speed of execution of rulings, as well as in the access to legal aid.

The following conclusions emerged from these findings:

- from the last report till now very little progress has been made on one of the short-term priorities of the Accession Partnership – the strengthening of the independence of the judges and the effectiveness of the court system;
- although the reform of the judicial system was recognized as a priority and it started with the adoption of legal changes, significant further efforts and resources are needed if the judicial system is to become a strong, independent, effective and professional system able to guarantee full respect of the rule of law as well as effective participation in the internal market.

The problem with corruption is in the Regular Report of the Commission once again as „a very serious problem in Bulgaria". The following recommendations were made:

- Strengthening of the efforts of the law enforcement bodies in fighting corruption;
- Upgrading of the legislative framework especially in financial control, financing of political parties, relations between officials and business, private interests of civil servants, etc.;
- Upgrading the internal control mechanisms against corruption in the various administrative bodies, including the judiciary;
- Further enhancement of the Government's efforts to create an environment of zero tolerance of corruption, and to minimize the potential for corruption when drawing up new legislation;
- Adoption of a global, transparent anti-corruption strategy;

As in the previous reports, it is again noted that Bulgaria continues to respect human rights and freedoms. The ratification of most of the international conventions, apart from the original European Social Charter and Protocols no. 4 and no. 7 of the European

Convention for the Protection of Human Rights and Fundamental Freedoms, is reported. In addition to this, Bulgaria is called upon to continue paying attention to the issues raised in the report of the Council of Europe Parliamentary Assembly and to reinforce its efforts to ensure that the commitments are fully implemented.

The Regular Report contains a number of specific notes:

- The administrative capacity of the Agency for Refugees is limited;
- The level of fines for libel is very high; continuing attention needs to be paid to ensure there is no undue restriction of freedom of expression;
- The administrative capacity of the National Council on Radio and Television needs to be strengthened;
- The conditions in the pre-trial detention centers, prisons and labor correction hostels are poor;
- The legal framework for young offenders needs to be revised;
- The reports about police violation of human rights provide cause for concern; these indicate that violence against the Roma community is higher than against other Bulgarians and that very few of the related complaints result in trials;
- The problem with trafficking of human beings, especially women, remains;
- The institution of Ombudsman is still not established.

In the area of economic, social and cultural rights the following problems exist:

- There is no legislation in force against gender discrimination, nor is a body responsible for implementing non-discrimination policies;
- Little progress has been made for the effective integration of disabled people into economic and social life;
- There are no rules for consultation with trade unions, employers and other economic groups before the adoption of policy measures by the Government; the tendency is rather not to consult them.

With regard to the protection of minorities, the Regular Report recognizes the progress in bringing Bulgarian legislation info line with the European standards, but it points out the necessity of measures for solving the problems of some minorities.

The issue about the situation with the Roma minority is in the Regular Report again. It is mentioned that the political commitment of the Government to remedy their problems must be translated into concrete action. Apart from the difficulties of economic nature the Regular Report points out discrimination practices against the Roma community. The general implementation of the program has been progressing slowly, so the short-term priority of Accession Partnership in this field is appraised as partially met.

The Copenhagen political criteria – sustained democratic institutions, separation of powers, rule of law, the situation with human rights, protection of minorities and freedom of the media continue to be an important condition for membership. The main directions of policy in this area are as follows:

- Strengthening the role of Parliament as a major institution in the system of parliamentary ruling;

- Decentralization of executive power and granting the necessary rights and competencies to the bodies of local government; optimization of the administrative and territorial structure;
- Establishment of new institutional guarantees for the rights and freedoms of citizens – the Ombudsman and the mechanism for individual appeals before the Constitutional Court;
- Development of the legal framework for the activities of political parties; transition to a mixed electoral system;
- Expansion of civil control over the authorities; equivalent partnership with the civil associations, trade unions and professional organizations;
- Building of a stable and effective public administration, optimization of its structure in view of the balance between the need for regulation in specific areas and subordination to consumers' interests; reduction and simplification of and control over licensing regimes; introduction of judicial control over all administrative acts;
- Restriction of „law making" through secondary legislation and excessive regulation of the economy; expansion of civil society and culture; development of autonomous regulators – contracts, non-formal agreements and procedures;
- Building of a strong and independent judiciary, effective justice, government strategy for control and prevention of crime, reform of the penal legislation, improving the work of the court administration and interrelations between investigation, court and prosecutor's office, enhancing the prestige, independence and qualification of magistrates etc.
- Consistent policy for approximation and harmonization of Bulgarian legislation with the EU regulations and directives and the Council of Europe's conventions and in particular further significant efforts with regard to its enforcement.

As far as the economic criteria are concerned, they obviously play a central role in the negotiation process. This is more valid if the conclusion of the EC in this area is taken into account, namely that Bulgaria does not have a functioning market economy and that the country is not able to cope with the competitive pressure and market forces in the EU.

The progress of structural reform, privatization, the investment climate etc. are of particular importance for the implementation of the rules of an Internal Market of the EU and the competitiveness of the Bulgarian economy.

The guiding principle of the new Bulgarian Government of the Prime Minister Simeon Saxe-Coburg Gotha, which came to power following the parliamentary elections on June 17, 2001, should be accelerated growth at the same time maintaining financial stability. The alternative economic policy could include the following major objectives:

- Maintaining sustained high growth with anticipated development of most branches and production with the best perspectives;
- Maintaining the financial and currency stability that has been achieved and introduction of measures for economic growth, for creation of jobs and increasing of the real income of the population;
- Establishment and promotion of an effectively working private sector; attracting capitals in the economy and providing the necessary investments for growth;
- Overall structural, technological and market modernization of the economy in view of meeting the Copenhagen criteria. Bulgaria needs a special program for support

and promotion of Bulgarian and foreign business, for the development and implementation of an industrial policy, at the base of which should lie measures for the support of certain industrial and high-technology branches, the building of new enterprises, support for small and medium enterprises, etc.; development and implementation of a consistent state policy for support and introduction of the basic mechanisms of EU Common Agricultural Policy;

- Substantial and rapid increase of incomes with a view to the physical and demographic survival of the nation; reduction of social polarization;
- Active fight against corruption and crime in the economy;
- Liberation of market forces and competition from bureaucratic intervention, monopoly and party protection.

The agreement signed with the International Financial Institutions and currency board arrangement, introduced on July 1 1997, led to stability and predictability in the financial area. Important results were achieved – low inflation, minimum budget deficit, stability of the national currency, etc. However, the financial stabilization is due mainly and first of all to monetary means and external financing. The Bulgarian Government did not promote the production and export of Bulgarian goods and services, which has led to excise taxes, the huge trade deficit, the lack of sufficient investments, falling behind technologically and much more. As a consequence of the illegal approaches in privatization and of excessive licensing, in Bulgaria indications have surfaced of what some call a „robbed" market economy – an economy, which demonstrates extreme inequality and exclusion of large parts of the population from normal economic life, an economy controlled by an elite, which conquers economic and political power.

Last year was important also considering the reforms in the European Union itself to make its enlargement possible. At the same time it should be mentioned that even without the enlargement, the EU had to take important decisions for a change in its policies with a view to improving the functioning of its institutions, which are not necessarily linked with its enlargement to the East but rather with the globalization processes and the need to improve the competitiveness of the EU economies.

The European Coúncil in Nice in December 2000 adopted the long-expected decisions for the start of the institutional reform and for the first time it included the candidate countries in the future schemes for the distribution of the seats in its different bodies. Practically, in Nice a political agreement on the EU institutional reform was achieved, the most important elements of which are the following:

- The areas for qualified majority decision-taking were extended, not only corresponding to the circumstances but also aiming at the increase of the dynamics of the integration processes on a European scale;
- The EU determined a realistic timetable and confirmed its differentiated approach to the candidates for membership – each candidate country will be evaluated separately, depending on its development and how much it meets the conditions for accession;
- A permanent regulation of the relations with the candidate countries for EU membership and the Member States of NATO and non-members of the EU concerning the consultation mechanisms and their participation in the operations for crisis management with military means guided by EU was adopted. The scheme for dialog

and consultations on the issues of the Common European Policy for Security and Defense (CEPSD) in a „15+15" format was approved.

In accordance with the Treaty of Nice Bulgaria will have 10 votes in the Council of Ministers, 17 seats in the European Parliament and participation on an equal base with all Member States in the European Commission on the principle that each country has one commissioner. Among the important decisions of Nice was the intention expressed by the EU to include the candidate countries, including Bulgaria, in an appropriate way in the next Intergovernmental Conference in 2004.

Nice also prolonged one already permanently established tendency for increased inclusion of the social issues in the debates on the future of Europe. The documents, recommendations and proposals in the area of the social policy (the so called Agenda for Social Europe, including measures for the fight against unemployment, social differentiation, poverty, working conditions, etc.) that were adopted in Nice are a continuation of the so-called Lisbon process and reflect the aspiration of Europe to find an adequate social reply to the problems of contemporary economic development. The strategies for increasing employment, the modernization of the social protection system, the obtaining of adequate education and the opportunity for lifetime qualification and re-qualification are of special interest. The seeking of balance between flexibility and social security is of particular importance for further social and economic development in the European area.

The European Council in Nice also took one more important decision – it adopted a Declaration for the Future of the European Union, which should be the basis for the debate preceding the Intergovernmental Conference in 2004. The Declaration proclaims four starting points: the delimitation of the competencies between the EU and the Member States; the role of the EU Charter on Fundamental Rights; revision of the basic Treaties; and the role of the national parliaments.

The discussion on the future of Europe was officially launched on March 7 2001 as this year was announced as a year of thought and broad public discussion. At the end of the Belgian Presidency the debate will be structured in an appropriate format which, by the end of 2004, should formulate proposals for possible amendment of the basic Treaties. The form of participation of the candidate countries in the final stage of the debate has to be determined as at this stage the EU links it synonymously with the progress of the negotiations for accession. The participation of the candidate countries is particularly important in order to make possible the joint building of a clear, moderate and realistic vision for the common future in the framework of a strong and effective European Union.

The combining of the enlargement process with the wider implementation of the „community method", which lies in the very essence of the integration mechanism, will strengthen the Union, whilst adding to it a new dynamism and flexibility of the institutions. In conjunction with the improved forms of intergovernmental co-operation in areas requiring decisive support of the Member States, the „community method" will lead to the deepening of the integration.

For countries such as Bulgaria it is very important that the deepening of the integration process always remains possible and with an open nature, observing at the same time the national specificity. The expansion of the areas for qualified majority decision taking and the relieved differentiated procedure for enforced co-operation create the necessary prerequisites in this respect. Bulgaria is no less interested in being a member of a strong

political and economic union, which at the same time has strong institutions able to take fast adequate decisions and undertake the required actions.

The decision of the European Council in Nice also demonstrated something else which is very important, namely that the enlargement of the European Union is one of the most significant political and economic projects before the peoples of Europe both in the East and the West. If, from 1989 till now, this process seemed desired, but still historically distant, it seems that for the first time the date when the first post-communist states will be admitted to the EU is becoming a near reality. It is quite possible that the first candidates will be admitted as early as 2004 but the date of admission of each separate country is still not clear.

Enlargement seems close after the decision of the European Councils in Nice (December 2000) and in Goteborg (June 2001) but is still a great political challenge. It seems that for the first time the societies of the Member States are carrying out a serious discussion about the price and benefits of the enlargement from the political, economic and social point of view.

The opposition of this process is already outlined more clearly mostly among those circles which are strongly subsidized by EU funds or the national budgets and which feel that they are in danger because of the competitiveness of salaries, or immigration or just because the are afraid about the change. Their most frequently used argument is related to the highly exaggerated cost of enlargement or to the risk of a wave of immigration, without discussing the benefits of this process.

So far the arguments in support of enlargement are mainly in the area of security and political stability, i.e. the involvement of the post-communist states in a strong political community with stable democracies and prosperous economies.

At the same time the economic arguments are becoming stronger and stronger. In medium and long term perspectives enlargement will extend the Internal Market over a territory with a population of 100 million and will thus create new jobs both in the candidate countries and the Member States. The economies of the candidate countries are small but rapidly developing and adaptive, with a large potential for attracting foreign investments and for improvement of the competitiveness of the whole continent.

For good or bad, the last decision of the European Councils for the comparatively restricted financial transfers in enlargement in comparison with support for Greece, Spain, Portugal and Ireland calmed to some extent the critics of enlargement. In the EU budget for 2000–2006 67 billion Euro are allocated for the new enlargement, which is just about one thousandth of the annual GNP of the EU. This can hardly be called a high price for the reunification of Europe and is one of the reasons for the dissatisfaction expressed mostly by the candidates from the first group.

In a long-term perspective however, the need for serious financial support from the EU for private investments is obviously necessary for the introduction of the European standards mainly in the environment and transport. The next budget, which has to be adopted for the period after 2007, should include financial support for the new policy of an enlarging Union. The fact that for the first time the Member States began to discuss the budget aspects of enlargement, although these issues are not on the agenda till 2002, is positive.

For enlargement to lead to lasting positive results it should be adopted and approved not only by politicians and experts but also by the whole societies of the Member States. Today more than ever a political strategy explaining the benefits of enlargement not only for the candidate countries but also for the EU Member States is required. The

rejection of the Treaty of Nice by the referendum in Ireland on June 7 2001 might complicate the „timetable" for enlargement, particularly if the ratification process of the Treaty is not completed by 2002.

What are the main conclusions from the experience of the five countries, which first started negotiations for membership and which, although significantly advanced are just now starting the discussion of the really difficult questions. Whilst during the period 1998 – 2000 many „technical" problems had to be solved, the second half of 2001 will pose on the agenda such difficult issues as competition policy, energy, transport, justice and home affairs and agriculture, which may lead to an unpredictable development.

There are several essential issues which are an obstacle for drawing the positions in the negotiation process closer, namely the free movement of workers, agriculture, regional structural policy and border control.

As far as the formal „technical" part of the negotiations is concerned, the preliminarily set timetable has been observed and the candidate countries, especially from the first group, are approaching the aim to finalize them by the end of 2002. All negotiation chapters have been opened, even with some of the countries from the first group, and more than two thirds of them have already been temporarily closed. In spite of the certain delay in the negotiations with Poland due to the coming parliamentary elections in the autumn of 2001, the expectations are for a quick solution to some sensitive issues right after the elections. Latvia, Lithuania, Malta and Slovakia are more rapidly and confidently approaching the first group and it is becoming more obvious that there is a great possibility for these countries to join the EU at the same time as the countries which started the negotiations in 1998.

Free movement of persons. This is undoubtedly one of the most important issues from the point of view of both the Member States and the candidate countries. While the candidates for membership insist on guaranteeing the freedom of their citizens to live and work on the whole EU territory after its accession, Germany and Austria set up the precondition for long transitional periods before the free movement of labor force (this does not mean the right of travel on the whole territory of the EU but the right of work) is allowed. Finally the Member States adopted the compromise proposal of the European Commission for establishing a seven-year transitional period as at the same time a flexible approach is allowed for the Member States which wish to choose it. In other words, the position of the EU is for five years restriction of the right of Central European citizens to work in the EU after their countries become members of the EU and seven years – only in exceptional cases.

Although this position of the EU is strongly criticized among the candidate countries, its adoption allowed the Member States to make some important concessions in other areas – protection of the environment or the adoption of the request of the candidate countries for the same transitional period with respect to the right of buying land and real estate.

Agriculture. This is an area which, along with regional policy, in spite of the advanced stage of the negotiations may still create a number of unpredictable problems. The difficulties emerged first of all from the potential cost linked to the possible spread of the Common Agricultural Policy over the farms in Central and Eastern Europe as it is at present. From the point of view of the EU it would mean costly subsidizing of guaranteed prices and income, as the main obstacle at this stage of negotiations is Poland with its large percentage of population working in the agricultural sector.

The irony here is that the requirements related to the restructuring of the agricultural sector in the candidate countries and the improvement of its effectiveness are the opposite of what some Western politicians and euro-bureaucrats suggest to them as a model for the development of agriculture – extensive, family, organic and ecological agriculture.

The difficulties of the candidate countries in this area are also linked to the reform of the EU Common Agricultural Policy itself. If the allegation that the process of accession to the EU is the same as hitting a moving target is true, after 2002 this moving target will undoubtedly be mostly CAP. It is unlikely that the EU will have to insist that the candidate countries comply with a regime that will be changed quite radically in a medium-term perspective. The need, however, to introduce a number of standards related to the control over the production of foodstuffs, in order for the economies of the East European countries to be able to export their agricultural and foodstuffs production to the EU markets is obvious.

The critical phase of the negotiations in the area of agriculture is likely to be in the second half of 2002 after the elections in France in May of the same year. Then a number of important issues related to regional policy – still a very difficult subject – will be settled. The strongest opponent of the allocation of big packages of financial aid to the future newly admitted states Spain seems unlikely to agree easily to give up the two thirds of all structural funds for undeveloped regions, which it receives. This is why Spain wants the regional policy issue to be linked with other important issues such as the free movement of labor force for example. Although this position of Spain has not found support among the other Member States so far, it is possible that it will raise this issue again in 2002.

In principle the fear of mass transfer of sums from the EU structural funds to the candidate countries for Central and Eastern Europe was and still is one of the reasons for hesitance in taking important political decisions related to EU enlargement to the East. In this respect it is important to mention that after certain illusions of mass financial support from the West at the beginning of the democratic changes, the East European countries carried out their the most important political and economic reforms without strong financial support from the West.

The predominant motivation for membership in the EU is not linked to such a great extent with financial support, even if in some areas such as environmental protection for example, the financial support is absolutely required. We are speaking both of financial support and of observing the principle of equal treatment – a principle, which the candidate countries pose more and more as an important condition in the negotiation process in view of their future participation as EU Member States.

Important and still quite disputable are the issues related to the border control, right of asylum, immigration and co-operation in the field of justice and home affairs. The „moving" of the EU external borders to the East and the implementation of all provisions of the Schengen Agreement related to the visa regime without any exceptions, raise the fear among some candidates of a reduction of retail trade, investments and personal contacts in the border areas with other neighboring countries.

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The analysis of the progress of negotiations so far, as well as the discussions during the European Councils in Nice and Goteborg, once again prove the thesis that in a historical perspective the unification of Europe is far more important than arguments on the EU budget expenditures, which are also not so important, from a financial point of

view. In spite of the frequent criticism of the European Commission it should be mentioned that so far it has been to a great extent the driving force of the enlargement process. Today, when the beginning of the long-expected process is approaching, the Member States should assume the responsibility to a much greater extent. They are the ones who should take brave and far-reaching political decisions related to the change of the institutions and the budget, i.e. to their own preparation for enlargement.

From this point of view, the preparation of the societies of the Member States and the change of tendencies in public opinion are of growing importance. In spite of the significant positive change – according to some recent data of the Euro barometer 44% of the population in the EU supports enlargement with 34% against – the opponents of this process should be convinced. Although late, the „political" campaign in favor of enlargement should attract to a greater extent the attention of the political class of the Member States and it should not be restricted in its frames. The confidence of the Western political elite is obvious. However, wide public support is needed to lead the consciousness of long-term European interest of enlargement against the background of the comparatively insignificant expenses and restrictions. The difficulties, very often psychological, in this area are obvious – even in countries with a relatively high degree of public support there is a big difference between the support for a certain idea in principle and its practical implementation, which may lead to a change in some tendencies.

Today, maybe more than ever, the role of the politicians is enormous. They are the people who have to convince their societies that the economic and political benefits of enlargement, as well as the advantages from the security point of view, are far more significant and long-term than the short-term measures which should be undertaken in the Spanish regions, French farms or in the Austrian and German border areas.

The negotiations for membership of Bulgaria with the EU, which started in March, 2000, are undoubtedly the most important negotiations that the country has conducted in the last few decades. They continue to be an important motivation for the development and modernization of the Bulgarian society.

One of the most important conclusions which should be made in the background of the analysis of the negotiation process of all candidate countries is that at this stage Bulgaria, together with Romania, are lagging behind compared to the others. It is shown both by the opened and closed negotiation chapters, which were mentioned above, and by the basic economic indicators. Obviously, Bulgaria should catch up with the other candidate countries and mainly in respect of the most important economic criteria – the functioning of a competitive market economy, which is able to cope with the EU market forces.

The apprehensions, expressed in our first book, that it is possible for the formula 10 + 2 in the process of admission of new members to the EU to be imposed, namely the lagging behind of Bulgaria and Romania and the postponement of their admission to a later stage – about 2008–2010, is unfortunately considered more and more as a possible option from the point of view of the Member States. Up to now the Bulgarian Government had set 2006 as an aim for admission of the country to the EU and 2004 as finalization of the negotiations. This timetable seems to have been adopted by the new Government as well, which took office in July 2001, and which stated unequivocally that the successful continuation and finalization of the negotiations for membership in 2004 were its priority.

Which are the current main difficulties for Bulgaria in view of the negotiation process? Many of them, related to specific sectors of the Bulgarian economy were discussed in the first book „Monitoring of Bulgaria's Accession to the EU" as they were those related to

agriculture, industrial policy, participation in the Internal Market, and coordination with the rapidly progressing ideas in the social policy area of the Member States. At the same time the negotiations, the Regular Reports of the EC, as well as the political and economic development of Bulgaria during the last year brought to the foreground specific priorities, the resolving of which is the key for acceleration both of the negotiation process and of our internal development.

Up to now Bulgaria has closed 11 negotiations chapters (Small and Medium Enterprises, Research and Development, Education and Vocational Training, Culture and Audiovision, Consumer Protection, External Relations, Common Foreign and Security Policy, Free Movement of Capitals, Company Law and Fisheries) and is negotiating on 10 more. In comparison with the other candidate countries, apart from Romania, Bulgaria is obviously lagging behind. It is evident that Bulgaria is to start negotiations on the most difficult chapters. In addition to this it should be taken into account that in 2002 it will virtually become finally clear whether the enlargement process will start in 2004 as planned or be postponed for the future.

A number of other factors will obviously influence this process – the situation in neighboring Macedonia, the general state of the world economy and international financial stability. It should not be forgotten that Bulgaria will still be in a currency board arrangement, which is very sensitive towards any fluctuations of the external financial markets.

The major difficulties, on some of which the present study elaborates, are related to the development of a strategy for lasting and sustained economic growth, the restructuring of the Bulgarian economy, improvement of the business environment and acceleration of the investment process, including attracting foreign investments, strengthening of the judicial system and the institutional capacity as a whole to significantly improve the implementation of the adopted legislation as well as overcoming the disturbing social problems related to poverty and unemployment.

All these problems should undoubtedly be solved in the context of the continuing approximation of the Bulgarian legislation with the EU *acquis communautaire* as the main task here should be the close linkage of this process with the budget and other financial implications and priorities.

The National Program for Adoption of the *Acquis* should be closely bound with the government annual budgets, as well as with the financial relations with the international financial institutions. There is still a lack of the so greatly needed analysis and studies on the impact on the Bulgarian economy and some specific sectors, mostly on their competitiveness, of the implementation and enforcement of the European norms and standards. A deeper analysis of the effectiveness of the utilization of the EU funds allocated to Bulgaria and mainly the financing for pre-accession support is to be carried out.

Last but not least – the development and adoption of an information strategy for the process of Bulgaria's accession to the EU should no longer be postponed. The problem related to the affiliation of wide public circles to this process is a problem which faces not only the Member States. Although public support in Bulgaria is still the highest in comparison with the other candidate countries, the need to carry out such a broad information campaign is connected not only with the preservation of this level of support. It is necessary so that the different professional and business circles, organizations and professions understand this process and their place in it, and so that they find the advantages and benefit from their point of view and also from the opportunities which this process gives.

Bulgaria's membership is not an end in itself – it has a deep meaning only when, in a lasting long-term perspective, it creates conditions and opportunities for a more secure and better life for Bulgarian citizens.

1.2. Economic and Social Development

Katia Vladimirova

1.2.1. Economic Development

1.2.1.1. Current Economic Situation

During the last few years Bulgaria has achieved progress in the carrying out of economic reforms and macroeconomic stabilization. Economic growtha, stable currency board, low inflationa, low interest rate and a significant currency reserve are evident. It was carried out in a comparatively unfavorable external environment (military operations and continuing destabilization of the Balkans) with a financial crisis in some of the trade partners (Russia and others). The continuation of the reforms and the further improvement of the overall economic climate will create a favorable environment for maintaining the stability of the national economy development during the coming years. The economy of the country has already been irreversibly transformed.

The growth of GDP for 2000 was 5.8 %, higher than in 1999 (3%) and the highest since the beginning of the transition. For the first three months of 2001 the National Statistics Institute reported 4,5 % economic growth in comparison with the same period of 2000.

The GDP per capita in US Dollars in 2000 marked a decrease in comparison with 1999 (from $1510 to $1459), which still keeps country very distant from the indicator valid for the EU countries and from the level of the other countries in the process of accession.

The *state budget* during the last two years has maintained a generally balanced situation with a deficit of about 1 % of the GDP.

Control over *inflation* was increased and it was brought to the so-called „sanitary minimum". For 2000 it was 11.3 % and for the first six months of 2001 it was about 1 %.

Direct foreign investments and the support for the balance of payments from international financial institutions aided the control of the worsening situation of the current account. The *state debt* was reduced. There has been a drop in the ratio of debt to GDP to about 80 % in 2000 (from over 100 % in 1996). However, the optimum between the reduction of the debt and the investment strategy has not been found. This is necessary for the country in order to restrict poverty and create a favorable climate for foreign investments in the country. In order to respond to the investment requirements

related to the transition and accession to the EU, Bulgaria must continue to decrease the ratio of debt to GDP and achieve high and sustained growth.

The total growth of the GDP during recent years covers the payments of the external debts of the country (last year $1,300 billion of external debt was paid off), which virtually reduces the opportunities for growth and positive changes in the living standard of the population.

The *foreign trade balance* for the first quarter of 2001 is $279,1 million in the red according to the National Statistics Institute. According to the experts, the trends in our foreign trade are not expected to change soon. Bulgarian exports will continue to be about $400 million and imports above $500 million monthly. The greatest share in Bulgarian exports is occupied by clothes and ferrous and non-ferrous metals. The export of fuels for the first quarter of 2001 has increased by 40% and the export of tobacco and beverages has fallen by 30%.

A tendency for increasing and *restructuring of exports*, although still unstable, is observed. Its main share is already to the EU countries. For the first months of 2001, exports to the EU countries reached 54,6%. Our major partners are Germany, Italy and Greece. There is a decrease of the gap between imports and exports. Imports continue to increase but with lower dynamics (7.4% for the first quarter of 2001). For the first quarter of 2001 almost 16% more goods were exported in comparison with the same period of 2000.

The *economic growth* for 2000 is among the highest in Europe. According to IMF forecasts the expected growth of the GDP in the world for 2001 is 4,2%, for the USA – 3,2%, for the EU – 3,3% and for Bulgaria it is forecast to exceed 5%. However, in comparison with the level of the GDP reached at the end of 80s (1989) the country lags behind most countries in transition to market economy. The level of the GDP in Bulgaria up to now is about 2/3 of the 1989 level while Poland, even in 1998, exceeded its 1989 level. Hungary, the Czech Republic and Romania are catching up with their level of 1989. Russia is slightly ahead of us.

The *bearers of the growth* are savings and investments, which increased, but very slowly, during last year. The bearers of the growth in the economic sectors are services and industry. The major factors and branches ensuring high dynamics of the GDP growth and creating jobs such as foreign and domestic investments, savings of the population and the development of a number of sectors, such as construction, foodstuffs industry, light industry, etc, are still not used. The out-dated material and technical foundation and the high energy consumption of national production are still a significant problem for economic growth and particularly for effectiveness and competitiveness.

The banks continue to export the *savings of the population* abroad and lead a very cautious policy of crediting and because of that notwithstanding the stabilization of the financial sector and the increase of the credit resources by 26%, investment resources have not increased in reality. The free financial means of the banks are transferred into US Dollars and are deposited abroad where the interest rates are higher (between 6 and 7%, for the countries from the Euro zone – up to 4,5% and in Bulgaria the highest are 3,5%). A major part of the profits of the Bulgarian banks comes from their deposits abroad.

The savings of the population are in national and foreign currency. Savings in the banks amount to nearly 3 billion Levs. The free money that is not deposited in the banks is estimated to be about 1 billion Levs.

Half of the number of the deposits are in foreign currency with an equivalent of 2,263 billion Levs as 50% of them are up to 1000 Levs. The fact that the amount of deposits in foreign currency is double the amount of deposits in Levs speaks of distrust among the population and legal persons towards the national currency.

The credits used by the population in 2000 (600 million Levs, 588 million of which are in national currency) are predominantly for consumer purposes (96% of up to 5,000 Levs are mainly for consumer purposes). It is presumed that the credits in foreign currency are used mainly for the purchase of homes.

The greater part of the population has not sufficient income not only for savings, but also for means of living. For quite a high number of households the savings are for situations of urgency, i.e. „money for rainy days", but not for the improvement of the welfare and still less for investments. During certain periods of the year (autumn-winter season) for a large part of the population expenses exceed the income and then they turn to their savings or to credits.

As to *investments* the data shows that the highest share is that of the investments of joint ventures mainly through reinvestment of profits, followed by those from privatization and least are attained through the capital market, which may be explained with its low level of development and ineffectiveness. However, after the end of privatization it is expected that the investments through the capital market will grow as well as those from the joint ventures with foreign companies and from participation in joint construction of large infrastructures.

The investments in the economy are highly insufficient for reaching the strategic aims – high and sustained economic growth, the creation of more jobs, increase of the income of the population and technological upgrading of production. High debts and the low level of investments are a serious barrier for EU membership. Bulgaria is in one of the last places for investments per capita among the 12 candidates for EU membership.

One of the most serious problems for improving the competitiveness of national production is the volume and particularly the technological structure of the investments. The volume of investments is growing but slowly from the point of view of the material and technological foundation of the production and its technological level. The data for the last two years indicates a slow increase of the total volume of investments, as the share of those for construction work is growing more rapidly, The share of investments in the private sector (above 62% of the total volume in 2000) is also rising.

The conditions for the crediting of small and medium enterprises are still unsatisfactory.

In 2000 *foreign investments* reached about $1 billion. The predominant part of the foreign direct investments in non-financial enterprises (above 90%) is mainly in three sectors: the processing industry; trade and repair; and transport and communications (at the end of 1999). During recent years more than half of these investments has come from *European Union countries* (59,4% from the foreign direct investments in non-financial enterprises to December 31, 1999). Germany has the highest share with almost 20% of the total volume of foreign investments, followed by the USA (13,15%), the United Kingdom (almost 12%) and Cyprus (9,4%).

The preservation of financial and political stability, a policy for tax, interest and credit to create a favorable economic climate, restraining of the inflation processes and the stabilization of the foreign currency rate will be important for investment activity during the coming years. The continuing economic and political instability on the Balkans

may lead to withdrawing and leaving of the foreign investors in the region which in its turn will delay the reforms and the improvement of competitiveness, leading to escalation of social pressure etc.

The share of services continues to increase in the structure of gross added value. During 2000 57,7% of the produced gross added value is due to them. The industry participates more slowly and with a less significant share (27,8%). The contribution of agriculture and forestry is decreasing while employment there, though slowly, continues to grow, which increases the competitiveness of the sector. A fall of 14,8% in end consumption was reported for the first quarter of 2001 in comparison with 2000. The drastic reduction of personal consumption of the population in this year is compensated to some extent by the increase of the investments of companies. Around 12% more is invested in equipment and construction work during the first quarter of 2001 in comparison with the same period in 2000.

One of the biggest obstacles for the national economy on its way to the integration is the *competitiveness of production*. During the years of transition to a market economy this objective was linked mainly with the restructuring of ownership, i.e.: attaining a predominant share of private ownership; liquidation of ineffective and losing productions; abandoning the monopoly in a number of productions; and restructuring of the markets for raw material and processed goods. Predominantly these intentions were achieved. During the last two years many ineffective and losing productions have been liquidated, the production is mainly private, the abandoning of the monopoly position of specific branches and production is in progress. The markets were restructured as well. Carrying out this reform led to a drastic reduction of production and employment but the competitiveness was not significantly changed. Bulgaria is still far from the level of production and particularly export of the years before the start of the reform.

The *economic situation* remains relatively unchanged. The business environment is improving slowly but the expectations of the economic agents are not very optimistic.

Production, and in particular industrial production, is growing relatively slowly. The total *industrial production* for 2000 has risen by 2,6%. The highest growth in it is shown by the production of electric power, gas and water (12,3%) and the processing industry (5.2%). The production in the construction and extractive industry has decreased for the same period. The processing industry contributes 71,8% to the total industrial production and electric power, gas and water – 13,1% for 2000. During recent years there has been a tendency of growth of the share of the processing industry with a consequent reduction of the share of construction production and particularly the extractive industry.

In production, the most significant in the industrial sector, the major volume of production is due to six of its twelve branches (foodstuffs, beverages and tobacco; electric power, gas and water; coke, oil products and nuclear fuel; ferrous and non-ferrous metallurgy; chemical products and fibers; and cast metal products and machines). The statistics show an increase of the income from sales in the branch since the beginning of this year. In comparison with the first quarter of 2000 the increase is 5,1%, which is due mainly to the significant increase of the sales in the processing industry (7% in comparison with the same period of 2000). The reduction in the extractive industry for the first months of this year is significant. The biggest increase of income is in the production of radio, TV and household appliances (by almost 40%), followed by the production of chemical products, rubber and plastic articles, the production of machines, equipment and household appliances. Since the beginning of the year there has been a serious

reduction in the production of office and electronic equipment (by almost 44%) and in the extracting of coal and metal ores.

The average loading of the capacities in industrial production remains low and unchanged.

This spring the situation in the construction business was relatively better and is partly due to seasonal reasons. An increase of orders and the number employed in this area is reported.

The reform in *agriculture and forestry* is being carried out slowly and is still far from converting this sector into being effective for the national economy. Almost all of the farming land has been restituted and the restitution of the forests is expected to be completed by the end of 2001. The ownership of the land is parceled, there are a number of small family farms and less and less co-operatives, which leads to problems linked with the ineffectiveness of production and non-competitiveness of agricultural production on the domestic and particularly on the external markets. There is still no functioning market of agricultural land, nor the necessary agricultural equipment and conditions for applying modern technology in this sector. The foodstuffs industry, which is connected with this sector, work with significantly low loading of its production capacities (30–40%). The production in this sector continues to reduce its volume and share in the GDP. During the first quarter of 2000 a fall of 14,8% was reported in comparison with the same period in 2000.

Services are the most important sector of the national economy, due to the share of the GDP produced in them and also to the number of the employed persons. The income from *tourism* reached $1,2 billion in 2000. The privatization and renovation of the facilities in the sector continues. Enforced development of the technical infrastructure, stabilization of the region, reduction of crime in the country, improving the qualification of the employed in the sector, etc. is necessary for improving the effectiveness of this sector, which is strategic for our country.

During the first quarter of 2001 an improvement in the economic situation in the *retail sector* is observed. A growth of 2.2% in the sales of goods is reported for the first quarter of the current year in comparison with the same period in 2000.

During recent years *privatization* has dominated the performed economic reforms. Massive privatization of companies in a poor financial situation was rapidly carried out and big state owned enterprises were declared insolvent. 473 privatization deals were concluded and 313 packages of shares and 160 independent parts were sold in 2000. The sale of 281 preferential and 443 custody packages of shares was carried out. The total number of the concluded deals reached 1197 in 2000. By the end of 2000 more than 85% of the assets, outside energy and infrastructure, were privatized or were in a privatization procedure. For the same period it is reported that the privatized share of the fixed assets owned by the state reached 70% of all fixed assets subject to privatization. The private sector contributes 70% to the GDP of the country. In other words the Bulgarian economy is based on private ownership and on market relations.

The *banking system* is in a considerably improved situation. The bankrupt banks were liquidated and most of the banks were privatized with the exception of Biochim and the State Savings Bank, for which a buyer is being sought.

The practical consequences of the restructuring of the real sector led to a significant increase in unemployment and further impoverishment of the population.

There are still a number of serious challenges for our country. The finalization of

restructuring and privatization in key sectors such as telecommunications, transport and energy is necessary; further steps in the approximation of the national legislation with that of the EU and the establishment of the respective institutions are required; improvement of the economic climate is needed, etc. Thus the country will meet the main criteria for accession – a functioning market economy, macroeconomic stability, competitive economy, etc.

Table 1.1 Main macroeconomic indicators

Indicators	1999 г.	2000 г.	2001 г. (forecast)
1. GDP in: billion Levs	22,8	24,8	28,1
billion USD	12,4	13,0	14,4
2. GDP growth, %	2,4	5,8	5,0
3. Inflation by the end of the year	6,2	11,3	3,5
4. Employed, thousands, annual average, number	3 087,8	2 828,0	2780,0
Incl. private sector	2 002,7	2 063,0	2 180,0
5. Unemployed, thousands, annual average, number	527,0	693,5	670,0
6. Level of unemployment, %	13,8	18,14	17,5
7. Min salary, Levs (end of the year)	67	79	100
8. Average monthly salary, Levs	201	238	263
9. Average monthly pension, Levs	65,66	84,27	87

1.2.1.2. Conclusions

For improving the welfare of the population and its employment, ensuring of macroeconomic stability and *shortening the distance between Bulgaria and the EU countries is necessary*:

1. Enhancing the **investment activity** in the country, increasing of the scale and share of investments in the real economy through:

- international financial institutions (EU, Pact of Stability and others) for important infrastructure projects: completing the construction of the two big highways; expansion and renovation of the road network; building of bridges and tunnels; opening of new border checkpoints and construction of accompanying facilities; renovation, expansion and development of the infrastructure in existing and new tourist sites;

- attraction of foreign investments for light industry production (tailoring, shoe-making, textiles, etc.) and particularly for high technologys through: improvement of the legal framework and establishment of the appropriate motivation and environment; improvement of advertising; improvement of the foreign economic activity of the employers' organizations and the trade representatives of the country who are abroad; rational use of the opportunities provided by annual international fairs, exhibitions, congresses and other fora;
- motivation of companies and organization of the public and the private sectors with regard to investment activity through: better use of the tax and credit policy; education; establishment of an appropriate environment, etc.
- promotion of the investments and savings of the population through: increase of incomes; facilitation of the access to credits; use of the opportunities of the interest policy; simplification of the procedures in the construction business, etc.

2. Development of entrepreneurship and self-employment of the population and in particular of unemployed and young people through: education and professional qualification in the schools; units of the National Employment Office; Employers' organizations; trade unions and other non-government organizations; increase of the access to credits through the interest policy and establishment of guarantee funds (instead of through the Professional Qualification and Unemployment Fund etc.); carrying out of focused explanatory, promoting and advertising campaigns through the media.

3. Carrying out of a consistent and active government policy for revitalization and expansion of the external markets. The further expansion of the access, scale and competitiveness of our production on the EU markets should be combined with an increase of exports and the setting up of lasting positions on the markets of Russia, Ukraine and the other countries from CIS by the countries from Central and Eastern Europe, Arab countries and other countries from Asia and Africa.

4. Carrying out of an active government policy for improving the competitiveness of national production through: promotion of investments and import of high-tech machines and equipment; promotion of the production of high-technology equipment in the country; the introduction of resource saving technologies; permanent education and qualification aimed at improving productivity, organization of work and working time, reducing the waste of working time and an increase in savings, etc.

5. Development of a national strategy and programs (for specific branches and productions) for improving the productivity and competitiveness of the structural sectors and productions.

6. Hastening of the completion of the privatization of big state owned enterprises from the energy and infrastructure sectors, of the Bulgarian Telecommunication Company, Bulgartabak, as well as the companies for production and distribution of energy, aimed at improving the competitiveness of the production.

7. Speeding up the restructuring of the three big losing enterprises: district heating companies; coal mines; and the railways (BDZ) and promotion of private sector participation in transport and water supply aimed at the reduction of losses and subsidies from the budget.

8. Creation of legal, economic and other opportunities for paying part of the state debt through investments in the country.

9. Increase of the income of the population through the carrying out of an appropriate policy in relation to the incomes determined by the Government (minimum salary, minimum and maximum pension, minimum income, regulation of the increase of the means for salaries in the commercial companies with predominant state and municipality participation, etc.) aimed at the increase of demand and production in the country.

10. Promotion of domestic and foreign investments in the underdeveloped regions of the country and in those with a high level of unemployment. Development of the infrastructure in these regions. Encouraging the moving of productions from the big industrial centers to the deteriorating regions and settlements by using the instruments of tax and other policies and the experience of developed countries.

11. Delegation of more responsibilities to the local authorities with the development of the decentralization of management and financial resources.

12. Elimination of administrative barriers for the development of the economy, considerable facilitation of the registration, expansion and day-to-day operation of the companies, access to foreign investments, etc. For this purpose it is necessary to accelerate the reform in the public administration, improve its effectiveness through the introduction of an appraisal system, reduce bureaucracy and corruption in the work of civil servants and other administrative establishments, rationalize their number and significantly improve the quality of the services provided to the population and business.

1.2.2. Social Development

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1.2.2.1. Current Status

During last year the efforts in the social area were aimed mainly at the updating and development of the legal framework and establishment of the respective institutions, which is an important condition and necessity in order for Bulgaria to meet the criteria and requirements of the EU for *approximation of legislation and establishment of the institutions* related to it. They are an essential precondition for the setting up of a functioning market economy in the country and in this context mainly of a functioning labor market.

The drafted and adopted laws during this period (Law on amendments of the Labor Code and the Law on Protection, Rehabilitation and Social Integration of Disabled People) the new laws (the Law on the Economic and Social Council and the Law on the Social Investment Fund) and the secondary legislation related to their implementation as well as that related to healthy and safe working conditions, contribute to the development of the social policy and a fuller compliance of its objectives with those of the European social model and the requirements of the respective labor and social directives of the European Union. Most of them, adopted not in the spirit of a public, respectively Parliamentarian, consensus, but at the majority's free will, contain impediments both for their implementation and for the effective solution of the existing problems and will probably be revised, amended or replaced by completely new laws. This concerns to a great extent the Labor Code and the Law on Protection, Rehabilitation and Social Integration of Disabled People. Some of the new amendments in the Labor Code obstruct the functioning of the labor market, reduce the opportunity for an increase of the jobs offered (the adopted prolongation of working hours, for example), and reduce the chances for young people to access the labor market (with the significant prolongation of the age of acquiring the right to retirement on length of service and on age and motivation for broad participation of the elderly part of the population in the very narrow demand of labor, etc.).

In 2000 the healthcare reform and the reform of social security started in substance (mainly in its part for mandatory additional insurance). It created additional pressure in society, led to the restriction of access to healthcare services and in a number of cases worsened their quality.

The Law on Equal Opportunities for Men and Women, drafted at the end of 2000 jointly with non-governmental organizations is an important step toward the approximation of the Bulgarian legislation with that of the EU and the achievement of an alignment with the basic principles of the EU policy in the field of labor and social security. The draft and the institutions provided for in it are yet to attain the support of the new Government and Parliament.

The amendments of the labor legislation made during the last year introduced considerable changes in the provisions for social partnership and the settlement of collective labor disputes. In this regard respective amendments were made in the Labor Code and the Law on Settlement of Collective Labor Disputes. In June, 2001 the Council of Ministers adopted a new Regulation for the organization and activities of the tripartite co-operation councils. The amendments of the Law on Settlement of Collective Labor Disputes provided for the establishment of a National Institute for Reconciliation and Arbitrage to the Ministry of Labor and Social Policy on a tripartite basis. The positive development of the social partnership in the country in this respect requires the new Government to continue the policy and to build the necessary institutions. However, there is a need for reevaluation of some of the solutions aimed at their effective implementation and enforcement.

A number of important changes were drafted with regard to the special Law on Protection upon Unemployment and Promotion of the Employment, but this draft did not find the desired development, which delayed the necessary changes in creating a policy more adequate for the situation and measures for the functioning of one of the main markets – the labor market.

In the spirit of the EU practice for forming a coordinated policy on employment and development of national strategies and programs subordinated to it, in 2001 the Council of Ministers adopted a National Plan for Increasing Employment.

There is, however, a great incompliance between political activity in the field of development of the legal framework, institutions, plans and programs and the actual results. During last year the impoverishment of the population continued, the number of poor people grew, unemployment jumped drastically and the segregation of the labor market was increased. In addition to this, the labor market itself did not function due to the poor demand of labor and the increased labor price with the new higher social security payments and other changes in the legal framework. All of the above mentioned, however, do not bring the country closer to the living standard and the social protection of the EU countries, nor to the models of social security of the population, chosen by them.

Impoverishment remains one of the biggest impediments both for the further progress of the economic reforms and for the successful end of the negotiations for accession to the EU. According to the data of the World Bank in 1997 above 36% of the population (about 3 million) in Bulgaria lived in poverty. This number grew sharply at the beginning of 1997 when the macroeconomic indicators aggravated sharply. As a result of the reforms carried out economic growth began once again and the level of poverty started to decline. However, poverty remains unacceptably high and Bulgaria is among the poorest candidate countries for EU membership. Poverty is highest among the population in rural areas, ethnic minorities and unemployed families. *Unemployment, and in particular long-term unemployment, is the most important factor leading to impoverishment in the country.* The level of impoverishment is significant and, notwithstanding the macroeconomic stability and growth during recent years, it is increasing and turning into a serious danger for the further stability of the country and for the process of its accession to the EU.

The loss of a large number of jobs as a result of the intensive restructure reforms (privatization) and the financial recovery of the enterprises (including liquidation of losing enterprises) has contributed to the significant impoverishment of the country during the last few years.

Unemployment in the country is high, widespread, with a worsening structure and lasting. The country was in one of the first places in Europe according to its unemployment level. The level of unemployment increased rapidly and in 2000 exceeded 18% of the economically active population (as indicated by the officially registered unemployed persons in the labor bureaus). In 2000 the highest levels were reached (as a number and level) of unemployment since the beginning of the transition to a market economy.

In May 2001 the total number of the registered unemployed persons in the system of the National Employment Office (NEO) was 678 528. At the beginning of the year this number was greater but with the coming of the spring season, the seasonal employment in agriculture, construction and tourism increased. Still the level of unemployment remained high (17,75% in May, 2001).

The reduction of unemployment during the different months is due both to the seasonal nature of a great number of the jobs offered and to the fact that a significant number of unemployed persons waive their registration in the labor bureaus (they do not confirm it or are excluded because of their refusal to accept the jobs offered to them by the labor bureaus). For example, for May, 2001 almost 2/3 (62,6%) of the out stream (people terminating their registration in the labor bureaus) did not go to work, 2.6% withdrew due to their refusal to accept the job offered and about one third (i.e. 34,8%) left the system because they went to work. Therefore, unemployment is not decreasing but the number of unemployed who believe that the institutions will support them in finding a job and preserving their social status is decreasing. The studies on real and official unemployment, on the declared and informal seeking of job, on the labor markets by regional and professional feature are insufficient.

Unemployment as a scale and level is a quite different for the different groups of population and regions. The unemployment of women, disabled people, long-term unemployed and Roma population is higher than the average for the country. For example, of the total number of unemployed in May, 2001:

- about 52% or over 350 000 were women;
- 15% or over 100 000 were young people up to 24 years of age;

- 50,2% or over 340 000 were long-term unemployed persons on the labor market for more than one year;
- About 1,4% or 9 700 were persons with reduced ability to work.

In most regions the level of unemployment is above the average for the country. The level of unemployment in the following regions is particularly high: Targovishte Region (32%); Razgrad (almost 30%); and Montana (above 29%). For those and other regions with high unemployment this situation has continued not only for the last two years, creating deep social, economic and other problems and escalating poverty, immigration and social isolation.

The number of those who do not obtain indemnifications or social aid for unemployment predominates in the total number of long term unemployed persons. In May 2001 they were more than 527 000 or above 77,7%. The majority of them are long-term unemployed.

The number and proportion of those from the private sector predominated during last year among the newly registered unemployed with the right to indemnification (i.e. dismissed, discharged due to the reduction of the staff). In May 2001 they were 63,5% of the total number of the newly registered unemployed.

The demand for labor force continues to be low. There were 17 828 vacant jobs declared in the labor bureaus in May, 2001. In addition, a number of them were under different programs for employment, which had a duration of up to a few months. The predominant demand for labor force comes from the private sector (12 646 jobs for May 2001) and for unqualified work (65% of the total declared jobs). Although less in number and more slowly, the number of jobs for specialists with university education, mainly in the area of humanitarian and pedagogical fields, engineers and economists, is growing. The number of these jobs is much lower than the number of persons annually graduating with such a type of education.

The so-called passive measures continue to prevail in the policy for reduction of unemployment. Their share during the last two years has even jumped because of the problems that have emerged with the Professional Qualification and Unemployment Fund, which subsidizes them. In May 2001, for example, only one quarter of the means of the fund were spent on active measures (supporting the return to employment). From what was spent in May, 2001 – almost 20 million Levs – about 15 million Levs were for indemnification and aid from which little more than 196 000, i.e. 29% of the total number of the registered unemployed (from 3 to 12 months) benefited. Over 30 000 benefited from the measures of the active policy – for going to work, for participation in employment programs, for professional qualification, for promotion of employers to hire certain groups (young people, persons with reduced working ability, long-term unemployed, etc.). The number of persons included in the programs and measures for promotion of employment and professional qualification continues to decline due to the restrictions of the means in Professional Qualification and Unemployment Fund for active policy. Of those who graduated from the courses for professional qualification in May 2001 (877 people for the whole country) 746 went to work, which proves the role of education and the losses which the country bears from the high level of unemployment and the absence of an active policy for education.

The ***employment of the population*** continues to decline. This is moving the country away from the objectives of the EU and its social model for full employment. The officially employed population is about 37% or less than 3 million (2 943 400 in 2000). The

majority are employed in the private sector (above 60%). In 2000 compared to 1999 the number of employed dropped in total by 144 400. Most of them are from the healthcare, education, transport sectors. In a relatively small number of branches employment has increased: business services, tailoring articles, electricity power, telecommunications, and non-governmental organizations. Most of these branches are in the private sector.

The low level of unemployment in the country and the high employment in the agricultural sector is a serious problem. The employment in agriculture remains very high (above 26%) and is by far incomparable with the employment in this sector in the EU Member States, and in most of the accession countries.

The price of labor is low. The share of the expenses for labor in the total expenditures of the industrial enterprises in 2000 was only 17% as 1/3 was the expenditures for social security payments and extra payments. In some of the branches these expenditures are up to 1/2 of the expenditures for labor. The branches which have a high share of the total expenditures for labor (salaries, social security payments and extra payments) are the tailoring industry (46,4%), extraction of coal, crude oil and gas (39,3%), leather, leather articles and shoes (31,3%).

The **income of the population** remains low and very differentiated. The income from salaries is sufficient neither for consumption, nor for savings for the predominant part of the employed and their families. About half a million people work for a minimum salary (85 levs). Above 1.5 million pensioners receive between 40 and 100 Lev pensions. Above 1 million support themselves with unemployment indemnification and social aid (for poverty). In other words above 3 million people in the country have an income of up to 100 Levs per month which practically means no chances for savings, consumption reduced to the basic foodstuffs and the necessity of paying the mandatory payments for heating and electricity, transport and communications. Due to this many families cannot afford and do not pay these expenditures regularly.

Despite the increase in their nominal amounts in recent years, *real incomes* are still far from their level at the beginning of the transition. The low income of the population does not stimulate the development of the national economy and restrains the alignment of our living standard with that of EU countries. The *income from labor* and mainly the income from *salaries* for most of the employed are low. At the same time the differentiation of these incomes by areas and branches and in particular by personal categories continues to increase.

For the first quarter of 2001 the average gross salary for the country, according to the data of the National Statistical Institute, was 238 levs, i.e. a little over $100 (the minimum is about $40). For the public sector it was a little higher (261 levs) while for the private sector it was 217 levs and was at the level of the payments in the budget organizations.

The low level of the salaries in the country is determined by many factors: enormous unemployment, the offer of labor constantly exceeding the demand; a significant share of the non-formal sector; the high amount of social security payments; an unstable and insufficiently favorable situation for economic and investment activity, etc.

Pensions are an essential part of the income of many households in Bulgaria and for quite a large number of them the only income. At the end of 2000 more than 1/3 of pensioners (almost 35%) received pensions of up to 60 levs. 61,5% of pensioners received pensions below the amount of the minimum salary for the country (85 levs). For most

pensioners (73,7%) the pensions are under 100 levs and only for 8.8% the pensions are above 148 levs (up to the adopted „ceiling" at the amount of 160 levs).

The number of the pensioners at the end of 2000 was 2 375 149, i.e. 29,4% of the country's population – the highest for the last five years. The ratio between pensioners and employed – 84,1% (72.9% for 1996) is also highest.

Since 2000 the number of the pensioners has exceeded the number of the persons who have social security (103,1%) compared to under 70% in 1996–1997. This situation, which continues during the current year and will continue in the next one as well, leads to a great insecurity of the social security system and reduction in the chances for radical changes in the extremely low level of pensions, in particular of the minimum pensions, and in the unfair restrictions of the rights of some pensioners to receive their due incomes (restricted with the adopted ceiling of the pensions).

The nearer and lang-term future of pensioners, as well as of the population which is active now, is disturbing. The number of people with social security is declining – by number and as a share of the active population. The reasons are mainly in the high and long-term (for most of the unemployed) unemployment and the non-payment of social security by a quite large number of the workforce, as well as the high proportion of the people working in the non-formal economy. The number of the people who have social security in 2000 was 2 306 000, i.e. 522 000 of the average annual number of employed did not hade social security. The number of the long-term unemployed who also have no social security is almost the same, which means that about 1/3 of the actually declared economically active population (employed plus unemployed) have no social security. If the approximately half a million of the active population of the country, working in the non-formal economy are added to them, then the active population of the country who have no social security is probably about 40%, which means that a large number of the population is predestined to insecurity at present and in perspective. This high number and share of the population with no social security may destabilize the social security system and increase poverty.

The *living standard of the country* may be judged by the structure of the personal consumption of the population. In July 2001 the expenditures for food were 54,2% of the total income of the households and were their most important expenditure. The difference in this regard with the other European countries, including those preparing themselves for accession to the EU, is very significant. For example, the expenditures for food are: in Poland 37,1%; in Hungary 33,7%; in Slovakia; 33,6%, in the Czech Republic 32,7%; and in Slovenia 27,1%. In Germany the share of the expenditures for food is only about 20% of the income of the household.

The *social differentiation* is deepening. The gap between poor and rich is widening. The continuous mass unemployment, the emerging processes of segregation, discrimination and restricted access of different groups of the population to the labor market, the social security systems, health care, education and other services for the population and the decline in purchasing power due to the low salaries and pensions increase poverty, social isolation and disintegration. These are processes which, more or less, move the country back from the European social model and its fundamental idea for social cohesion and social security. They may even turn out to be a serious obstacle for the continuation of the reforms.

1.2.2.2. Recommendations

1. Amplification of the *social security* of the population through financial stabilization of social funds (for unemployment, pensions, healthcare, social aid, etc.); newly established social funds for voluntary and additional social security; regular receiving of salaries and social payments; updating of incomes in conformity with the changing economic environment. Reducing to a minimum the interference of the Government in the use of the means of the social security funds.

2. Development and implementation of a *new policy on incomes*, ensuring: the increase of motivation and labor efficiency; permanent improvement of professional knowledge and qualifications; receiving of a dignified level of income by the non-active population.

3. Increase of the minimum payments for labor (monthly and hourly), stimulating the wider introduction of hourly employment aimed at optimizing the number of employed people and the increase of the labor payments.

4. Abolition of the administrative restrictions regarding the upper limit of incomes from labor, including pensions for length of service and age.

5. Carrying out of permanent monitoring of the poverty and the social isolation of certain groups of the population, defining the boundary of poverty and development of a national policy for its limitation and gradual liquidation.

6. Transforming the past social policy of social aid from a policy which was limited, inadequate and, in a number of cases, humiliating for human dignity, into a policy *of social cohesion and dignified life for all Bulgarian citizens*

7. Radical change of the policy related to unemployed persons and its turning into a policy for employment and fight for reduction of unemployment, i.e. a policy for higher employment in conformity with the EU policy for full employment. It means adequate amendments in the Law on Protection Upon Unemployment and Promotion of Employment which is in force now, as well as in the secondary legislation; changes in the number and organization of the work of the government offices in charge of employment; adoption of a new concept of unemployed people; ceasing of the practice of irrational use of the means of the Professional Qualification and Unemployment Fund; introduction of monitoring on the policy for regulation of the labor market.

8. Rationalizing and improvement of effectiveness of the government offices in charge of employment: the number of the staff in the central offices is to be significantly reduced and the number of the staff in the regional offices and the labor bureaus is to be rationalized; the units at all levels are to be restructured with the aim of ensuring a predominant share of the work on the active policy for returning unemployed people to work; reduction of irrational expenditures for the maintenance of the offices themselves and the creation of a direct link between these expenditures and the salaries of the staff based on the results of their work in the reduction of unemployment.

9. Dividing the current Professional Qualification and Unemployment Fund into two separate, independent funds. This, on one hand, is aimed at guaranteeing the regular payment of indemnifications upon unemployment and, on the other, at ensuring a permanent development and increase of the share of the active policy for the reduction of unemployment through promotion and stimulating unemployed people towards entrepreneurship and employment and stimulating employers towards the creation of more jobs and employment of certain groups of unemployed (people who find it more difficult to get a job because of reasons beyond their control – persons with reduced ability to work, the Roma population, etc.).

The social security fund upon unemployment coming under the National Social Security Fund and thus improving the control and collection of social security payments as well as rationalizing their distribution and purposeful use.

The promotion fund for qualification and employment being formed with means from the state budget, from employers and from different programs of international and Bulgarian institutions (including ministries and agencies) and being used for the financing of active policy measures, i.e. professional training, pre-qualification, additional qualification, motivating self-employment and entrepreneurship for creation of jobs, employment programs, etc. The management and utilization of the means to be carried out with the participation of the social partners and other non-governmental organizations as the level and nature of the unemployment by regions and settlements and by professional and social groups of the population is taken into account.

10. The assessment of the policy related to employment and in particular to unemployment not being carried out as it has been up to now – with incessantly developing new measures and programs (very often only renaming of former programs); formal carrying out of professional education and qualification; use of significant means from the fund for programs and subsidizing of employers without real creation of permanent jobs or reduction of the unemployment in substance, but on the basis of indicators for the effectiveness of investments, programs, measures and education, and for the quantity, quality and duration of the jobs created, etc.

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1.3. Approximation of Legislation

Pavlina Popova

1.3.1. Current Status

In the study carried out in 2000 the process of approximation of legislation was examined in two main aspects: the approach and methodology of introduction of the European law, on one hand, and the role of the process of coordination upon the adoption and implementation of European law, on the other.

In view of its importance, the process of adopting European legislation should be followed closely due to its important place in the successful integration of Bulgaria into the European Union. However, at the same the incorporation of the European legal norms into the Bulgarian legal system is only the first level of Bulgaria's preparation. And as we have repeatedly mentioned, it must not be an end in itself, but a realized aspiration towards ensuring economic growth and social development, which will at the same time contribute to meeting the Copenhagen criteria. Due to this the effective implementation of the newly adopted legislation is also of primary importance for eventually achieving the successful integration of Bulgaria into the EU. One of the main preconditions for it is the creation and strengthening of a sufficient administrative capacity to ensure the drafting of such legal norms that will be enforceable and effective. Therefore and in view of the carrying out of reliable monitoring the present study will also examine the administrative reform.

In the Regular Report 2000 of the European Commission on the progress of Bulgaria towards accession the progress in the adoption of the European legislation in almost all areas is accounted. The most important recommendation, however, is the need for considerable improvement of the implementation of the newly adopted legislation in view of its effective enforcement. In this aspect the conclusions and recommendation of the 2000 Monitoring completely coincide with those of the Commission.

In the past year a number of laws and secondary legislation have been adopted or amended and supposedly they introduce European legislation. However, it should be noted immediately that the adoption of 50 or 100 laws by Parliament does not mean that this constitutes an integration strategy, not because they are many in number but because they are only part of that which should be done. There are many factors that lead to this, but they may be summed up in three main reasons:

First, it is one thing to adopt a law, it is another to implement it, and it is a third to ensure the required environment for its effective enforcement.

Second, the incorporation of European legislation should actively support, but not impede or delay the structural adaptation of the Bulgarian economy, abolishing the barriers to successful integration.

Third, the European legal system constantly changes and it is impossible to say when the harmonization of the legislation may be considered complete.

Therefore, as it was underlined in our study last-year, only the introduction of European law does not constitute an integration strategy. The timetable for harmonization, which should be accelerated and at the same time realistic, may not be prepared separately from the program for structural adjustment and institutional reforming of the country. What is the sense in carrying out the harmonization in such a way that ensures the preparedness of Bulgaria for accession in 2006 or in 2004 for it to turn out only to be on paper? Due to this we would like to repeat again that the harmonization of Bulgarian legislation with EU law is only an instrument, only part of the process for the adaptation of the Bulgarian economy and social standards to those of the EU but it cannot and should not to be considered as an ultimate objective.

Namely the lack of this understanding leads to significant problems in the area of law drafting. The mistakes and thoughtlessness contained in the newly adopted legislation have started surfacing (one of the examples of this are the amendments of the Penal Procedure Code, which entered into force on January 1 2000 and which obviously did not contribute in any way to the fight against crime for example). The law drafting process was marked by overlooking of the interdependency of the new and the existing provisions, which led to more mistakes and gaps that can not be filled through interpretation. There is a certain lack of coordination and inconsistency between different laws that have recently entered into force, such as the Tax Procedure Code, the Mandatory Social Security Code and the Law on health insurance to which attention should be paid. A practice of adoption of new laws, completely repealing old ones, but at the same time not introducing the European norms completely, is observed. The reasons for that are not clear. A good example in this regard is the current Law on Public Procurement, which entered into force in 1999, repealing the Law on the Government and Municipal Public Procurement that had been effective until then. The adoption of a completely new law should be dictated namely by its bringing legislation into conformity with the European norms. As it is evident from the SIGMA paper concerning public procurement, while the compliance with the European norms of the law and the central organization of public procurement is partially met, the compliance with the implementation of public procurement and the training as well as the procedures for control and examining of complaints are not met at all. In this case it should be taken into account that the European public procurement legislation is extremely detailed and the progress of Bulgaria in this field is followed very closely. This makes it even more unclear why the Law on Public Procurement is in compliance with the European norms only partially, bearing in mind that its lack of compliance concerns its control mechanisms and its implementation to a great extent.

Submission of bills by separate members of the Parliament, which often envisage essential amendments to existing provisions without taking into account their relation to other provisions, in many cases leads to degeneration of the law. This process in its simplest aspect takes the form of general technical errors which, in spite of this, lead to consequences for the whole system. The intentions of the current majority in Parliament for restriction of the possibilities for submission of bills by separate members of Parliament, of course

within the framework of what is Constitutionally admissible, would contribute to an improvement of the quality of the newly adopted legislation in view of its European aspect.

An everyday occurrence in the Bulgarian Parliament is the adoption of laws amending other laws and very often the amendments are „hidden" in the final or transitional provisions of the respective law. This in most cases is probably aimed at the improvement of the law or at bringing its norms into compliance with other legal provisions, but ultimately the changes are proposed in a chaotic way and very often do not take into account compliance with European legislation. This practice of simultaneous changes in a few laws – groundless and mostly spontaneous – is proof in recent years of increasing pressure exercised by the interested groups. No attention is paid to a number of warnings from the legal experts that the mechanical implementation of the law, oriented towards satisfying personal interests leads to a degeneration of the law and to erosion of the public respect towards the legal system as a whole.

Secondary legislation, which is supposed to complement the law, is typical for the Bulgarian legal system. The Law on Normative acts envisages what should be provided for by a law and what should be provided for by the secondary legislation: Regulations of the Decrees of Ministers; Instructions of separate ministries, etc. During the process of introduction of the EU law it poses, generally speaking, two groups of problems:

- very often, not to say always, the provisions of a respective law assign to the Council of Ministers or to a specific minister the job of issuing respective secondary pieces of legislation. Unfortunately, however, the law does not determine even the framework that should be followed by the Council of Ministers or the respective minister and eventually it turns out that this secondary piece of legislation deviates from the spirit of the law, introduces far stronger measures than those intended by the legislator and sometimes just contradicts the law itself. One of the numerous examples of this is the Law on the Public Offer of Securities, which entered into force in 1999. About ten instructions have been issued to it and in addition a number of directives have been issued by the State Commission on the Securities for the implementation of the said instructions and in the end this has direct impact on the work of the stock exchange, the turnover of which in one year is equal to the turnover of the New York Stock Exchange in one hour.
- the great volume of secondary legislation, the issuing of which is envisaged by the laws, leads to delays or even the impossibility of implementation of the law itself, because very often the law does not contain even the basics which the respective secondary piece of legislation should contain. Upon the submission of bills by the Council of Ministers, which are naturally the most numerous, the respective ministry most often has not even started to prepare the secondary legislation envisaged in the law. Due to this, later, during their preparation, the experts in the ministry begin to remember different issues, which the law has failed to settle, or that are in contradiction with other laws or secondary legislation. In this regard a good example is the Law on the Structure of the Territory, newly adopted at the beginning of 2001, which entered into force on March 31 2001, and which provides for the issuing of over 10 instructions for its implementation. Only some of them have been adopted so far.

The frequent changes in one and the same law are also a reason for the ineffective implementation of the law as a whole. For example, the above mentioned Law on the

Structure of the Territory was promulgated on January 2, 2001, it entered into force on March 31, 2001 and by April 24, 2001 had already been amended; the Law on Transformation and Privatization of the Enterprises Owned by the State and Municipalities has undergone 33 amendments since 1992, etc. The examples in this regard are numerous and unfortunately in most cases do not contribute to the improvement of the legal framework in substance, or to the effective implementation of the law, but do just the opposite.

Another defect of the legislative process is the absence of public debate, which should be an inseparable part of the multi-staged legislative process and should be a factor for better laws. As was mentioned in our previous study, statements like „this is a law introducing European legal norms and it is not necessary for us to discuss it" and the intentions of the political forces to accelerate the approximation process declared at the same time may lead to the intensification of the tendencies in this direction. Such a tendency would continue the existing crisis in our legislative process and would not allow the creation and permanent instituting of the link between the legislative process and the social economic realities. The starting of the debate as early as the drafting level of the law both with the interested groups of society and with practitioners as a permanent form in the law drafting process would lead to improvement in the quality of the adopted laws and in particular in their effective implementation. It is natural that in such a debate the various economic interests will try to achieve different aims but here enters the role of the Government and of the legislator to account and reflect public interest in the law.

Other essential defects of the newly adopted laws are their adoption without a clear idea of the required financial means and without identification of the sources for the financing of their implementation. This is an extremely dangerous tendency, particularly in the process of the overall reforming of social-economic life, because legislative initiatives aimed at reforming whole areas of social life may lead to serious damage for whole sectors. In this regard the role of the Government is of particular importance. It is its job to require from the ministries clear financial plans and sources of financing upon the submission of draft laws by the respective ministry and not the formal „financing is ensured".

The mechanical translation of the European legal norms may be pointed out as an enduring defect of the newly adopted legislation, which often creates problems not only for the practitioners but also for the bodies implementing the laws. It is natural that during the translation process even the language is a problem because the legal terminology itself is still under development and a number of terms should be legally defined in the normative act itself. However, the complicated texts of the European norms cannot just be included in the respective law or secondary legislation that introduces them, with their complex grammatical construction without seeking clarity in the Bulgarian text. Otherwise, we would face such provisions that cannot be understood by the institutions implementing the law, not to speak of the citizens or business. An example in this regard is the Law on Customs and the Regulation for its implementation.

In our previous study the issue about the conformity of the submitted law drafts with the European legal norms and the defects of this process was especially discussed. Unfortunately, no progress has been noted during the past year. The mechanism for coordination of the European Integration process, and in particular the approximation process, established at the beginning of 2000, contains a number of defects that impede the improvement of the legislative process upon the transposition of the European legal norms. Here it should be immediately underlined that Parliament is not able, nor is it its task, to approximate in substance our legislation with the EU legislation. The main role

in the approximation process is played by neither the politicians, nor the jurists, but by the experts in the various areas.

In this regard two important problems, which have not yet been solved, are posed:

- the compliance of the draft laws submitted by the Council of Ministers (as well as of law drafts for amendments of existing laws) with EU legislation and the role of the coordination mechanism for ensuring the said compliance. The system for checking the compliance should also be applied to all secondary legislation adopted by the Council of Ministers. This would strongly improve the effectiveness of the newly adopted legislation. Unfortunately, the Ministry of Justice in the face of the Legislative Council turned out to be incapable of developing a consistent methodology for appraisal of the conformity of the draft laws (respectively the laws in force) and the secondary legislation with EU law. In this regard the Government, in our view, should re-examine the mechanism for conformity checking in the context of strengthening and improving the coordination mechanism, outline specific measures for avoiding the formal submission of conformity certificates by the ministries and create the necessary conditions for ensuring the conformity of the law drafts at all key stages of the legislative process.
- establishment of such a legislative procedure that does not allow Parliament to introduce (due to ignorance of the specific matter or to other reasons) changes in the final text, which are not in compliance with the European legal norms. The close co-operation and interaction, as well as the rules for carrying it out, between the executive and legislative powers in this direction is more than a necessity. Led by this we consider that in the very beginning of its work, the new Parliament should include in its Rules of Procedure the mandatory participation of the experts and/or other appropriate representatives of executive power, who have worked on the drafting of the respective laws, in the work of the respective parliamentary commissions upon the discussion of the law drafts transposing European norms and submitted by the Council of Ministers. Of course, for law drafts introduced by members of the Parliament, the major work on the conformity should be performed by the experts of the Parliament. This, however, does not in our view exclude consultations with experts from executive power because this would ultimately contribute to an improvement and acceleration of the approximation process.

On the basis of the above we would recommend the following system, which should guarantee that every draft law submitted in the Parliament meets the EU criteria. Every draft law should:

- be accompanied by a certificate of conformity with European law or by a certificate stating that there is no need of such conformity. The certificate should contain both the description of the principles and norms of the EU legislation, which have been transposed by the respective law and the principles and norms, which have not been transposed, if any, and the reasons why they are not transposed at this stage. Such a certificate should also accompany every secondary piece of legislation adopted by the Council of Ministers.
- be analyzed for conformity with the European law at all levels of the legislative process in order to ensure that no changes that are not in compliance with European legal norms have been introduced. At the level of executive power – it should be performed by the respective ministries or by a body within the framework of the coordination mechanism, designated by Parliament and, at the level of Parliament for the other

draft laws, by the experts of Parliament without, of course, assuming the prerogatives of the parliamentary Commission on European Integration to express its opinion.

This mechanism would permit the Government to follow closely the pace and quality of the approximation of legislation with EU legislation and the administration of Parliament to inform the Chairman of Parliament of all conclusions and notes for non-compliance with the EU law that have been ignored by the respective parliamentary commissions. In cases of non-compliancc its place should probably be taken by the Commission on European Integration, which should consider these contradictions and judge on them, of course working with experts who will give their opinion.

We consider that the above system would clarify the distribution of competencies between the separate powers, would contribute to the establishment of close co-operation between the legislative and executive powers upon the transposition of the European legal norms and would lead to the application of an integrated approach in the harmonization process, which will accelerate the introduction of EU law and will improve the quality of the newly adopted norms.

1.3.2. Recommendations

In the context of the transposition of EU law it is obvious that the defects of the legislative process mentioned above generally have an extremely unfavorable effect both on the quality of the laws and on their effective implementation. In this regard the following recommendations may be made:

- The executive and legislative powers should seek ways for the laws transposing European legal norms to be exhaustive to the utmost extent so that they do not leave room for deviations from these norms in the secondary legislation.
- The executive and legislative powers should aim towards overall and simultaneous setting of the legal framework in a certain area in view of avoiding the concurrent existence of legal norms contradicting each other. This would contribute to the alignment of the legal norms in one area, would clarify the degree of the transposition of EU law in it and would facilitate the preparation of the legislative program both for the executive and for the legislative power.
- The process of transposing EU law should be subordinated to the process of restructuring and establishment of a functioning market economy and to realistic preliminary assessments of the impact of the newly adopted legislation on this process. This would tremendously assist the planning of the stages of transposition of EU law in a respective area and would help in the significant improvement of its implementation.
- Preparation of plans for the necessary financing and the securing of these means, when necessary, for the transposition of EU law in a specific area as early as the stage of preparation of the national budget. This would guarantee that the newly adopted law would be implemented effectively and enforced. It would ensure that it would not stay only „on paper".
- Introduction of a working mechanism between the executive and legislative powers ensuring the conformity of the newly adopted law with EU law.
- Involvement of society in the process of transposition of EU law at an earlier stage through debates with the groups interested in and affected by the newly adopted legislation. This would allow consideration of the practical aspects during the drafting of this legislation and their setting in the law and would contribute to its effective implementation.

1.4. Administrative Reform

Pavlina Popova

1.4.1. Current Status

European Administrative Space

With the approach of the moment of accession, the link between European integration and the administrative reform is starting to become stronger. To a certain extent it is indirect because there is no common European legislation in the area of public administration and each Member State is free within the framework of its constitution and law to organize its administration in a way it considers appropriate. However, on the other hand, the link between accession and administrative reform is quite essential. Each Member State should be able to implement the European policies and law, due to which it should have the required administrative structure and effectively working administration. This is a very important requirement both of the European Union as a whole and of its individual Member States. The EU does not have an administration in the separate Member States and therefore, relies on each Member State to implement its decisions. In the same manner the individual Member States depend on each other for the implementation of the law adopted by the Community institutions, for example the health standards for goods or for qualifications for practicing a certain profession. Thus in practice the EU administration is a chain of national administrations.

The legal systems of the EU Member States are in a process of permanent approximation in different areas due to the influence of European legislation, namely through the legislative activity of the institutions of the Union and through the case law of the Court of Justice in Luxembourg. The legislation adopted by these institutions is transposed in the national systems through regulations applicable directly or through directives, which should be transposed first into the national legislation. Both the regulations and the directives have a direct impact on the administrative systems of the Member States and may lead to important changes in the legal principles applicable to the public administration in a specific sector of a certain policy. The rulings of the Court of Justice may set up principles of a more general nature, which are applicable to more than one law, moreover, in many cases the interpretation of the provisions of the EU legislation by the Court of Justice leads to a change in the understanding of the Member States of the principles of the administrative law.

All this leads to a sort of a europeanization of the administrative law and the imposing of the so-called European administrative space, which affect basic institutional arrangements, procedures, common administrative standards and principles of public service. Usually the issue of administration in the process of integration is discussed in relation to conformity and capability for implementation of the law in specific sectors, for example provisions in force and inspectorates enforcing the European standards for safe and healthy conditions at the working place. However, the European Administrative Space is much more than that. A clear summing up of the requirements towards the administrations of the EU Member States is contained in SIGMA Paper No. 26: „The key administrative values which need to be promoted are *reliability, transparency, predictability, accountability, adaptability* and *efficiency*. These characteristics must be embedded in institutions and administrative processes at all levels, and they must be defended by independent control bodies (e.g. audit), by systems of justice and judicial enforcement, by Parliamentary scrutiny and by ensuring opportunities for voice and redress to the 'clients' of the public administration, namely, citizens and firms." Obviously the sector approach towards the administrative reform (e.g. establishment of an inspectorate on healthy and safe working conditions) is necessary but not enough. Or in general terms in order for the administrative system of an individual country to enter the European Administrative Space it should change the principles affecting the whole administrative system such as management of personnel, development of policies, common standards for procedures, control mechanisms and correction.

The closer integration between the EU Member States expands their interdependency and the work of their administrations is turning into one of the major aspects for the effective implementation of EU policies and legislation. Guided by that, at the beginning of 2000 the European Commission defined the reform in the European Governance as one of its four main objectives. On July 27, 2001 it adopted the White Paper on European Governance which, suggests and outlines the ways for opening the process of developing policies by the EU towards wider circles of society, on one hand, and lays down measures for the achievement of greater openness, accountability and responsibility from those who are developing them, on the other.

European Integration and Administrative Reform

The administrative capacity for implementation of the EU *acquis*, together with the political and economic criteria and the ability to assume the obligations of EU membership is one of the four dimensions for the assessment of progress of the candidate countries. The EU summarizes its requirements towards the candidate countries as follows: „well-developed administration and judicial enforcement are of essential importance for the candidate countries to be able to assume the obligations arising from the full membership". In each of its Regular Reports of the European Commission, assessing the progress of Bulgaria, the administrative capacity both at a general and at a sector level is subject to thorough analysis. The EC discusses the issues of the administration not only in their narrow context, but in the chapters for the political criteria when describing the functioning of the institutions and in particular of executive power or when discussing the judicial system, local government and public service, in the chapter for the membership obligations when discussing the financial matters and control mechanisms. It is obvious that the EC attaches particular priority to administrative matters and the institutional building during the process of preparation for membership of each of the candidate countries.

Based on the immediate tasks for Bulgaria as well as on the assessments of the EC for the progress achieved we consider that the administrative reform should be discussed in the present study in two main aspects: administrative capacity for preparation; and coordination and conducting of the negotiations and administrative capacity for the implementation of the EU *acquis*.

Administrative capacity for preparation, coordination and carrying out of the pre-accession process

The issue for the coordination of the European integration process is of particular importance for successfully carrying it out. The effective coordination of the activities of the administration at governmental, inter-ministerial and ministerial level would assist the development of the general and sector strategies for the accession of Bulgaria, for the implementation of adequate policies during the preparation for membership and for the proper defining of the priorities at the different stages.

a) The mechanism for coordination of the activities for the preparation of the Republic of Bulgaria for accession to the EU and for conducting the accession negotiations, adopted with Decree No. 3/20.01.2000 of the Council of Ministers, currently still in force.

This mechanism was discussed in our study last year, where its flaws were outlined as well, due to which we will not elaborate on them here. In the study it was mentioned that this mechanism to a large extent repeats the 1995 mechanism that was repealed in 1997 and that practically till 2000 Bulgaria did not have a mechanism for overall coordination of the European integration issues, which led to a loss of the momentum, a deceleration of the work in substance and chaos in the process.

Bearing in mind the stage at which Bulgaria is at present, we would like to discuss the current situation and outline the problems facing public administration, as well as to try to suggest appropriate decisions in this direction.

With the beginning of the negotiations for membership the issue about the relations between the coordination mechanism and the negotiation team is of great importance. The role of the Ministry of Foreign Affairs in the negotiation process is more limited in substance (although very important), because the negotiations require continuous adaptation of the negotiation positions and the stream of the information from the individual ministries is growing constantly. The volume of the issues, which are subject to preliminary coordination is increasing tremendously, which poses with particular seriousness the question as to who will coordinate this process, and how. Due to this, in our view, the mechanism for coordination of the European integration should be improved in the direction of moving the coordination at government level and broadening of the powers of the Directorate on European Integration to the Council of Ministers. It will allow the Government on one hand to closely manage and supervise Bulgaria's preparation for membership, in particular the negotiations and, on the other hand, to control this process having at its disposal the instruments for administrative influence over the individual ministries. Certainly, the role of the Ministry of Foreign Affairs should not be underestimated and such appropriate decisions, including those related to the personnel for the management of this process, must be sought, that allow a general view and management at an operational level of the process of Bulgaria's preparation.

b) Units in charge of the European integration in each ministry.

Currently such units exist in all the ministries and they are subordinated to a Deputy Minister but after they were closed down in most of the ministries in 1997, their re-establishment began in 1999, which also had a negative impact on the overall process. The main tasks of the staff in these units should be the coordination within their ministries and their participation in the inter-ministerial working groups, which discuss matters of their competence.

c) Inter-ministerial coordination.

With the mechanism established in 2000 inter-ministerial coordination is carried out at the level of the European Integration Council, headed by a Deputy Minister of the Ministry of Foreign Affairs and at the level of working groups as, when negotiations were launched, inter-ministerial working groups on each negotiation chapter were established. These groups develop the negotiation positions on the individual chapters and follow the negotiation process closely. However, they should formulate not only the negotiation positions and deal with individual issues in substance, but they should perform a coordination function at the level of senior officials.

d) Mechanism for management of the approximation of the Bulgarian legislation with the EU law.

As mentioned above, the relations between the administration and Parliament in relation to the approximation process are not well developed and this may trigger problems. This is one more reason for imposing the development of a system for control of the conformity for the institutional system as a whole.

e) The need for the management of the financial aid to be aimed to a greater extent at the assistance of the preparation for membership.

The PHARE Program, which is the main program for financial assistance for the candidate countries, was completely re-oriented in view of assisting the pre-accession process and the utilization of the aids. In accordance with the EU requirements the management of this assistance was assigned to the Ministry of Finance, where a National Fund was established as well as a Central Unit for financing and contracts, which is in charge of the carrying out of tenders and conclusion of contracts for most of the assistance through PHARE. The relations with the International Finance Institutions were correctly assigned to the Directorate on European Integration in the Council of Ministers because the good coordination of the financial resources (including credits) obtained from different donors or institutions is of primary importance for Bulgaria in view of their appropriate allocation and of avoiding overlapping of financing for one and the same activity.

While discussing the coordination mechanism it should be underlined that the negotiations for membership of the EU are not the typical well-known international negotiations. This process is not only multilateral (i.e. the Bulgarian Government with all Member States) but many players participate in it – the European Commission, the European Parliament, the Member States, even some strong lobbies always have their ways to influence the substance and progress of the negotiations. The negotiation team has to negotiate with all of them and know and understand their interests, style and political power well. This requires very strong internal coordination so that Bulgaria speaks before the EU „in one voice".

On the other hand, on the basis of the experience of the countries that joined the EU earlier as well as on the basis of our past experience, the most difficult element of the

negotiations is that which is at the „domestic front". All ministries carry out activities and have interests which will be affected by the accession. Due to this, on one hand, the level of the coordination mechanism should be quite high, which will allow it to overcome the contradictions between the individual ministries and insist on a position that does not express the inter-ministerial interests. On the other hand, each ministry would have to be ready and able to back up the negotiation team with up to date information, analysis and ideas, which means that it should have at its disposal a qualified team able to execute these tasks.

In conclusion, it may be stressed that the weakness of the coordination mechanism and capacity is a major problem for the Bulgarian administration. One of the reasons for this is the frequent reorganization of the mechanism for the overall coordination of the European process, both at governmental and ministerial levels. Unlike the other candidate countries where the decision taking political structures are relatively permanent, Bulgaria, as mentioned above, continually closes, opens or re-organizes its mechanism for the management of the European process. This deprives Bulgaria of institutional memory, of gathered experience and of significant expert capacity, which as a whole would only accelerate and actively assist the process of preparation for membership, and in particular the negotiation process.

Therefore, if we succeed in establishing an institutional system which, on one hand would account both the gathered experience for the management of the European integration and the current realities and, on the other hand, overcome the defects mentioned above, this system will be capable of coping with the enormous amount of work forthcoming during the accession process.

Administrative capacity for implementation of the EU legislation

The administrative capacity for the implementation of EU law is an issue to which all the regular reports for the progress towards accession pay special attention both at general and sector levels. In the 2000 Regular Report the overall assessment of the EU is: „In general, the capacity of the Bulgarian administration and judicial system to ensure application of the *acquis* is still limited. Efforts are focused on preparation and adoption of legislation with insufficient attention to how this will be implemented and enforced. This means that in areas where an adequate legal framework has been adopted, implementation and enforcement of laws remains poor because of weak administrative and judicial capacity and lack of preparation for implementation."

Taking into account these findings of the EC related to the effective implementation of the newly adopted legislation (laws and secondary legislation) we consider that it is necessary to discuss the issues of public administration, the administrative structures and the administrative procedures.

Public administration

The process beginning with the preparation for membership and ending with membership of the EU of a candidate country is continuous and the administrative capacity is of primary importance both before and after the achievement of membership. As it was underlined above, it explains the important role which the Commission assigns to public administration as a central element of the pre-accession strategy and the financial support to the candidate countries during the coming years. It means that it is necessary

for attention to be paid not only to the coordination of the European integration and the approximation of the legislation, but also to the creation of human resources and organization in the key ministries responsible for the implementation of this legislation.

In 1999 the Government developed a strategy for the reform of public administration, which seems to be very ambitious. The basic normative acts for its implementation – the Administration Law and the Civil Service Law – were adopted by Parliament in 1999. The conclusions made by the EC in its Regular Report are that: „The results of the administrative reform process are still limited but certain progress has been achieved in relation to the entry into force of the Administration Law and Civil Service Law. The implementation of these laws is at an initial stage so it is still early for conclusions as to what extent the new legal framework will contribute to the establishment of an independent, productive and professional civil service.

One of the major issues related to public administration is the issue about the continuity and stability of public administration. Unfortunately, however, as it is noted in the 2000 World Bank report for Bulgaria: During recent years the political appointments have reached very low levels, at the level of head of department, sometimes even lower positions as well. It proves that the requirements for development of independent, professional administration, based on the personal merits of the servants have not been met; the attractiveness of the civil service for highly qualified people in relation to opportunities for career and professional promotionis decreasing; this contributes to a significant fluctuation of senior and middle managing staff in each change of the Government and as a consequence of this there is a loss of institutional continuity and stability".

The above conclusion is very disturbing and in this regard it should be mentioned that for the first time upon the change of the Government after the parliamentary elections conducted in June 2001 Bulgaria will have a Civil Service Law in force. Due to this it is still early to judge to what extent the principles and procedures set by the law will support and assist the new Government in the creation of an effectively working and qualified administration or whether some of the provisions of the law have laid „political mines" for the next Government.

One of the reasons for the low level of qualification of the civil servants is frequently pointed out to be the low remuneration. As the World Bank in its report for Bulgaria notes: „The level of remuneration in public administration is extremely low, in particular for the servants with low market culture. These low levels have a significant impact on the ability of the Government to attract and keep well-qualified and capable personnel (particularly in such areas where a great demand on the part of the private sector is observed). This influence is particularly strong at senior and middle management levels." However, at the same time, from some publications in the press and information from the ministries it is obvious that the servants in different ministries have earned annually additional sums in quite high amounts either through their participation in the Boards of state-owned enterprises or through bonuses. Therefore, the overcoming of this main weakness of the Bulgarian administration, namely its low qualification, should not be linked only to the low remuneration, but should rely on the identification of the real reasons for this situation and on the planning of appropriate measures for a change in this respect.

The effectiveness of the Civil Service Law is difficult to assess, but during the previous Government it was a big problem, in comparison with the private sector, the appointment of experienced and skillful civil servants, in particular regarding the senior and middle

management staff; the practice of making political appointments at the lowest levels as well as making frequent changes in the staff of the ministries was imposed – even without a change of the Government.

Institutions and Administrative Structures

As mentioned above, one of the aspects of institutional building are the institutions for coordination of the European integration issues. However, an appropriate general institutional system and administrative structures, necessary for the implementation of EU law, are required.

From the point of view of the general institutional system the Law on State Administration attempted to introduce an orderly system for the organization of the whole administration and harmonization of the structures in the individual ministries. In our view, the biggest flaw of this law is the significant freedom of the Government to establish agencies to the individual ministries, the heads of which are appointed by the Prime Minister. Very often the explanation for its establishment is that the very process of preparation for EU membership imposes them and that the EU requires them. Evidence of this includes: the closing down of the Ministry of Energy, which was separated into three agencies; the management of privatization, which is carried out by the Privatization Agency; the Chief Department „Customs", which was transformed into „Customs" Agency, etc. What is alarming in this case is that the work of these agencies is gradually starting to avoid parliamentary control. The Minister of Finance for example says that he just coordinates the activities of the „Customs" Agency, but does not manage it, due to which he may not be responsible for its work in substance. The same may be applied to the Privatization Agency, the activities of which are supervised by a Deputy Prime Minister, designated by the Prime Minister.

The second issue related to the institutions is the various administrative structures that are required for the implementation of EU law. For facilitation of the candidate countries the European Commission has prepared a paper, which lists in detail the administrative institutions which are supposed to be established in the different sectors. In the present study our objective is not to enumerate these structures but they include bodies responsible for the providing of free movement of goods and services, for monitoring of the competition, regulative bodies for telecommunications, etc. As is emphasized by the EC the paper also includes structures which are not required explicitly by EU legislation but which are nevertheless necessary in view of the effective implementation of this legislation. Due to this the structures which must be established or re-organized when the respective issues are regulated should also be taken into account in the preparation of each draft law or piece of secondary legislation. It is also recommended that the Conformity Certificate contain a special column related to the need to establish the existence of respective administrative structures.

There are currently above 3,000 licensing and permission regimes. Despite the review of these regimes undertaken by the previous Government in view of reducing the administrative barriers to citizens and businesses, it led to the abolition of quite an insignificant number of them. In addition to this, very often overlapping and contradictory requirements are imposed on the companies. Examples of this are the hygienic and sanitary permissions for trade companies, required both by the central and the local authorities and also the procedures for the registration of land, which require the submission

of duplicated documentation in various agencies. Excessively complicated and clumsy procedures, established in parallel by municipalities (e.g. issuing of a license for commercial activities) introduce additional obstacles and impede business activities. Directly linked to the large number of licensing and permission regimes is the issue for corruption in central and local administrations.

In conclusion the problems of the institutions and the procedures in the context of the implementation of EU legislation may be summarized as follows:

- existence of numerous licensing and permission regimes, which creates preconditions for corruption and excessive regulation;
- duplicated, overlapping or contradictory central and local procedures, which additionally hamper the effective implementation of the law.
- institutions currently dealing mainly with the development and introduction of new procedures and new provisions not focusing on their enforcement and the control over their observation, nor respectively imposing penalties on violators.

1.4.2. Recommendations

There is no doubt that the reform of public administration must be accelerated and the scope and depth of the program for its implementation increased. The importance and complexity of the agenda of the public administration reform requires particular attention and it should seek and take into account the opinion of those who will be affected by the proposed changes, including the civil servants themselves, non-governmental organizations, the private sector and the citizens/consumers of public services. Such an open dialogue will contribute to a deepening and broadening of the consensus on the reform matters, will promote the commitment to and understanding of the reform, will assist the overcoming of the resistance and inactivity of the system and thus will significantly facilitate the implementation of the measures related to carrying out the reform.

It is necessary to pay further attention to the practical implementation of the principle of accounting the personal and professional merits of the civil servants upon their appointment, competitions, transferring and rotation and their overall career development. It is of crucial importance that the existence of competition is guaranteed in order to ensure professional realization at different levels. The framework provided for by the Civil Service Law on the management of the performance of the tasks and appraisal of civil servants needs development and should be applied as one of the urgent priority measures in view of achieving the improvement of general effectiveness, expenditure effectiveness and accountability of civil servants.

Ensuring the actual depoliticization of the administration is more than necessary.

The restriction of the freedom of action and possibilities for personal judgment of the civil servants are urgent matters.

The technical education of the civil servants needs to be significantly improved.

As far as institutions are concerned it is necessary for the legal framework to be reviewed and specific measures (not only legislative) for more effective and transparent work of the institutions in the context of Bulgaria's preparation for EU membership to

be outlined. As for the procedures, the regulations must be narrowed to such a level at which the interference of the state is necessary. Simplification and de-bureaucratization of the administrative procedures at central and local levels to ensure their consistent and lawful implementation are also needed. Coordination during the development of the regulatory procedures both at central and local levels should be strengthened. The undertaking of these measures will lead to the effective and transparent application of the administrative procedures and will considerably reduce the prerequisites for corruption.

The ministries and other bodies must establish transparent procedures for the implementation of the regulatory framework.

The coordination mechanism for the European integration process shows insufficient effectiveness upon the coordination of the overall policy; further and more detailed development of the administrative structures required for the implementation and enforcement of EU legislation is necessary.

It is of crucial importance that the Government is realistic while developing strategies for adaptation of the national administrative system to the EU requirements. Excessively accelerated preparation and the adoption of unrealistic deadlines may lead to serious consequences after Bulgaria's accession to the EU. Therefore the application of such a methodology as impact analysis, for example, that allows the development of a realistic and feasible national strategy is very important.

Finding the balance between the horizontal and sector approach to the administrative reform is essential. The European Commission in its regular reports always discusses the administrative aspect in each sector in view of the implementation of the EU law and outlines the actions which must be undertaken. However, the sector issues must not mask the broader picture. The transposition of the legal framework of agriculture, environment or telecommunications is certainly necessary. It is also necessary for us to have effectively working police, customs and veterinary bodies, but this may not be achieved in an isolated manner.

This goal may be achieved only if a number of general systems, such as those for inter-ministerial coordination, the decision taking process of the Government, regulation of the civil service, budget procedures and control mechanisms which would ensure the effective work of public administration are established or reorganized.

Chapter 2.
INFRASTRUCTURE-RELATED SUB-SECTORS

2.1. Power Generation

Milko Kovachev

2.1.1. The EU Experience

The focus of attention on the infrastructure-related sub-sectors of the economy and on power generation in particular is mainly due to the fact that the efficient and effective functioning of these sectors is of vital significance for the sustainable economic growth and international competitiveness of the country.

At present, EU governments are implementing active institutional, regulatory and structural reforms, aimed at improving the efficiency and quality of all infrastructure-related sub-sectors.

In connection with the implementation of the Directives on the internal electricity market and the internal gas market in the EU, the majority of the countries have already implemented the respective structural measures, accompanied by the opening of the market with a view to encouraging effective competition. The majority of the EU member countries have chosen to apply a regulated third party access to the electricity network, a procedure for issuing permits/licenses for new generating plants, a complete legal separation of the transmission system operator, and the establishment of an independent regulatory body.

The Electricity Market Directive was adopted on December 16th 1996, and became effective as of February 19th 1997. Its implementation in the respective national legislation was completed by February 19th 1999 by all member countries with the exception of Belgium and Ireland, which had to introduce it not later than February 19th 2000, and Greece – not later than February 19th 2001. At present, all member countries have

fulfilled their obligations in connection with the incorporation of this Directive in to their respective domestic legislation.

Article 19 of the Electricity Market Directive stipulates minimum levels of market opening, which the member countries should attain. The Directive has fixed three stages. From February 1999 the minimum level of market opening is 27%, from February 2000 the minimum percentage should be 30%, and by February 2003 the minimum market opening should be 35%. These minimum percentages have been calculated on the basis of the average electricity consumption registered in the EU countries by end consumers, the consumption of which is over 40 g Wh (first step), over 20 g Wh (second step), and over 9 g Wh (last step) in compliance with the Directive.

As a result of the market opening, electricity prices for industrial consumers have declined from the moment the Directive was implemented. As a whole, the largest decline has been observed in the member countries which opened their electricity markets to a level above the minimum requirement of the Directive and of which the electricity markets are exposed to domestic and foreign competition. These are countries such as Great Britain, which was the first country to liberalize and deregulate its electricity market. Since the UK market was opened in 1990, the prices for industrial consumers have dropped by an average of 35% in real terms, in comparison with the EU average of 25%. In Finland and Sweden, where market opening started later, the price drop is also considerable: 20% in Finland since 1995, and 15% in Sweden since 1996. The decline is even more significant, bearing in mind the fact that electricity prices in those two countries were among the lowest on the European market. In Germany, where market opening started only recently, a rapid price decline of 25% was registered between March 1998 and August 2000.

The price decline is not limited to industrial consumers alone, although its effect is smaller for home consumers. The most significant drop of prices has been observed in those member countries where consumers have the actual opportunity to change their suppliers. The experience of Sweden and Finland shows that consumers can benefit from market opening when the requirement for investment in costly measuring devices is eliminated. Thus for instance, the average prices for home consumers have declined by 13% in Finland and 16% in Sweden.

It should be pointed out that the average prices (VAT and fee-free) attained in EU countries for the year 2000 are as follows: for industrial consumers: 5.5 Euro cents per kWh; for small industrial consumers: 9 Euro cents per kWh; and for home consumers: 8 Euro cents per kWh, which considerably exceeds the current prices in Bulgaria. It should also be taken into consideration that the above-mentioned prices are domestic market prices in the individual countries and cannot be used in the capacity of a benchmark with respect to the prices at which electricity is traded between them.

As for the other major components which the Directive envisages in connection with the establishment of an electricity market, the situation is as follows:

Construction of New Power Generating Facilities

Fourteen member countries have agreed to open competition for the construction of new power generating facilities by applying a permit/licensing procedure, which is considered to be more transparent and non-discriminatory than the competition/tender procedure, for which there are provisions in the Directive as well. Portugal has chosen a

hybrid system, applying a licensing procedure for the open market, and a tender procedure for the residual market. Even when choosing a licensing procedure, the member countries can retain their right to invite tenders under exceptional circumstances from the point of view of long-term planning, in cases where relevant generating facilities have not been constructed as a result of the licensing procedure. France, for instance, has chosen to retain this right.

Access to the Network

Fourteen member countries have chosen to apply a regulated third party access to the electricity network. Only Germany has chosen to apply a contractual network access. The network access prices in Germany result from negotiations between associations of consumers, the electricity companies, and the network operators. Nevertheless, the contracted prices are subject to publicity, thus securing the necessary degree of transparency. These prices can then become subject to controversy among the market players and this can bring about a lengthy process of reconsidering and renegotiating them. In addition, such prices are not subject to surveillance and inspection on the part of the supervisory authorities.

The Single Buyer model has not been chosen by any of the member countries. Portugal has chosen to apply the Single Buyer model only for the residual (non-market) consumers plus regulated network access for privileged consumers.

Unbundling of Electricity Transmission from a Managerial and Accounting Point of View

The majority of the member countries go beyond the managerial unbundling of electricity transmission. The current situation by groups of countries looks as follows:

Managerial unbundling: France, Germany, the Tiwak and Ilwerke transmission networks in Western Austria, the transmission networks in Scotland, Northern Ireland and Luxembourg.

Legal unbundling: Italy, Belgium (the transmission utility company has not been determined thus far), the Netherlands, most of Austria, Portugal, Ireland and Denmark.

Property unbundling: England and Wales, Spain; Finland and Sweden.

Market Regulation and Settlement of Disputes

Eleven of the member countries (Sweden, Finland, Great Britain, Ireland, Denmark, Greece, Italy, Spain, the Netherlands, Portugal, France, and Belgium) have set up special regulatory authorities in this particular sphere, whereby the national authorities on the issues of competition retain their common functions as far as the enforcement of the relevant competition-related legislation is concerned. In Luxembourg it is the regulatory authority in the sphere of telecommunications that performs the regulatory functions with respect to the electricity market as well. In Austria and Germany the regulatory function is entrusted to the respective ministries. Austria intends to set up a special regulatory authority for the electricity sector.

2.1.2. The Current State of Bulgarian Power Generation

The task connected with the restructuring of the electricity network for infrastructure-related services in Bulgaria, and the establishment of an adequate regulatory framework, with a view to attracting large-scale foreign investments, has brought to the fore a number of unique problems and challenges. Bulgaria has quite limited experience in the sphere of regulation, to a large extent as a result of the complicated interrelationship of this process with the fact that it is the Government that exercises its right to ownership and formulates the government policy in the sector of power generation, but also because of the fact that until very recently the practice of regulation was absent altogether. Bulgaria is yet to complete „the first generation" of reforms in the electricity sector. Very soon, however, Bulgarian politicians will have to face the „second generation" of problems, which emerge after the privatization of electricity utilities, especially when it is combined with the separation of various structural units and their transformation into independent companies.

In Bulgaria, much like in many other countries throughout the world, the traditional policy with respect to the infrastructure-related services leads to the formation of prices, which are underlain by cross-subsidies. Both economic theory and the practice in the sphere of regulation show that it is impossible to maintain cross subsidies in the structure of prices in the conditions of the free access of new market entrants – suppliers in particular – and the absence of corrective measures undertaken by the policy-makers in this particular sector. Thus, the liberalization of the market requires that new sources of subsidies be found or tariffs be raised to levels which cover production costs, i.e. the costs of electricity generation and transmission.

The need to adopt clear mechanisms, which are capable of financially backing up the development of certain generally acknowledged principles in the provision of a universal service, along with the need for supporting consumers at the same time, as they would otherwise be placed in an inequitable situation, is much more prominently expressed in Bulgaria than in industrially developed countries, bearing in mind the social and economic characteristics of the population at large.

Regardless of the instructive experience of the developed countries, the concrete measures of the policy directed to attaining universal social goals should take into account the political and institutional peculiarities of a given country, the state of the government budget, the incomes and preferences of consumers, as well as the economic characteristics of the particular sector of the country's infrastructure. Politicians should take into consideration the way in which these factors influence the optimum structure of financial support mechanisms and should make the decision as to whether the maintenance of universal services would be financed out of the overall tax revenues or by means of a broad-scope tax on the proceeds from the sale of products and services in the respective sector of the country's infrastructure. They should also decide to what extent and level the provision of such services would be subsidised, and what the concrete methods of granting such subsidies should be, so that competition in the economy could be properly preserved. It is still unclear how the issues connected with the provision of universal services will be solved in the individual networks belonging to this sector of the infrastructure.

Background and Starting Conditions

Bulgaria is one of the poorest countries in Central and Eastern Europe, the per capita GDP of which amounts to USD 1 419,5 for the year 2000 or 24,1% of the average GDP per capita of the population of the EU countries in terms of their actual purchasing power. Irrespective of the relative low per capita income, Bulgaria enjoys a high rate of electricity consumption (2,5 tons of oil equivalent (toe) compared to the average 3,8 toe for the EU countries), which reflects the traditional emphasis on maintaining energy source prices below prime cost, which was characteristic for the command-type economies, alongside the predominant development of energy intensive heavy industry and the insufficient attention paid to the issues of energy efficiency. During the first years of the transition period, the aggregate consumption of primary energy sources dropped abruptly together with the slump of the GDP. It continued to decrease afterwards as well, but to a much smaller degree than industrial output did, and the most significant decrease was marked by oil consumption, not coal consumption. At the current level of about 1,8 kg of oil equivalent (kgoe) per 1 Euro of the GDP produced, the electricity consumption of the economy is higher at present than it was at the beginning of transition. This situation is in a marked contrast with the other countries in transition such as Poland, Hungary, and the Czech Republic (0,56 – 0,77 kgoe/Euro of the GDP), and also with Romania (1,32 kgoe/Euro of the GDP). A summary of the share distribution of energy consumption in 1998 is shown on the Table below:

Table 2.1: End Energy Consumption (1998) a/
(In million tons of oil equivalent)

	Electri-city	Thermal Energy	Coal	Natural Gas	Oil Deriva-tives	Total
Industry	1,04	1,76	0,83	1,32	0,47	5,42
Transportation	0,04	0,01	0,00	0,00	0,86	0,91
Construction	0,02	0,00	0,00	0,00	0,11	0,13
Agriculture and Forestry	0,02	0,02	0,00	0,02	0,28	0,34
Households	1,06	0,60	1,01	0,08	1,00	3,75
Other	0,19	0,15	0,01	0,00	0,14	0,49
TOTAL	2,37	2,54	1,85	1,42	2,86	11,04

a/ The losses upon processing, transmission, and distribution (mainly for electricity and thermal energy) are estimated at around 60% of the overall consumption of primary energy).

Bulgaria is facing great challenges as far as the power generation sector is concerned. The delay in restructuring this sector, especially with respect to improving the efficiency of power generation and determining substantiated prices from an economic point of

view, brought about costly consequences expressed in terms of a slump in industrial output and declining welfare for consumers, as well as the loss of confidence that the existing infrastructure and services offered to consumers could be both economically efficient and accessible. The wars waged in the neighboring countries, the disrupted transport communications and trade relations with Bulgaria's main trading partners, alongside the economic crisis in Russia, were additional aggravating factors that further exacerbated the country's problems. The Bulgarian economy is energy intensive, although the country does not avail of significant power generation resources from an economic point of view. Bulgarian coal is low grade. The country does not enjoy any significant oil reserves and is almost entirely dependent on imports of natural gas from Russia in order to secure the supply of the only cost effective source of energy for the generation of heat and electricity, bearing in mind that it is also conducive to the liberalization of energy markets to the largest extent.

The upside factors are connected with Bulgaria's geographical location on a key crossroads in Europe, which includes Russia's transit gas pipelines to the south and the connection of Greece and Turkey with the European electricity network. Should gas pipelines be constructed in future from the Caucasus through Turkey (or the Black Sea) into Bulgaria and further on to Central Europe, Bulgaria would cease to be dependent solely on the supplies of Russian natural gas and would become an attractive East-West corridor, thus permitting the diversification of Western Europe's dependence on imported natural gas. Bulgaria's current policy is geared to the restructuring of the energy sector and its opening to competition.

The development of the energy sector up to the present moment includes:

- the gradual discontinuation of the subsidized price formation practice (accompanied by the establishment of a proper safety net for the vulnerable strata of the population);
- the Power Generation and Energy Efficiency Act passed in July 1999, which is appropriate for the transition to a more competitive power generation sector with less central planning (bearing in mind that its further improvement is on the short list of amendments to the existing legislation);
- the formation of an independent State Committee for Energy Regulation (SCER) with the Council of Ministers;
- the unbundling of the vertically integrated National Electricity Company (NEC) and setting up independent generating companies as legal entities (the individual power plants will each be an independent company), along with independent utility companies catering for the transmission and distribution of electricity (seven regional utilities altogether);
- financial stabilisation of the National Gas Company (Bulgargaz) and making the various functions of the company – supplies, transmission and storage, transit and distribution – independent from an accounting point of view;
- separation of the loss-making coal mines and open shaft coal-mining facilities from the profitable coal-mining enterprises with a view to the successful preparation of the latter for subsequent privatization.

The major elements subject to consideration and review, as well as the steps to follow in the restructuring process are:

- The transmission company (currently this is the National Electricity Company – NEC), which has assets in the form of generating facilities, plays the role of a transmission electricity utility company and of an only trader with electricity (imports, exports, transit). The minimum requirement for the separation of the various functions from an accounting point of view has been fulfilled. At the same time the legal incorporation of the transmission utility should be determined as a medium-term objective;
- The only-buyer model has been only partially implemented, due to the fact that the NEC monopoly on the wholesale, import, export, and transit of electricity should be accompanied by ensuring an equitable access of third parties to the electricity network on the basis of transparent and non-discriminatory terms that are yet to be developed;
- The legal separation of the generating power plants and transforming them into independent commercial companies brings to the fore the question about the competitiveness of the individual power plants with respect to the horizontally integrated – and in some cases vertically integrated – companies in other countries, and in Bulgaria's neighbours in particular, within the framework of an opening electricity market. At the same time, their legal incorporation and subsequent privatization on the basis of long-term contracts for the purchase of electricity will lead to serious obstacles for the implementation of the second generation of reforms;
- The legal separation of the regional electricity distribution companies, which are responsible for the maintenance and development of the low-voltage network and the retail electricity trade, has to be followed up by determined and unwavering steps for improving the quality of the services offered. The possible instruments to achieve this goal are both legislative measures and the taxation provisions for the business of electricity utility companies. A second possible radical approach is the privatization of these utilities. In order to start their privatization, however, it is necessary to fully complete the elaboration of the regulatory framework;
- An autonomous regulatory authority, called the State Committee for Energy Regulation (SCER), has also been set up. The Law amending the Power Generation and Energy Efficiency Act (PGEEA) consolidates the independence and functional efficiency of the SCER. The role of the Committee and its efficient functioning are key issues for the restructuring of the power generation sector and for the establishment of a competitive environment in it;
- A tender procedure has been envisaged for the construction of new power generation facilities on the basis of a long-term plan. The Law amending the Power Generation and Energy Efficiency Act (PGEEA) has replaced the tender procedure with a competition procedure and introduced a licensing procedure for the owners of facilities who would like to develop them further. This approach to a large extent transfers the investment risk to the consumer. The choice of a permit procedure, once the regulatory framework has been completed, could attract the investors which the country needs without the danger that these investments might bring about a prohibitively large increase in consumer prices.

Legislation

The current Power Generation and Energy Efficiency Act, given all its amendments, is of a transitory nature at present. This is determined by the dynamics of the electricity market development in the world and in the region of Southeastern Europe in particular. The major

factor for this transitory nature is the current and developing legislation of the European Union in this particular sphere. The issues that are yet to be solved are as follows:

The principal element of the Directive for the liberalization of the electricity market is the question about the **Third party access to the network** and the definition of **„legitimate consumers"**. The issue about the third party access to the network has not been fully solved in the submitted Draft Bill on amending the law. The monopoly on the import and export of electricity has been preserved. The transactions concerning the transit of electricity are also the monopolistic right of the Transmission Utility Company. The submitted variant of a type of contract-based access does not comply with the models permitted by the Directive. The Draft Bill envisages that the levels and stages of opening the domestic market would be fixed by an ordinance, which should come into force as of January 1st 2002.

The EC Directive concerning the general rules governing the internal electricity market recommends two models securing the implementation of the principles for establishing the prerequisites for a competitive market, i.e. the model of Third Party Access (either contractual or free), and the Single Buyer Model. Neither of the models indicated by the Directive has been applied by the Law amending the Power Generation and Energy Efficiency Act. The basic discrepancy lies in the monopoly on electricity imports and exports, which does not allow for the phased-in opening of the market for consumers and producers outside the Bulgarian electricity network. The ordinance providing for the enforcement of the Act envisages the opening of the market only within the limits of the Bulgarian electricity network.

Another major issue laid down in the Directive is the choice offered between a tender procedure and a licensing regime for the construction of new power generation facilities. The Law amending the Power Generation and Energy Efficiency Act adopts the approach of awarding construction contracts on the basis of a tender procedure. The Directive requires that, should a tender procedure be adopted, the tenders are to be invited by an authority independent from the generation, transmission, and distribution of electricity. It is necessary for the competitions to be held by the State Committee for Energy Regulation with the involvement of representatives of the State Power Generation and Energy Regulation Agency (SPGERA) with a view to using the available expertise. The application of the more liberal option of introducing a licensing regime will make it possible for the bureaucratic hindrances posed to the potential investors to be reduced, allowing at the same time the withdrawal of the Government as a guarantor of the investors, thus decreasing the risk of imposing prohibitively high prices on end electricity consumers.

The expected amendments to the Directive envisage a 100% opening of the European electricity and gas market by the year 2005. At the Goethenborg summit held at the beginning of 2001, this proposal did not receive the respective confirmation. The success of the Bulgarian power generation sector is preconditioned by the readiness of the economic agents operating in this sector to participate effectively thereon from a technical, economic, and managerial point of view. To this end, it is necessary to start opening the domestic Bulgarian market as early as 2002, with the objective of getting ready for the phased-in opening to the external regional market at the time of the country's accession to the European Union.

The vertically integrated state-owned National Electricity Company (NEC), which was incorporated as a joint stock company in 1992, occupied a dominant position in the electricity supply sector until its unbundling in May-June 2000 into separate and independent legal entities engaged with the generation, transmission, and distribution of

electricity. The NEC was transformed into a transmission utility company with several directorates, i.e.: a Single Buyer Directorate, a Directorate responsible for the maintenance of the transmission system, a Hydropower Plants Enterprise and a Central Dispatching Department. The National Electricity Company will be renamed into National Electricity Transmission Company (NETC). The four big hydropower generating cascades (Belmeken-Sestrimo, Batak-Aleko, Vucha, and Arda), which consist of 14 generating plants of a total capacity of 1,637 MW, together with the Chaira Hydropower Plant (which has a generating capacity of 864 MW and a storage capacity of 784 MW) will remain within the framework of the NETC.

Table 2.2: Transformation of the NETC into Separate Legal Entities

Power Generation Facilities (Enterprises)	Installed MW Capacity	% of the Overall Power Generation a/	Distribution Facilities (Enterprises)	Consumers b/ (approximate number)	% of the Overall Consumption
1. Maritza Iztok 1 TPP	160	2,4	1.Sofia (City)	629 888	15,4
2. Maritza Iztok 2 TPP	1 340	15,9	2.Sofia(Region)	928 072	19,0
3. Maritza Iztok 3 TPP	800	9,1	3. Pleven	284 292	5,3
4. Maritza 3 TPP	120	0,5	4.G. Oryahovitza	772 727	14,3
5. Varna TPP	1 200	4,8	5. Varna	682 144	16,9
6. Rousse TPP	290	0,9	6. Stara Zagora	551 535	13,2
7. Bobov dol TPP	540	5,7	7. Plovdiv	590 766	15,9
8. Kozloduy NPP – old	1 680	20,0			
Kozloduy NPP – new	1900	21,2			
TOTAL –„former" NEC	7 850	80,5	TOTAL	4 439 424	100
In the new NETC (HPP)	2 500	7,5			
Others outside-NETC	800	12			
TOTAL	11 190	100			

a/ 1999 estimates. The overall balance is supplemented by industrial power plants, thermal power plants and other electricity generating plants outside the NETC.
b/ The estimates about the number of consumers are based on installed electricity meters.
Legend of abbreviations: TPP: Thermal Power Plant; NPP: Nuclear Power Plant; HPP: Hydroelectric Power Plant

The restructuring of the power generation sector to date has brought about the concentration of powers within the government authority, i.e. the State Power Generation and Energy Regulation Agency (SPGERA), which replaced the trade monopoly of NEC in its capacity of a vertically integrated trade company by the administrative monopoly of the Government, currently exercised by SPGERA.

The strategic issues that are yet to be solved lie in two major areas:

- The preparation of the economic entities operating in the area of power generation for functioning in the competitive environment of the European market, which requires that a new philosophy be embodied in the Power Generation and Energy Efficiency Act;
- The behavioural reorientation of the power generating and electricity utility companies from a monopoly conduct to consumer-oriented behavior with the purpose of delivering a truly quality service.

Natural Gas

With the exception of the gas extraction site near the Galata peninsula on the Bulgarian northern Black Sea coast, the sector is dominated by the Bulgargaz Company, which is a vertically integrated and wholly state-owned company, set up in 1990 and subsequently transformed into a one-man joint stock company in 1993. The utilization of natural gas has been traditionally at a low rate in the country, and low-pressure supplies and household gas-consumption facilities are practically non-existent. The major consumers are large-scale industrial enterprises and regional power plants engaged in the combined generation of heat and electricity. The 28 biggest Bulgargaz customers enjoy 78% of the overall gas consumption, whereas the relative share of the remaining 200 consumers is a mere 22%. As a result, Bulgaria has a common tariff for all end consumers. Prices will be determined by the Council of Ministers till the end of 2001, and from then on this function will be taken over by the State Committee for Energy Regulation (SCER). Private investors have indicated interest in the development of the low-pressure gas market, but they are still hampered by the lack of an appropriate regulatory framework especially as far as differentiated prices for small-scale consumers are concerned.

Table 2.3: Natural Gas Consumption (in billion cubic meters)

Consumer Group	1996	1997	1998	1999
Power generation companies (mainly combined power plants and heat supply utility companies)	1,665	1,524	1,379	1,339
Chemical industry	2,435	1,719	1,297	0,990
Other industrial consumers	1,540	1,235	1,000	0,125
Other consumers (outside industry)	0,091	0,105	0,115	0,125
Total	5,731	4,583	3,791	3,324

Source: Bulgargaz

In an economy based mainly on coal and utilising natural gas in its heavy industry, the overall binding of Gazprom supply prices with such an energy source as crude oil, which is so volatile from the point of view of price fluctuations, carries an excessive risk in comparison with contracts, whereby prices partially reflect the dynamic developments on the coal, metal, or fertilizer markets. The additional risks stem from the conclusion of long-term contracts, which lack flexibility with respect to demand in a period of uncertainty. An effective re-negotiation of the contract provisions for the supply of natural gas with a view to creating possibilities for lowering end consumer prices and greater price predictability would considerably help the development of both the low-pressure gas market and the financial viability of large-scale consumers. A higher degree of flexibility in applying the *take-or-pay requirement* (which provides for the payment of unused quantities of natural gas) would also assist the development of Bulgaria's own natural gas resources.

Heat Supply and Heating

With a relative share of about 23% of the end electricity consumption in 1998, the regional heat supply utility companies (RHSUC) continue to be the principal source of heating for nearly 21 towns and cities in Bulgaria. The RHSUC have a connected installed thermal capacity of about 7 700 MW. With the exception of the Sofia City Heat Supply Utility Company, which is wholly owned by the Sofia City municipality and has more than a 60% share in the overall heat consumption in the country, the remaining RHSUCs are state-owned and are managed by the State Power Generation and Energy Regulation Agency (SPGERA). In 1996, the Government began the implementation of a large-scale program for the installation of heat meters in all heat subscriber stations located in heat supplied buildings, as a result of which the majority of subscribers (i.e. heated buildings) outside Sofia have heat meters registering the actual heat supplied. The completion of the heat meter program for Sofia City is envisaged for the end of 2001. As part of the strategy for the restructuring of the power generation sector, adopted in 1998, the Government has also started reforms with respect to pricing and the organization of the RHSUCs with a view to the gradual elimination of subsidies by the end of 2001 and transfer of the RHSUC ownership to the municipalities, thus relieving the expenditure part of the government budget. The Government, however, has failed to mobilize a sufficient amount of investments to fund the first phase of the sector's transformation on commercial basis (at present, when the legislative and regulatory framework for the attraction of private interest is being elaborated). The situation was additionally aggravated by the sharp rise of fuel prices in the year 2000, which substantially undermined the effort of the Government to attain its goals.

The major characteristics of the heat supply sector include:

- The downward spiral engendered by the shrinking financial capacity for utilizing heat (the process of curtailing subsidies takes place at a faster rate than the growth of consumer incomes). Consequently, there is a mass-scale phenomenon of decommissioning regional heat supply systems (more than 30% of all consumers opted for partial or complete disconnection from the system after 1998), and what is observed is a further increase of the financial burden borne by the consumers who are still connected to the central heating system, by the regional heat supply utility companies and by the government budget;

- The outdated and obsolete heating system, the lack of heat consumption regulation devices (in conformity with the financial means and personal preferences of consumers), and the possibility for individual apartments in residential blocks to disconnect their radiators partially or completely without paying any fees whatsoever (in contradiction with the communal nature of central heating in such buildings) brought about the increase of production costs (in comparison with the billed quantities of heat) and the unjust distribution of the financial burden between the heat supplier, the consumers connected to the regional heating system, and the taxpayers (the government budget);
- The lack of an adequate legislative and regulatory framework, which settles the relationships between the owners of apartments in residential buildings with regard to the common heat consumption, as well as the technical difficulties of disconnecting the heating of individual apartments with a view to avoiding unpaid heating bills or illegal connection to the heating system, hampered the commercialization of the services provided by the Regional Heat Supply Utility Companies and the development of commercial services with the necessary degree of energy efficiency.

Table 2.4: Household Heating Expenditures

Energy Source	GWh (million kWh)	US$/MWh (incl. 20 % VAT)		Total Costs in Million US$		Monthly Heating Bill
		July 2000	July-2002	2000	2002	(winter 2002)
Electricity	7,000	34,0	>50,0	238	>350	$37–75[a]
Central Heating	6,000	18,0	25,0	108	140	$37–50[b]
Solid Fuels	9,000	4,0	8,0	36	56	$32[c]
Total	22,000			382	446	
Gas Potential	Minimum	14,0	20–24[d]			

[a] The consumption of a heating device of 2 kW for a single room only would amount to 1,5 MWh per month, should the heating device function round the clock;
[b] Typical consumption: 1,5 – 2,0 MWh per month in the winter season for a standard apartment of 70 square meters, given the present state of the existing insulation of buildings;
[c] The calculations have been made on the basis of briquette prices of US$40/ton in 2002, 50% efficiency of the heating stove, and 2 MWh (net) per month;
[d] The calculations have been made on the basis of wholesale prices of US$115/thousand cubic meters (US$12/MWh). Apart from that, consumers have to make additional investments in order to acquire the respective gas heating equipment.

Electricity

The strategy that has been pursued so far is directed at accelerating the rate of private investments in Bulgarian power generating facilities with the objective of turning the country into a factor of regional stability on the electricity market in the Balkans. This strategy (formulated initially by the National Strategy for the Development of the Power Generation Sector up to the Year 2010 and passed by Parliament at the beginning of 1999) envisages large-scale private investments in electricity generating facilities with the intention of confidently meeting the forecast internal demand and increasing the Bulgarian presence on the regional electricity market, securing at the same time the availability of at least 20% reserve generating facilities (above the forecast peak consumption) and limiting the dependence on imported fuels (natural gas predominantly) to a minimum. The forecasts for the development of domestic demand are reasonable, but the State Power Generation and Energy Regulation Agency (SPGERA) also expects that Bulgaria will be capable of securing additional export sales above the quantities already secured by means of a long-term contract with Turkey and exported on the basis of short-term agreements with other countries (amounting to a total of about 10%-15% of domestic demand at present). In support of this strategy, the implementation of an ambitious medium-term investment program (for the period 2001–2006) was launched, which includes:

- rehabilitation of selected electric power plants and transmission facilities with the purpose of increasing the safety, reliability, and efficiency of supplies, and also with the aim of promoting environmental protection. The necessary funds for accomplishing this are estimated at 1.45 million Euro;
- construction of new generating facilities based on lignite coal and hydropower sources (ar an estimated cost of 1,25 billion Euro), and possibly electricity transmission facilities in compliance with the forecast demand (including the channels of foreign trade);
- ensuring adequate generation facilities, which have to make up for the decommissioning of generating blocks 1 and 2 (880 MW) of the Kozloduy Nuclear Power Plant before the year 2003, and also blocks 3 and 4 before the end of their designed life cycle.

The Government is laying the stress on its expectations for foreign investors to finance the major part of the necessary investments in the power generation sector and is holding talks at present with potential strategic investors who can undertake the rehabilitation, the ownership and operation of the Maritza Iztok 3 TPP (840 MW), and also carry out the construction of new generating facilities in Maritza Iztok 1 TPP (600 MW) and in the Gorna Arda hydroelectric cascade (160 MW). The Government accepts the fact that private investors will insist on concluding long-term contracts for the purchase of electricity with the state-owned NEC, which acts in the capacity of „the single buyer" in accordance with the market model adopted by Bulgaria, but also relies on being able to transfer the financial obligations ensuing from these contracts to the end consumers in the country and on to contracts for the export of electricity. In addition to the concrete transactions that are being negotiated at present, by 2002–2003 the Government intends to:

- Privatize the major part of the non-nuclear electric power plants, including the principal power plants for the combined generation of electricity and heat connected with the regional heat supply systems, securing the necessary funding of improvements in the area of energy efficiency, security, and environmental protection from strategic investors;
- Privatize the seven national electricity distribution utility companies;
- Privatize the main coal-mining enterprises, which extract and produce lignite coal.

The market „single buyer" model adopted by the Government and provided for by the Power Generation Act is on the whole compliant with the EU Electricity Directive (the important exception here is the preservation of the monopoly position, which the National Electricity Transmission Company (NETC) enjoys as far as exports and imports are concerned). The model however could only gain from relying on the market-force-driven competition (on demand in this particular case) to a higher extent rather than rely on the government controlled planning of investments for the construction of new generating facilities, which are supposed to meet the forecast demand. The market structure consists of the National Electricity Transmission Company in its capacity of a single buyer and owner of the transmission network, dispatching and regulating companies, alongside several separate legal entities for the generation and distribution of electricity. Excluding the companies which have no alternative, new generating facilities can be constructed only on the basis of a competitive tender for such facilities (and sources of energy), stipulated in advance and indicated by the NETC. These facilities should be an inseparable part of the NETC's plan for the generation of electricity, which has to be approved by the State Power Generation and Energy Regulation Agency (SPGERA). Although the Power Generation Act envisages that after 2002 privileged consumers may negotiate supplies directly with local producers if they meet the conditions that will be elaborated by the State Committee for Energy Regulation, SPGERA considers that this should be done carefully and gradually.

In this way, at least in the foreseeable future, the only opportunity for competition to happen on the electricity market, as envisaged in the market model adopted by Bulgaria, is to hold competitive tenders for the construction of new generating facilities. Although this model is attractive from the standpoint of the opportunity it offers for starting negotiations with potential private investors before markets and a regulatory framework have been set up in a reliable way and then tested in actual practice, the companies engaged with working out large-scale projects in the sphere of electricity generation (concerning the rehabilitation of existing facilities or the construction of new ones) will require long-term contracts for the purchase of electricity with the state-owned National Electricity Transmission Company (NETC) with the purpose of securing the necessary project financing. But as it is highly unlikely for the NETC to be capable of balancing these long-term contracts for the purchase of electricity by concluding profitable contracts for the sale of electricity and these purchase contracts may turn out to be „stranded costs" for the NETC, if the electricity market (both the size of demand and the prices) begins to develop in such a way that does not permit the contracted quantities and prices to be transferred to the end consumers. These contracts for the purchase of electricity could also restrict the development of competition in future, should a sizeable part of the market be bound by such contracts. This is the reason why the contracts for the purchase of electricity should be subject to consideration only with respect to such investments that are deemed necessary in the short-term perspective – before the market is actually structured

– so that investors, not the NETC, may be given the possibility to take the market risks upon themselves. If the electricity market is open to competition in practical reality and if the privileged consumers are capable of finding more competitive sources of electricity supplies either within the country or abroad, the single buyer stands the risk of losing its most valuable clients and will thus be made to transfer the higher production costs on to the other consumers who are deprived of another alternative (i.e. they do not meet the conditions for direct negotiations of electricity deliveries) and will have to bear a signifieant price increase. Otherwise the National Electricity Transmission Company stands the chance of sustaining significant losses, i.e. if the State Committee for Energy Regulation fails to permit the increase of regulated prices (for households for instance) above a given reasonable and economically substantiated level (from the point of view of the costs connected with the new contracts concluded with privileged consumers).

With the background of what has been said above, the establishment of a market structure should become a priority, alongside the creation of the necessary framework and policy measures in the sphere of regulation, before moving on to the implementation of a costly investment program, because:

- there is an excess of available generating facilities in the country (approximately 11,000 MW, given the fact that the winter peak load is 7,500 MW, including electricity for export). They are sufficient to cover domestic demand and the existing contracts for electricity exports over the next 4 to 5 years. Besides, in principle there is a considerable degree of uncertainty as regards the forecasts about the development of demand, especially in periods of economic transition, and it would be prudent for Bulgaria to try to find less costly options instead of embarking upon the construction of new generating facilities with the purpose of preventing the risk of power cuts or deterioration of the quality of electricity supplied, should demand start to grow at a higher rate than that foreseen (for instance, end consumption diminished in 1999 for the third consecutive year);
- The prices of energy for household consumption (electricity, central heating, and coal) are still in the process of correction with a view to attaining levels that enable costs to be retrieved. At the same time, there are substantial opportunities for the efficiency of consumption to be increased;
- The central heating systems in the densely populated conurbation centres should be modernised. At the same time, high pressure gas transmission systems should be planned and constructed so that the heating needs of other regions in the country could be met as well;
- There is a good opportunity for the inefficiency of the infrastructure for energy supplies constructed so far to be remedied by going in for investments that require relatively low costs (thus, for instance, the losses incurred in the process of electricity transmission, which exceeded 20% in 1999 and the first four months of the year 2000, could be halved by implementing measures for improved management and control).

The investment expenditures connected with the implementation of the government program for the 2001 – 2006 period are estimated at 2.6 billion Euro, which is a significant amount both in absolute and relative terms. It represents about 5% of the GDP that will be produced for the period and nearly 50% of the forecast sales of electricity for the entire period. This sum could burden the Government with a considerable debt, should demand fail to develop according to forecasts or should the appropriate market and regulatory structures fail to be put in place before making such a sizeable investment. It

would be more prudent if investments were channeled with priority to eliminating the inefficiencies involved with supplies and consumption first, including among the possible priority remedies the privatization of existing assets as well, which should be done before committing investments to new generating facilities.

The experience of the energy markets, which are currently undergoing deregulation throughout the world, shows that the Single Buyer model, based on long-term contracts for the purchase of electricity, is subject to significant tension. The reason why is rooted in the fact that the direct contracts for the purchase of electricity and the adopted Single Buyer Model (SBM) transfers the entire risk stemming from the choice of generating capacities and the forecast of future demand on to the Single Buyer instead of leaving the risks where the practical experience and possibility for control lie, namely with the electricity producers who make the decisions concerning investments, market entry and market openings. The planning mechanisms inherited from the previous vertically integrated sectors of the economy do not correspond to the need for making commercial decisions in the conditions of the rapidly developing market environment in the sector of power generation, especially when competition is imposed by economic necessity (i.e. the necessity for Bulgarian products to be competitive on the international market) and Bulgaria's willingness to join the EU and its single electricity market.

In the United States, where the power generation sector is vertically integrated and is predominantly in private hands and where the Single Buyer Model has been adopted, the rapid deregulation brought about the accrual of large amounts of stranded costs in some of the states and insufficient investment in others. Both these occurrences, however, hamper the development of the reform. This is the reason why it is exceedingly important for the problem with long-term contracts to be solved before it has escalated to a degree where it may turn out to be a serious financial risk for the Government in its role of current owner and possible future guarantor of such contracts.

Nuclear Power Generation

A key issue in the process of Bulgaria's accession to the EU is the requirement of the European Union for early decommissioning of the four old VVER 440/230 generating units of the nuclear power plant in Kozloduy, which the EU considers to be insufficiently safe on the basis of its own estimates about the reliability of the construction of similar nuclear reactors. For their part, Bulgarian politicians and energy experts think that the reactors VVER 440/230 are safe and have the advantage of operating on low production costs, not polluting the environment at the same time. Their being prematurely decommissioned would have costly consequences for the economy and would be embodied in higher prices of the electricity produced by the generating facilities that will replace the two nuclear reactors. Besides, this will lead to the loss of profitable electricity exports and higher import dependence in a period of a strong pressure experienced by the country's balance of payments. In order to start the EU accession negotiations, the Government agreed to decommission units 1 and 2 (which were put into operation in 1974 and 1975 respectively) before 2003. With respect to blocks 3 and 4 (put into operation in 1980 and 1982 respectively), a final agreement as to the final date of decommissioning has so far not been reached. The EU expects them to be closed down before 2006, whereas the Government would rather prefer their phasing out to be postponed till the end of the projected operational life cycle of the reactors and is currently undertaking active measures for their modernization and raising their safety to levels deemed acceptable by the respective

international agencies. In support of the premature decommissioning of blocks 1 to 4, the G-7 countries granted Bulgaria assistance to the tune of 24 million Euro in accordance with the nuclear safety program designed to improve the operational reliability and safety of the reactors. The EU also agreed to secure financial assistance amounting to 200 million Euro for the period 2000 – 2006, in order to mitigate the social consequences from the early decommissioning of the reactors. The second half of the latter sum is subject to an additional confirmation on the part of the EU in 2002, depending on the readiness of the Government to shut down blocks 3 and 4 by the year 2006. At the time being, additional funding from the EURATOM is being negotiated, as well as certain bilateral and commercial bank loans that will permit the modernization of the two newer VVER 1000 reactors (installed in blocks 5 and 6 and put into operation in 1988 and 1993 respectively) to be carried out. The estimated cost of their modernization stands at approximately 400 million Euro.

In the year 2000, the Government signed both a guarantee and a credit agreement for a loan extended by EURATOM to the tune of 212,5 million Euro. The loan is intended for the modernization of blocks 5 and 6 of the Kozloduy Nuclear Power Plant. In 2001 the respective trade contracts were also signed. The modernization program is to be implemented in the period 2001 – 2005. The timely and high quality fulfilment of the program could underlie the stronger bargaining power of the country in the eventual negotiations for leaving blocks 3 and 4 in operation till the end of their life cycle. Good management of the program should become the main task facing the NPP, also taking into consideration the need for co-ordinating the activities of the various main contractors.

The implementation of the Agreement concerning blocks 1 to 4 is divided into two stages, during which the major accent will be laid on the fulfilment of activities connected with the decommissioning of blocks 1 and 2, and the co-ordination of the final decision about blocks 3 and 4 of the Kozloduy NPP. The Agreement *per se* is of a broad nature and encompasses the entire power generation sector of the country. At the same time it is closely connected with the following stages and financial support on the part of the European Commission:

- The decommissioning of blocks 1 and 2 before 2003 diminishes the generating capacities of the country by 440 MW. They represent 4% of the overall installed capacity and generate about 9% – 10% of the country's electricity. The allocated financial assistance for this part of the Agreement amounts to 100 million Euro.
- The decommissioning of blocks 3 and 4, the date of which should be determined in the course of negotiations that will have to be completed by the end of 2002, must be considered within the framework of the updated energy strategy of the country and the opinion of the European Commission pointing to 2006 as the latest date for closing down these reactors. The share of blocks 3 and 4 in the capacity and electricity balance of the country is about 4% and around 9% – 10% respectively. The financial assistance allocated to this end is 100 million Euro.

Prices

Regardless of the fact that important changes are currently taking place in the policy of price formation, the electricity supply sector still suffers from unbalanced tariffs for end consumers and insufficient revenues, the adverse effect of which is additionally aggravated by the slump in demand on the part of industrial consumers, who have traditionally paid the highest prices for the electricity consumed. The obvious political

difficulty lies in the fact that the balancing of the tariffs requires an increase of household consumption prices. The prices of household electricity (about USD 0.035 per kWh for day-time consumption and USD 0.018 for night-time consumption) are still well below the tariff for other low-voltage electricity consumers (USD 0.054/kWh for day-time consumption and USD 0,026 for night-time consumption), which in its turn perhaps does not reflect the full costs of low-voltage electricity distribution. The household electricity tariffs are expected to rise by 25% – 50% in order to reach a level which truly reflects production costs (in the way the Power Generation Act provides for it). The prices of electricity for industrial consumers seem reasonable (USD 0,041/kWh for day-time consumption and USD 0.019 for night-time consumption) taking into account the low average wholesale prices of electricity, but they are still short of completely retrieving the investments made for electricity generation.

The largest customer of the electricity supply utility company in Bulgaria – the Belgian Union Minier Company – has found out in practice that unlike the recent past, when industrial consumption electricity prices in Central Europe were relatively lower than those in Belgium, at present the picture has changed to a great extent as a result of the liberalization on the European electricity market after the EC Directive on electricity came into force. In this vein it can be expected that with the introduction of free access for privileged consumers, the National Electricity Transmission Company will be deprived of its profitable business of servicing large-scale industrial customers and will be forced to raise the prices for those consumers who have no alternative.

2.1.3. Conclusions and Recommendations

Conclusions

Continuing inefficiency in the provision of major infrastructure-related services will abruptly curb Bulgaria's growth potential and the export capacity of its economy. Although organizational improvements are capable of raising efficiency to some extent, significant progress can only be achieved by means of appropriate investments. Bearing in mind the multitude of competing priorities to be funded out of the limited public funds and the relatively low level of domestic savings, the Government will have to rely on foreign capital in order to meet its needs for investments in the infrastructure-related sectors of the economy. Provided all infrastructure-related sectors get properly restructured and in the case that they are governed by a confidence-inspiring framework of government regulation, they could attract a sustainable flow of massive foreign investments. Given the fact, however, that these investments will probably have a bearing on production costs and the prices of infrastructure-related services, the major challenge the Government will have to face during the next several years is to secure the proper timing and succession of such investments and to manage effectively all the investment-related obligations it has undertaken. Bearing in mind the imperfections inherent in the market structure of all infrastructure-related services, and the need for substantial consolidation of the legal and regulatory institutions, it would be appropriate for the Government to show caution

with respect to the speed of privatization and prudence when it starts to disengage itself from its state regulatory functions.

The challenge facing Bulgarian politicians is focused on their capacity to establish a framework which could give an impetus to effective competition free from distortions, and to create mechanisms, which impose limitations both in essence and from a procedural point of view, capable of curbing arbitrary administrative interference and personal discretion in the process of regulation, and permitting the introduction of pricing structures, which give signals and stimulate effective actions on the part of consumers, suppliers of additional and substituting services, suppliers of basic infrastructure-related services, and investors alike. The other challenges faced by the Government are: to succeed in removing the regulatory obstacles preventing service producers from obtaining adequate revenues; to set up rules securing open and non-discriminatory access to the bottlenecks of the infrastructure-related facilities; and to elaborate mechanisms for the support of the desired social goals and the positive externalities, which are neutral with respect to competition.

Over the next several years, the major challenge which the Government will be facing with respect to **the power generation sector,** is to be able to secure the proper succession in implementing both reforms and investments in a way that guarantees the undertaking of larger and riskier investments only in the presence of established market structures, regulatory provisions, and adequate prices of energy sources. It is clear that the competitiveness of the economy and the welfare of the population should be the most important objectives for the power generation sector, which must be achieved in a manner that places no additional burden on the country's budget. The timely establishment of a clearly outlined political and regulatory framework would allow investors to undertake the market risks and avail themselves of the benefits connected with their investments, securing at the same time adequate protection of consumers against unsubstantiated prices or poor quality of the services rendered. In fact, should the Government fail to negotiate properly timed large-scale private investments at this stage of the transition, which is characterized by uncertain forecasts regarding demand, high risk premiums demanded by private capital, and also by the need for the investors to enter into long-term and inflexible contractual obligations with state-owned enterprises, Bulgaria would be exposed to risks that could jeopardise and erode its competitiveness, deteriorate the social status of its population, and increase the pressure on the expenditure part of the government budget. Within such a context, the Government should first and foremost focus its attention on providing incentives in the following areas:

- Energy efficiency and conservation (bearing in mind the high relative share of energy expenditures in industrial and household budgets) achieved by providing incentives for the cheapest and most environmentally friendly ways of home heating in particular, as well as by encouraging the influx of foreign capitals in the sector of power generation that was earmarked for investments leading to the provision of energy-related services;
- Efficiency and reliability from the standpoint of supply (in order to secure the competitiveness of the economy), and especially the elimination of losses in the process of transmission and distribution of electricity and heat, alongside the increase of efficiency and prolonging the life cycle of key electricity and thermal power plants by privatizing them with the participation of strategic investors and at relatively low investment costs.

Recommendations

Attainment of effective regulation

The key to success in the transition to a private and competitive infrastructure-related sector is the stable process of regulation, which balances the competing interests of consumers and the service provider companies. The process of regulation is of a determining nature for the environment within which the companies operate. This is the reason why the establishment of an effective system of regulation is a mandatory pre-condition for the attraction of foreign investments in the infrastructure-related sectors and the improvement of their functioning. The experience both in developed and developing economies and countries in transition contains several important lessons. They refer to the necessity of imposing a requirement that every regulatory authority should publicly announce a set of basic principles that can serve as a transparent foundation for its analyses and decisions. These principles can also underlie the characteristics of an effective system of regulation, including co-ordination, transparency, independence, and accountability.

Guiding principles for the regulation of companies and enterprises providing infrastructure-related services. Enumerated below are some of the guiding principles which could generate effective decisions on a broad set of issues that are likely to arise within the framework of Bulgaria's infrastructure-related sectors subject to regulation:

- Preservation of the prospective value of investments through the requirement for the regulatory authorities to refrain from unilaterally imposed policy changes or other regulating norms that could potentially decrease the value of investments.
- Leaving competition to develop only where this is truly possible without any distortions, by means of an explicit ruling that the regulatory authorities should refrain from interfering with the business of the companies subject to regulation when it is connected with competitive markets or at least with markets that could not possibly be identified as protected natural monopolies.
- Weighing the costs of regulation against the benefits of regulation by imposing restrictions on the regulatory authorities barring them from expanding the scope of intervention before they are capable of proving that benefits are likely to outstrip costs.
- Providing consumers with such a quality of services and price levels that are not lower than the competitive standard level of comparison by means of: the requirement for the regulatory authorities to refrain from supporting privatization deals that lead to prices higher than those necessary in order to sustain the levels of quality services; giving the chance to consumers to challenge agreements that impose higher prices on them out of purely fiscal considerations; introducing rules about the utilization of mechanisms curbing price growth with the purpose of controlling the level of regulated monopoly prices over a longer period of time; stipulating the right of consumers to seek corrections in electricity tariffs, should the quality of services provided prove to be considerably lower than that agreed upon in the privatization contract.
- Ensuring the fact that prices will serve as a signal and will create incentives for effective action on the part of consumers, suppliers of additional or substitute services, suppliers of basic infrastructure-related services, and investors at large by envisaging that these prices correspond both to the relative value of the service from the point of view of consumers and the marginal costs; and by giving the suppliers the opportunity to apply flexible pricing, observing at the same time the limitation that their revenues truly cover their joint expenditures.
- Ensuring free access to the bottlenecks of infrastructure-related equipment, at the same time observing the principle of equity by requiring that the monopolies operating in the infrastructure-related sectors should grant access to these infrastructure bottlenecks to all competitors at prices including the same mark-ups as the competing end consumer services, at which the owners of the bottlenecks normally sell them.
- Giving proper and neutral attention to the country's social objectives from the point of view of competition, which have a bearing upon each individual infrastructure-related sector by observing the following conditions: the additional fees or taxes collected should influence the prices of competing suppliers to the same degree and in a way that does not disturb the ratio between the prices of competitors; subsidies should be expedient and as targeted it possible in order to avoid distortions of the decision made by those suppliers who have not been encompassed by the respective grant-in-aid program.

Characteristics of Effective Regulation. The legally provided framework of each sector subject to regulation should be able to secure:

Co-ordination of the Regulatory Policy Pursued with Respect to the Specific Sector

- All elements of the policy of the respective sector subject to regulation should be logically connected and mutually complementary, i.e. the founding laws regulating the measures of the sectoral policy should not contradict one another and the regulatory norms applied should be completely compatible.
- The rule-of-the-law principle should abided by, taking into consideration precedents and the *stare decisis* principle at the same time, which means that the regulatory authorities should not repeal previous decisions unless there is sufficient evidence that these decisions have brought about serious problems and that similar cases in principle should be solved in the same way.
- Within the framework of each individual sector, the main responsibility for enforcing price regulation should be entrusted to a single agency, which has the legal right to require technical information and data about the expenditures of all companies that have been granted a license to do business in the respective sector, and which has the right to apply its own discretion as to whether to regulate or not. Together with this, however, the agency should be made responsible for elaborating and publishing a concrete decision-making procedure applied in the spheres subject to regulation and price fixing, and also for substantiating its decisions about price levels on the basis of namely these principles.

Transparency of Regulatory Procedures and Policy Making Principles

- The policy pursued should have sufficient clarity from the point of view of the regulated companies, the non-regulated companies, which compete on the fringe of the sector subject to regulation, and the consumers of communications services.
- The concrete details about the policy pursued at any given moment, the principles of stipulating future policy, as well as the processes of elaborating new regulatory requirements and dispute settlement should be communicated to the broad public, thus becoming accessible to all citizens of the country.

- All decisions made in the sphere of economic regulation and all decisions made on maters including new suppliers of infrastructure-related services (licenses and privatization contracts) should be subject to broad publicity. The regulatory authorities should be entrusted with the obligation to publish documents of public interest with respect to their policy and procedures on the basis of which future decisions will be made, so that each citizen, should he or she wish to do so, could express his or her opinion on them.

Political Independence of the Regulatory Authorities

- The members of the regulatory authorities should not be subject to informal control on the part of politicians and representatives of government institutions, especially as far as their everyday operative work is concerned.
- The executive manager of each regulatory authority should have a strictly stipulated mandate for the post he/she occupies and should not be removed from this post before his/her term of office has expired, with the exception of cases in which there are legitimate grounds for the executive manager to be ousted prematurely, but only after the reason why has been duly clarified.
- The Government may repeal the decisions of the regulatory agencies only by way of legislative action or by lodging an appeal before the administrative court, should such a decision contravene the laws of the country.
- The decisions concerning the inclusion of new service providers in a given sector subject to regulation by granting respective licenses and those concerning price fixing should be the exclusive right of regulatory authorities or agencies, which have been authorized to elaborate rules and require the observance of all regulating norms and ordinances, whereby the Council of Ministers, the Prime Minister, or the National Assembly are not required to issue a sanction of approval with respect to them. These regulatory norms, however, are subject to appeal before the law-court system and could be repealed by virtue of the existing legislation.

Accountability in the Process of Regulation

- Citizens and companies subject to regulation should be informed about the authorities and/or people responsible for making regulatory decisions. At the same time, the responsibilities and regulatory procedures should be clarified for each individual sphere subject to regulation both from a technological point of view and depending on the category of the specific business activity (e.g. quality of service, prices, scope of the services provided, etc.).
- All regulatory agencies should be subject to procedural requirements, which make it possible for all stakeholders to express their opinion on the major issues concerning the policy of the respective regulatory authority, the envisaged deadlines for final decision-making, and the obligation for submitting substantiated arguments for all decisions made.

Energy Sector

The most obvious problem in the currently existing institutional structure is the strong position of the State Power Generation and Energy Regulation Agency (SPGERA), which took over the major part of the responsibilities of a Ministry of Power Generation, whereas the State Committee for Energy Regulation (SCER) is still endeavouring to properly enter its role, place and competency in the power generation sector, given the fact that these endeavours have been insufficiently supported on the part of the Government. Apart from that, the SCER has only been given a modest role in determining the 2002 electricity tariffs and its ability to balance the interests of suppliers and consumers will remain questionable as long as the State Power Generation and Energy Regulation Agency (SPGERA) continues to be responsible for the decision-making concerning investments, the new generating capacities, and also the preparation of the power generation sectors for privatization. Despite all this, however, the SCER is in the process of institutional consolidation at present. At the same time, the fact that by 2002 SCER will be unable to play an important role in tariff regulation can buy it the time it needs to introduce in practice the main elements of accounting regulation and establish the principles which will secure the transparent basis for its policy and regulatory decisions.

The Hungarian experience indicates that it is imprudent and costly to make a fast transition to the phase of privatization before an effective regulatory structure has been put firmly in place. The main threat is rooted in the fact that in the absence of a trustworthy and effective system for market-oriented independent regulation, which does not lend itself to arbitrary political interference, the potential buyers will insist on being granted long-term contractual guarantees for their revenues and also opportunities for a higher rate of return, which can make up for the political risk that exists in their perceptions. The State Power Generation and Energy Regulation Agency (SPGERA) may be tempted to go in for rapid privatization in the sector that will allow it to finalize precisely such contracts, thus restricting the future potential of SCER to set up tariffs or establish a truly competitive energy market.

Rules Regulating the Access to the Bottlenecks of Infrastructure

The recent experience of a number of countries shows that the distribution of infrastructure-related resources in bottleneck-containing facilities and the comprehensive issues related to access and mutual interdependence are of special significance with respect to deregulation and the competitive restructuring of all infrastructure-related sectors. In the sphere of electricity distribution, the competing electricity suppliers should have access to the electricity transmission network, while in the gas supply sector the suppliers insist on access to the pipelines of the gas transmission network. Until adequate access and inter-relations between the players on the market have been properly secured, there can be no positive effect from the liberalization of the potentially competitive segments of these sectors.

One of the major challenges facing the regulatory authorities in Bulgaria is their ability to secure access to the bottlenecks in the infrastructure-related facilities (especially in cases when they are controlled by the existing monopolies) under conditions, which do not hamper effective competition, i.e. at such a level and structure of access prices that stimulate a dynamic effectiveness expressed by making effective decisions for market entry and making investments, and at the same time make it possible for the owner of the respective infrastructure-related network to preserve the company's solvency. In this sense, prices should be sufficiently high to be able to compensate the costs incurred by the network operators (at least in the long run they should be capable of covering the marginal costs for network utilization by the new suppliers), but not so high at the same time as to hamper the effective business operation of the new players on the market.

Economically Effective Pricing Policy

By taking stock of the fact that an effective pricing policy is a necessary prerequisite for securing efficient infrastructure-related services, the Bulgarian Government undertook bold measures aimed at the liberalization (deregulation) of coal prices, the gradual removal of the cross subsidies that had so far been characteristic for the prices of electricity, at the same time raising the prices of central household heating to levels close to the level of production costs. Besides, adequate price formation principles underlie the Power Generation Act. Irrespective of all this, however, the presence of restrictions of a political nature and the difficulties inherent in the practical establishment of more effective systems for social protection still compel the Government to resort to a complicated system of cross subsidies within the framework of the far-reaching social price formation. In the sphere of power generation, the concrete additional measures, which both the Government and the SCER need to take in order to remove the pricing distortions in the short run, include the following:

- Accelerating the price adjustment process of the electricity for household consumption up to the level covering the full amount of production costs incurred, providing at the same time for incentives, which allow the improvement of electricity supply effectiveness. The costs of supplying households with electricity are considerably higher than those for industrial and other large-scale consumers, but nonetheless household electricity prices continue to be well below the level of the tariff designed for industrial needs. The adjustment of household electricity prices is necessary in order to prevent in the short run a massive reorientation of consumers from the economically more effective central heating systems to the more expensive option of home heating by electricity, especially during the period when regional heating systems are subject to restructuring and updating. This measure should be given support by the enhancement of the program for energy support to socially deprived households with a view to alleviating the burden experienced by vulnerable consumers during the winter heating season;
- Elaboration of a clear-cut policy concerning the application of economic levers aimed at curbing emissions polluting the environment, encouraging the utilization of local and renewable sources of energy, and stimulating measures related to the promotion of energy efficiency. This framework of the country's economic policy will be of primary significance not so much for the Government itself as for private investors who will now be capable of determining their investment strategies in the power generation sector and will undertake the respective market risks;
- Solving the issue about whether and possibly when the electricity distribution utility companies will be able to become „privileged consumers", capable of freely looking for cheaper energy, including electricity from abroad. The market players should be informed about such a decision, which will make the National Electricity Transmission Company act with greater caution upon concluding long-term or risky contracts for the purchase of electricity with electricity suppliers;
- Elaboration of a strategy for price formation concerning low pressure natural gas supply, which would make it possible for the gas market in Bulgaria to develop at a faster rate;
- Continuing the process of raising household central heating prices up to the level of production costs from the moment the major investments have already been made, as they will make it possible for consumers to measure and control their own consumption (within the framework of their individual financial means), and the business operation of the heat supply companies will be placed on a commercial and economically effective basis.

The clear-cut disclosure of the above mentioned measures underlying the government policy in the power generation sector is more than necessary, given the fact that the Government would like to see substantial private investments made in the power generation sector without resorting to government guarantees to this effect.

Electricity

- Elimination of cross-subsidies between the various categories of consumers (whereby household electricity prices are subsidised by electricity prices for industrial and commercial consumers), and replacement of price subsidies by a better focused mechanism for the support and protection of low-income consumers;
- Establishing such rules with respect to the regulation of electricity supplies that are based on the principles of economic effectiveness and cost minimization (which includes the gradual introduction of incentives for the utilization of renewable energy sources parallel to the development of the economy);
- Introduction of transparent tariffs for the services connected with the transmission of electricity and utilization of the transmission network, which secure the non-discriminatory third party access to the network, including its utilisation for the purposes of imports and exports;
- Acceleration of market reforms by making it possible for large-scale electricity consumers, electricity distribution utility companies included, to negotiate electricity supplies directly with producers and other suppliers, including suppliers from abroad;
- Acceleration of the privatization of the electricity distribution utility companies with the participation of strategic investors, who will be given incentives to improve the effectiveness and quality of services.
- Outlining a clear-cut political framework and timetable for the introduction of environmental norms and the attainment of concrete objectives connected with energy safety (these objectives should be realistic and comply with the timetable for the country's accession to the EU);
- Granting the possibility to private investors to evaluate the outlook for the development of demand on their own, to secure contracts with privileged end consumers (starting with the largest consumers first) and possibly with the privatized electricity distribution utility companies, and to start the implementation of projects for the construction or overhaul of power generating facilities in the conditions of a clearly established political and regulatory framework, whereby the Government should be interested in approving the implementation of projects (observing their compliance with the national policy pursued in this particular sphere), rather than agree to be involved in tender procedures for the construction of new generating facilities on the basis of its own assessments about future demand and the cheapest variants of supply.

The State Committee for Energy Regulation (SCER) and the State Power Generation and Energy Regulation Agency (SPGERA), together with the Government, will have to clearly fix the conditions under which the new licenses for the generation of electricity will be issued, and the future contracts for the purchase of electricity will be endorsed. In the ideal case, the model of a contract should facilitate a seamless transition to a competitive wholesale market within a relatively short period of time. At the same time

the Government should also take into account the preferences of the international capital markets, which will probably be the most likely source of financing. Bearing in mind that the existing market structure will make it necessary for the NETC to conclude long-term contracts for the purchase of electricity, a large part of which will not be backed up by respective contracts for the sale of electricity, this option should only be considered with respect to the most important investments needed for the provision of reliable and effective electricity supplies before the market has been restructured, so that the commitments the NETC has undertaken in connection with the long-term contracts for the purchase of electricity could be alleviated. In order to convince private investors that future wholesale prices will comply with the economic realities and will not be unjustifiably restricted by an inadequate type of regulation, it may become necessary for the Government to start up the establishment of a competitive wholesale market in the electricity sector as soon as possible, accompanied by the gradual termination of the operation of the now existing Monopoly Energy Company (i.e. the NEC) and replacing it with a licensing system for the introduction of new generating facilities, which will transfer the risks onto the new producers entering the market instead of burdening with them the trapped household consumers (or the taxpayers at large, should the Bulgarian Government take upon itself the financial liabilities of the „stranded" contracts).

In the area of **nuclear power generation** the consolidation of its regulatory body, namely the Committee for the Utilization of Nuclear Power for Peaceful Purposes (CUNPPP), and transforming it into a competent and independent authority, deserving the confidence of the public is of particular importance. What is necessary to accomplish this is the rapid updating of the legislative basis and the development of both secondary legislation and a regulatory basis, alongside the stabilization of the staff, including the adequate collection of the fees due for performing the respective activities, which the CUNPPP has been entrusted with. The consolidation effort should start with priority hearings on the Nuclear Power Draft Bill and the preparation of the secondary legislation acts and regulating documents with respect to the enforcement of the Bill once it has been passed by Parliament. The short-term objective is for this process to be completed before the Second Conference of the countries-signatory to the Nuclear Safety Convention in April 2002.

The implementation of the large-scale program on the site of the Nuclear Power Plant requires the restructuring of the company's operation by separating the auxiliary activities and the activities in connection with the management of nuclear waste into independent structures, as well as the introduction of commercial relations between the electricity producer – i.e. the NPP – and the structures acting in the capacity of service providers.

Natural Gas

The medium-term priorities in this sector should be focused on:

- Expanding the facilities for transit transmission to Bulgaria's neighbouring countries, Turkey in particular;
- Development of the emerging market for low-pressure natural gas as a way of mitigating the impact of coal heating, which is a hazardous pollutant affecting both human health and the environment, but provides a competitive alternative to electricity at the same time;
- Prospecting and developing the local hydrocarbon reserves (in connection with which extraction is expected to start in 2001, within the framework of the first project for the development of local natural gas resources).

In support of these priorities, attention should be focused on the following objectives:

- Establishment of transparent tariffs for gas transportation and storage that allow for non-discriminatory third party access to the pipeline network, including access for the purposes of imports and exports;
- Acceleration of the process of opening the gas market by allowing for the possibility for large-scale consumers to negotiate their deliveries directly, including deliveries from abroad (this may necessitate the re-negotiation of the contract for the supply of natural gas);
- Acceleration of the competitive tenders for issuing licenses for the development of individual segments of the low-pressure natural gas market, whereby the competition among the various types of fuels and the effective operation criteria will be mainly relied upon (e.g. the comparison that consumers will make between the gas companies operating in the different licensed regions of business);
- Consolidating Bulgaria's position as a reliable corridor for the future transit of crude oil and natural gas by means of setting up a transparent market structure and regulatory framework.

The most important structural issue in the gas supply sector is connected with the suitable organisation of the gas transmission company, namely whether it should be a single buyer or an operator of the gas transmission network with regulated free third party access. The major argument against granting free access to the national gas transmission system is rooted in the fact that such a variant would permit the only gas supplier in the country to negotiate directly with each individual consumer, thus deriving maximum profits from its dominating market position by means of price discrimination. The other option of introducing a commercial approach in the organisation of the gas transmission network (in practice a Monopoly Energy Company, in which the gas transmission company would acquire the ownership over natural gas at the border of the country and, preserving it from there on all along the gas transmission network, it would not be required to secure transportation to third parties) would permit the gas transmission company to play the role of a monopsony, i.e. a single buyer on the market, and to exert certain leverage because of its stronger bargaining power when negotiating the terms of supplies with the only supplier for the country. This would make it possible for the average price of gas to drop, thus benefiting all consumers alike (given, of course, that the gas transmission tariff is subject to careful regulation, so that the low price benefits could be shared by the end consumers as well).

The question, however, is whether the benefits from the greater opportunities of Bulgargaz to negotiate more favorable terms could be coupled with better trading skills on the part of the buyers themselves. The ideal variant would be a contract between a privatized trading company (which would inherit the existing contracts concluded by Bulgargaz both with the single supplier and with the commercial clients) and the single supplier, whereby the possible direct sales by this supplier, by its subsidiaries, or by trading companies buying gas directly from Russia, could be compensated by determining minimum default payments for the non-utilized quantities of natural gas due by the new trading company. Consequently this could be combined with securing free access to the national gas transmission system. Romania seems to have succeeded in concluding more flexible contracts (mainly at the expense of the foreign exchange payments envisaged upon delivery) and Bulgaria could also strike such a deal.

It is doubtless that Bulgaria's significance for its only natural gas supplier is enhanced by the fact that the country plays the role of an important transit corridor. In this sense, the only supplier should also refrain from deriving benefits too enthusiastically from its strong position in the process of negotiations because of apprehensions that Bulgaria could conclude agreements for long-term supplies from alternative sources, thus depriving the Russian exporter from a valuable market and good opportunities for the transit of gas. In the 1998 annual report submitted by Bulgargas, Bulgaria is seen as a part of the transit route of a potential gas pipeline from Iran (Turkmenistan) through Turkey to Europe, which on European territory continues by splitting into three pipelines: through Romania and Hungary to Western Europe, through Croatia and Hungary to Northern Italy, and through Greece to Southern Italy. Should these pipelines actually be constructed, Bulgaria's market position would see a significant improvement, and the agreements for regulated third party access to the gas pipeline network would become far more attractive.

It is clear that Bulgargas wishes to remain a single buyer, thus retaining its trade position with respect to the only supplier. The alternative would be a hybrid variant, whereupon Bulgargaz would retain its ownership over the national gas transmission system and the right to negotiate the natural gas supplies directly, simultaneously securing third party access to privileged consumers. Such a compromise, however, would be connected with a difficult balancing act, bearing in mind the opportunities and temptations facing the gas transmission company to apply various forms of price discrimination down the transmission chain. In order to discontinue such discriminatory practices, the regulatory authorities are required to show exceptional vigilance.

Central Heating Utilities

In the presence of subsidised household electricity tariffs (disloyal competition) and the absence of functioning associations of home owners, controlling the consumption of the utility services connected with central heating on the level of individual central heating regions or individual residential buildings, the transformation of the heat supply sub-sector into a functioning commercial entity is an exceptional challenge. The medium-term government priority should be the rehabilitation and modernization of the major regional heat supply systems, which provide utility services to the densely populated regions (accounting for about 80% of the nation-wide thermal energy demand), with the purpose of assisting the process of their commercialization and subsequent privatization. In fact, if the distorted energy source prices and the lack of an adequate strategy for the heating of the densely populated regions (which are currently serviced by the regional heat supply utility companies) bring about the collapse of the major regional central heating systems (the combined capacity of which has an equivalent of over 5,000 MW), the consequences for the electricity distribution networks could prove to be exceedingly negative, and the need for investments in new generating capacities would have a negative impact on the entire economy of the country, as the costs involved with such investments should be transferred on to all consumers.

The leading objectives and priority actions in this sector should be based on the conclusions of the inter-institutional work group, the functioning of which was assisted by both the World Bank and the EBRD. These conclusions are as follows:

- In the densely populated large town and city regions, where the regional heat supply infrastructure has already been put in place, central heating is the cheapest and most environmentally friendly method of heating homes and buildings at large, supplying them with hot water at the same time. The advantage of electricity, which at present is the only environmentally acceptable alternative, lies in the fact that it can be easily measured and controlled, but it is more expensive when used for heating purposes, especially when its price reflects the entirety of production costs. Therefore, if electricity is used for the purpose of heating homes and offices, the need for investments in costly generating and distribution facilities will rise. Given the absence of a gas distribution utility infrastructure and the fact that the major heat supply systems use natural gas as raw material, the expansion of the scope of the gas supply network intended to encompass individual households, and the installation of gas heating systems on the level of individual residential buildings or apartments will require significantly larger investments and will be more inefficient from an economic point of view than the modernization of the existing regional heat supply systems, which are currently providing central heating services.
- The management and control structures of the regional heat-supply utility companies should be strengthened with the aim of achieving the entire positive effect of a future investment program. The measures in this sphere should include greater participation of municipal and other shareholders in determining the strategic directions of developing the regional heat supply utility companies, the improvement of their management (by means of improving the processes of recruiting, stimulation and training their personnel), and the expansion of the scope of their managers' accountability, so that they can attain certain criteria, connected mainly with the technical (safety, effectiveness, efficiency, and reliability) and financial aspects of their operation, and with the quality of the service provided to the customers.
- The average thermal energy consumption for household and office needs can be significantly lowered, by as much as 20% – 30%, without affecting the comfort of consumers, by making economically effective investments in state-of-the-art subscriber sub-stations, thermal regulating devices, and thermal accounting devices that will make it possible to introduce better control and reporting mechanisms with respect to actual heat consumption.
- By means of making economically effective investments in the rehabilitation and modernization of the central heat supply systems, the regional heat supply utilities will be capable of improving the efficiency of heat production and transmission (and respectively lower fuel input and operation costs) by about 10% – 20% on average.
- The improved management and control in the regional heat supply utility companies and the realization of economically effective investments will make the central heating services more efficient and accessible. However, placing their functioning on an entirely commercial basis and providing for their sustainable development in the long run, also by means of attracting private operators and investments, requires reforms in the legislative and regulatory framework. The priority reforms should be directed towards balancing the rights and obligations of suppliers and consumers, making it possible for prices to cover reasonable costs and allowing for a just distribution of expenditures among the inhabitants of blocks of flats or residential buildings (also by setting up associations of apartment owners, improving the mechanisms for paying heating bills, etc.), and by providing incentives to the heat suppliers that will stimulate them to lower costs and improve the quality of the services they provide (for instance by means of using competitive energy sources and other inputs, and by competing for clients).

- Legislative and regulatory reforms are needed to help provide each of the major utility services to the inhabitants of residential buildings on commercial bases, including such decentralized energy services as the installation of common gas boilers in individual residential buildings and maintenance or re-equipment of buildings. Individual heating services would prove to be considerably more expensive (in the case of heating by electricity, for instance) or unhealthy (in the case of heating by wood and coal in apartments which have not been equipped with adequate ventilation systems).
- The elimination of production subsidies would bring about the need for an accompanying extended program for social protection intended for vulnerable consumers and low-income customers in the heat-supplied regions of the country. The program should be elaborated in a way that permits the reduction of social tension stemming from the provision of economically effective utility services to families with big differences in incomes, which, however, inhabit common space (blocks of flats or residential buildings). The establishment of associations of apartment owners and channeling the allocation of consumer subsidies for paying heating bills through them could play the role of an efficient mechanism, which would encourage apartment block dwellers to use central heating as one of the relatively cheap methods of heating.
- The expenditures for the implementation of a five-year program in Sofia, Pernik, and some of the bigger regional heat supply systems in the country (which cover 80% of the nation-wide thermal energy consumption) is estimated at 220 million Euro. This amount, however, does not include investments in combined-cycle power plants generating both electricity and heat. The implementation of this investment program would make it possible gradually – within a 4 to 5 year period – to eliminate the production subsidies estimated to stand at about 50 – 75 million Euro per annum according to natural gas prices from the middle of 1999.
- The rehabilitation of the existing electricity generation capacities should take place in the medium-term time framework. The construction of new facilities before a regional market has been set up is economically unjustified. The construction of new generating capacities can be justified only on the basis of the risk undertaken by investors to sell electricity in third countries, which can be accomplished parallel to the phased-in opening of the electricity market.
- The electricity system (and network) should be adapted and reconstructed in accordance with the geographical redistribution of the generating capacities in the country. The decrease of transmission losses is economically expedient and feasible and should be regarded accordingly as a priority task.
- A priority in the electricity sector is the financial stabilization of the electricity distribution utility companies and the lowering of their technological and commercial losses on the background of providing a quality and reliable service to consumers. This can be done through the entry of specialized electricity utility companies on the electricity market in the role of intermediaries between the electricity distribution companies and the consumers.
- The heat supply utility companies must become viable business entities on the basis of increased efficiency and improved services for the end consumers, the purchasing power of whom should also be taken into account. This envisages the fulfilment of these elements of the rehabilitation plan intended for the heat supply systems, which provide for increased efficiency of heat transmission (about 20% losses), for the higher efficiency of subscriber stations in residential buildings (about 15% losses), and precise measurement of the actual consumption of consumers (about 10% losses). This is a necessary result inasmuch as the heat supply utility companies replace electricity consumption for heating purposes in the short term. In consequence, what is expected is declining growth rates of thermal energy prices, a decreasing number of subscribers who have given up central heating services, returning consumer confidence, and a decreasing proportion of electricity used for heating purposes.
- Penetration of household gas supply is necessary in regions where there are no central heat supply facilities. Household gas supply will replace the consumption of electricity for high-temperature household processes such as cooking and for medium-temperature household processes such as central heating and hot water supply. This area, however, requires the amendment of the legal framework plus the optimization of the existing licensing regimes so that private enterprise can be truly facilitated.
- The promotion of energy efficiency in the public sphere and in hospitals and educational institutions in particular is another priority. As a result, what is expected is the decrease of budget expenditures for the energy-related maintenance of this type of consumers, raising the quality of energy services, re-channeling of the released funds to sector-specific improvements, and public support for the reforms taking place in the spheres of healthcare and education.
- Also on the agenda of priorities is the promotion of effectiveness of the electricity generated in the country by means of a different balance of generating capacities, which will release resources for other spheres, as well as electricity for exports. On the whole, this will bring about the decline of the energy expenditure of the country per unit of the gross domestic product, a decline of the pressure exerted on the foreign trade balance by the prices of energy sources on international markets (60% of which are imported), increased competitiveness of the national economy, and the release of public resources that can be more appropriately spent on other priorities.

2.2. Transport

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2.2.1. The Common Transport Policy

Among all political and economic areas that lie within the competency of the European Union, the efficient Transport Policy promises to become the most tangible proof that the European integration is really functioning. The development of the Internal Market outlined the gaps in transport infrastructure while at the same time reinforcing the necessity of developing a new strategy for the development of the Trans-European networks. This strategy should be built on the understanding that the local regulation of railway, road, maritime and air transport should step back and give way to common European rules, specially designed to meet the constantly changing and increasing needs of the continent. The approach for developing the Trans-European networks should be looked upon as a major instrument for the social and economic homogeneity of the European Union and the affiliation of the peripheral regions. The development of the regional networks should also be stimulated in order to provide the necessary access to the main transport corridors and the large industrial centers. All participants in this process would take advantage of the merging of transport corridors to form an integrated system by making the best use of the existing capacities.

The strategic importance of transport is also underlined by the fact it was one of only two so-called „common policies" included in the original Treaty of Rome (1957), the other being agriculture.

The Treaty of Maastricht introduced a new chapter in the EC Treaty, namely Title XII „Trans-European Networks" (articles 129b – 129d), where the new responsibilities of the Union were outlined with respect to the future development of the transport infrastructure. A requirement was laid down for the establishment of a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of Trans-European networks not only for transport, but also for energy and communications. In this context, on 23 July 1996 the European Parliament and the Council adopted Decision 1692/96/EC on Community guidelines for the development of the Trans-European transport networks.

In order to ensure interoperability and interconnection between the transport networks of the EU Member States and those of the accession countries, a new concept was introduced – the concept of transport corridors. This is a new field for co-operation,

which serves not only to stimulate economic development and the reduction of unemployment, but also supports the integration processes throughout Europe.

The extension of the Trans-European networks on the territory of associated countries forms part of the EU pre-accession strategy.

Pan-European Transport Corridors

Nine priority transport corridors were identified in Central and Eastern Europe during the second Pan-European transport Conference in Crete in March 1994. These formed the main transport links and were looked upon as a basis for future co-operation. The concept of transport corridors has always been of major importance for the International Financing institutions, which financially support the development of the transport infrastructure. The signing of Memoranda of Understanding between the countries, the territories of which are crossed by the relevant corridor, points out the keen desire of all interested parties to further develop these routes in a co-ordinated manner and to allocate accordingly all the necessary investment. In its nature the Pan-European transport corridor should be mulitmodal, although if based on specific economic and environmental studies, priority could be given to some of the modes.

The main principles of the Crete Declaration of 14–16 March 1994 relate to social market economy and free and fair competition. They also relate to the development of sustainable mobility, the protection of the environment and the interoperability of the institutional, regulative and administrative frameworks with the aim of ensuring an integrated transport system for Europe. Further attention should be given to: the facilitation of trans-border traffic flows and the elimination of barriers and delays at border crossings; the achievement of co-ordination in the process of planning and financing of the Pan-European transport corridors and the relevant guarantees for their interoperability during operation; and the achievement of interconnection and geographically balanced development of the central and peripheral regions.

The third Pan-European transport conference took place on 23–25 June 1997 in Helsinki, Finland. Two final documents were approved:

1. The declaration laying down the main principles, means and objectives for the implementation of a common European transport policy.
2. The report on the adjustment to the Crete corridors, approved in March 1994 during the second Pan-European conference, which established a new transport corridor (Corridor X).

The objective of the Helsinki Declaration was to formulate and agree on the principles of future co-operation in the field of transport. The introduction elaborates on the major developments in the EU transport policy in the period following the Pan-European conference in Crete. Later eight concrete objectives are formulated, the most important of them being the enhancement of sustainable and efficient transport systems that would meet the social, economic and ecological needs of European citizens and that would enable European business to be incorporated into the world markets without any obstacle.

The definition of the Pan-European transport corridors after Helsinki is as follows:

Corridor I:	Helsinki-Tallinn-Riga-Kaunas-Warsaw
with a branch:	Riga-Kaliningrad-Gdansk
Corridor II:	Berlin-Warsaw-Minsk-Moscow
Corridor III:	Berlin/Dresden-Wroclaw-Katovice-Krakow-Lvov-Kiev
Corridor IV:	Dresden/Nuremberg-Prague-Vienna-Bratislava-Gyor-Budapest-Arad-Constanta/ Kraiova-Sofia-Thessaloniki/Plovdiv-Istanbul
Corridor V:	Venice-Trieste/Kopper-Ljubljana-Maribor- the Slovenian/ Hungarian border-Budapest- the Hungarian/Ukrainian border-Uzhgorod-Lvov-Kiev
with branches:	
Branch 1:	Rijeka-Zagreb -the Croatian/Hungarian border-Budapest-the Hungarian/ Ukrainian border-Uzhgorod-Lvov-Kiev
Branch 2:	Bratislava-Zilina-Kosice-Uzhgorod
Corridor VI:	Gdansk-Katowice-Zilina
with a branch:	Grudzhiazh-Poznan
Corridor VII:	The Danube River
Corridor VIII:	Durres-Tirana-Skopje-Sofia-Plovdiv-Burgas-Varna
Corridor IX:	Helsinki-St. Petersburg-Moscow/Pskov-Kiev-Lyubasevka-Kishinev-Bucharest -Dimitrovgrad-Alexandroupolis
with branches:	Kiev-Minsk-Vilnius-Kaunas-Klaipeda/Kaliningrad
	Lybasevka-Odessa
Corridor X:	Salzburg-Ljubljana-Zagreb-Belgrade-Nish-Skopje-Veles-Thessaloniki
with branches:	
Branch A:	Graz-Marribor-Zagreb
Branch B:	Budapest-Novi Sad-Belgrade
Branch C:	Nish-Sofia (Dimitrovgrad-Istanbul via Corridor IV]
Branch D:	Veles-Prelep-Bitola-Florina-Via Egnatia to Igoumenitsa

Pan-European Transport Areas

With the deepening of the process of European integration and the advancement of co-operation it became apparent that the corridor concept does not adequately address the needs of some areas, for example: the Black Sea region and its links with the Aegean and the Arctic Sea, or the Mediterranean basin and its links with the Adriatic Sea. Those areas require special attention with a view to defining the optimal set of routes, links, infrastructure nodes and the corresponding maritime and air communications. This was the reason why the European Commission proposed the complementary concept of Pan-European Transport Areas. The decision was endorsed during the third Pan-European transport conference in Helsinki.

The following Pan-European transport areas were defined and approved:
1. the Barents Euro-Arctic Area
2. the Black Sea Basin Area
3. the Mediterranean Basin Area, and
4. Adriatic/Ionian Seas Areas

The infrastructure in these areas will be developed on a regional level and the possibilities will be studied for their incorporation into the Pan-European transport network. The same rules and criteria will be followed for the development of the areas as the ones applicable to the corridors. Memoranda of Understanding have to be signed between the interested parties and realistic programs for the effective development of transport infrastructure in each area have to be drafted. The main objective will be the accomplishment of high standards of safety and environmental protection. It is envisaged in the long-term to develop the links to the Middle East, including the routes crossing Turkey and their interconnection with the Trans-European networks in the Southern regions of the EU and the developing networks of South-Eastern Europe and the Black Sea basin. In all cases the multi-modal approach will be followed.

The following trans-continental links have been proposed for further consideration in the Helsinki Report:

- to the Northern Sea Route,
- to the trans-Siberian trunk line and its connections to East Asia
- from Moscow to Novorossijsk and to Astrakhan,
- to the TRACECA (Transport Corridor Europe-Caucasus-Asia)
- to the Caspian Sea through the Volga-Don link, and
- to the Black Sea shore connections to the Caucasus, the Near and Middle East and furthering the trans-continental links to all parts of Asia and the Pacific.

In view of the growing expectations for increase of the traffic flows in the direction of Asia, major importance is attached to the extension of the European transport networks on the territories of the countries in the Caucasus and Central Asia, members of the UN Economic Commission for Europe. The ongoing programs (i.e. TRACECA) could give the basis for formulating the concept of the future transport links between Europe and Asia.

To conclude, it could be summarised that:

- The corridor concept has established itself over recent years as a valid basis for infrastructure development in Central and Eastern Europe. It should always be looked upon as a flexible tool to aid more co-ordinated international infrastructure planning. However the development of transport corridors should be considered in the light of actual traffic flow and should be based on detailed analyses of priorities and availability of financial resources.
- The set of ten Pan-European transport corridors, defined in Crete and Helsinki, complemented by the four Pan-European transport areas would meet the most urgent needs for trade exchange and mobility of Europe's citizens across the continent. The interconnections between Europe and Asia will also contribute to the above. Five of the ten Pan-European transport corridors cross the territory of the Republic of Bulgaria.

- Over the next 10 to 15 years a sufficient share of Europe's GDP will need to be devoted to Pan-European transport infrastructure development to ensure that an efficient transport network capable of permitting sustainable mobility in and across Europe, can develop. In order to achieve the above objective, it is recommended to the acceding countries to allocate annually 1 to 2 per cent of each country's GDP to investment in infrastructure.
- Specific attention should be paid to the problems arising at border crossings and the related traffic delays.

The TINA Process (Transport Infrastructure Needs Assessment)

In 1996 the European Commission started the process of Transport Infrastructure Needs Assessment (TINA) to oversee and co-ordinate the development of an integrated transport network of 11 applicant countries: Bulgaria, the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia. The idea was to assess the needs of transport infrastructure, to perform pre-investment activities and to support the planning and development of multi-modal transport networks in the countries applying for accession to the European Union.

The main objective was to co-ordinate the construction of infrastructure projects in the above countries and to create favorable conditions for joint activities in the field of transport between the Union and the countries negotiating the terms of their accession. The efforts were directed towards defining the actual needs and connecting in the future the Trans-European networks of the Union with the networks of the applicant countries. In this way the transport infrastructure of the 15 Member States would gradually develop into a network of the 26.

The starting point of the TINA process was the so-called „backbone network", based on the 10 Pan-European transport corridors. Assessment of the funding needed for the construction of this common „backbone" base was made by using all the existing information as well as information provided by the participating TINA countries. The TINA backbone for Bulgaria has been agreed by taking account of the 5 Pan-European corridors which cross the territory of the country.

In June 1998 the TINA group (comprising top officials from the 11 countries listed above plus the 15 EU Member States) agreed an outline network and approved this in its final report a year later in June 1999. The agreed TINA network comprises:

- 18,030 kilometeres of roads
- 20,290 kilometeres of railways
- 38 airports
- 13 sea ports
- 49 river ports

The cost of the TINA network will be about 90 billion Euro between now and 2015, which is the year of expected completion of the network.

The agreed TINA network for Bulgaria is as follows:

Railway Network

Alignment of the „Backbone Network"

Corridor	Alignment	Length (km)	Cost estimation (million Euro)
IV	Vidin-Vratsa-Mezdra-Sofia-Plovdiv-Krumovo-Dimitrovgrad-Svilengrad	590	840,00
IV(to Thessaloniki)	Sofia -Zah. Fabrika-Batanovci-Radomir-Dupnica-Gen. Todorov-Kulata	211	50,00
VIII	Gjueshevo-Radomir-Batanovci-Zah. Fabrika-Sofia-Plovdiv-Skutare-Mihailovo-Stara Zagora-Kalitinovo Bazmer-Jambol-Zimnica-Karnobat-Burgas/Sindel-Varna	747	780,00
IX	Giurgiu N.-Russe-Gorna Oriahovitsa-Dabovo-Tulovo-Stara Zagora-Mihailovo-Gita-Dimitrovgrad-Svilengrad-Ormenio	390	569,00
X (to Nish)	Kalotina-Dragoman-Volujak-Sofia	57	80,00

Alignment of the „Additional Network Components"

Alignment	Length (km)	Cost estimation (million Euro)
Mezdra-Pleven-Gorna Oriahovitsa	206	50,00
Russe-Kaspican-Sindel	187	150,00

Road Network

Alignment of the „Backbone Network"

Corridor	Alignment	Length-(km)	Cost estimation (million Euro)
IV	Vidin-Montana-Botevgrad-Sofia-Plovdiv-Orizovo-Haskovo-Svilengrad-Kap. Andreevo	513	386,00
IV (to Thessaloniki)	Sofia-Tzarkva-Kulata	201	524,00
VIII	Gjueshevo-Radomir-Pernik-Tzarkva-Sofia-Plovdiv-Orizovo-Stara Zagora-Vetren-Burgas/Priselci-Varna	649	961,50
IX	Russe-Bjala-Veliko Tarnovo-Gabrovo-Stara Zagora-Haskovo-Makaza/Svilengrad-Ormenio	463	430,00
X (to Nish)	Kalotina-Sofia	75	45,00

Alignment of the „Additional Network Components"

Alignment	Length-(km)	Cost estimation (million Euro)
Botevgrad-Pleven-Bjala	201	38,00
Svilengrad-Burgas	166	60,00

Inland Waterway network

Alignment	Length (km)	Cost estimation (million Euro)
Danube (Bregovo-Vidin-Lom-Orjahovo-Somovit-Svishtov-Russe-Tutrakan-Silistra)	471	0,00

Airports

Location	Number	Cost estimation (million Euro)
Sofia; Plovdiv; Burgas; Varna	4	241,40

River Ports

Location	Number	Cost estimation (million Euro)
Vidin; Lom; Kozloduy; Orjahovo; Russe; Somovit; Svishtov; Tutrakan; Silistra	9	54,90

Seaports

Location	Number	Cost estimation (million Euro)
Burgas; Varna	2	515,34

Terminals

Location	Number	Cost estimation (million Euro)
Sofia; Dimitrovgrad	2	73,00

ISPA

ISPA is a program for performing the structural policies in the pre-accession period, the so-called „Instrument for Structural Polices for Pre-Accession". It is a preparatory financial instrument established to assist the 10 candidate countries from Central and Eastern Europe in the period 2000–2006. Together with the PHARE and the SAPARD programs, ISPA is included in the mechanisms of financial assistance extended from the European Union for the preparation of the economies of the applicant countries for accession. This instrument has to be looked upon as a step in the process of reforming of the Structural Funds in compliance with Agenda 2000. The two main spheres of activity under the ISPA program coincide with those of the EU Cohesion Fund.

The Community assistance in the framework of ISPA is granted under Council Regulation 1267/199, which specifies that the assistance extended to the candidate countries relates to the economic and social cohesion in the field of environmental and transport polices and „contributes to the objectives laid down in the Accession Partnerships for every country of Central and Eastern Europe as well as to the relevant national programs for upgrading the environment and transport infrastructure networks" [Art. 1(1) and (2)]. Attention is concentrated on two main groups of measures:

- measures for environmental protection, which would enable the beneficiary countries to fulfil the requirements of the *acquis communautaire* in the field of environment as well as the objectives of the Accession Partnerships;

- transport infrastructure measures, which would encourage sustainable mobility, especially measures supporting projects of common interest based on the criteria of Decision 1692/96/EC as well as projects, which would enable the applicant countries to fulfil the objectives of the Accession Partnerships, which include interconnection and interoperability of the national networks with the Trans-European transport networks as well as the access to those networks [Art. 2(2)].

ISPA main objectives are:

- preparation of the candidate countries for accession through institution building and project preparation in the two main groups of measures;
- acquainting the applicant countries with EU policies and procedures;
- approximation of legislation in the field of environmental protection and public procurement;
- construction of an up-to-date road network along the corridors which are elements of the Pan-European transport network;

ISPA transport component specifies the following priorities:

- establishing links between EU Member States and candidate countries;
- sustainable mobility – development of railway and combined transport;
- ensuring the interconnection and interoperability of the national transport networks with the Trans-European ones;
- attracting additional financial resources for the sector.

The EU financial assistance in the ISPA framework could reach up to 75% of the public financing (or its equivalent). If the European Commission decided that specific projects, which are of major importance for achieving the ISPA objectives, need financing above this limit, it could decide to increase the financing up to 85% of the public financing necessary. The overall financial assistance granted by the EU through ISPA and other sources (such as EIB or EBRD loans, etc.), could not exceed 90% of the total cost of the project.

ISPA finances projects which are above 5 million Euro and are of considerable magnitude of activity and would ensure a tangible impact on environmental protection and the improvement of the transport infrastructure. Exceptionally, in the case of very convincing arguments, the EU may decide to finance smaller projects.

Throughout the ISPA life period (2000–2006) Bulgaria will receive project-funding amounting to around 100 million Euro per year and the sum will be equally split between the two priority areas.

The European Commission has approved the following projects in the field of transport for ISPA funding for Bulgaria under the 2000 budget:

Project	Project	Estimated Total ISPA contribution	ISPA Budget (Euro)
Transit Roads rehabilitation project III	40 000 000	30 000 000	24 000 000
Sofia airport: reconstruction, development and extension	135 135 135	50 000 000	28 000 000
Total:	175 135 135	80 000 000	52 000 000

The ISPA 2000 financing for the transport sector represents 49.98% of the total amount allocated for Bulgaria, which is 104,045,600 Euro, while Sofia airport is so far the only CEEC airway project to receive an ISPA grant.

For the year 2001 Bulgaria expects to receive ISPA financing for the following projects:

- the second bridge over the Danube between Romania and Bulgaria at Vidin – Kalafat;
- electrification and upgrading of the railway line Plovdiv – Svilengrad – Kapitan Andreevo.

2.2.2. Adoption and Implementation of European Legislation in the Field of Transport

Apart from the development of base infrastructures in the transport sector, the efforts in the pre-accession period are also directed towards activities which would ensure the harmonization of the transport legislation with EU requirements, such as: high level of transport safety, establishment and functioning of well-organised and flexible structures, which would be able to adapt to international and national markets. The harmonization of Bulgarian transport legislation with the European Directives and Regulations is the main approach for the introduction and implementation of the principles of market economy and a key objective in the pre-accession period. The structural reform and privatization in the field of transport are carried out in parallel. At the same time substantial efforts should be made in order to attract foreign investment in the transport sector.

The most important requirements are: to eliminate the differences and to overcome the barriers between the different modes of transport in the different countries; to prevent the violation of the rules of free competition; and to create conditions for the access of transport operators to the market by ensuring possibilities for providing services without discrimination. Special attention should be paid to the implementation of the following requirements: access to transport markets; access to professions; safety; observation of social standards; consumer protection; environmental protection; and state aids. The gathering and processing of statistical data for the transport sector should also be considerably improved.

The main outstanding problems in the process of harmonization of transport legislation can be summarised as follows:

- the huge number of issues, which require legislative regulation in addition to the process of thorough restructuring of the sector;
- the dynamic development of the relevant EU legislation;
- the necessary strengthening of the administrative capacity and enhancing the qualification of personnel with a view to the successful implementation of new legislation;
- financial, language and personnel discrepancies.

In spite of the complex character of the above problems, the processes in the transport sector are developing in a satisfactory way. The two phases of screening of the transport legislation took place in September 1998 and in May 1999. New laws and secondary legislation for the different modes of transport have been adopted and enforced and new

administrative structures have been established while some of the existing ones have been restructured. The negotiations on Chapter 9 „Transport Policy" were launched in June 2001 under the working hypothesis that Bulgaria will become a member of the European Union as of 1 January 2007.

2.2.2.1. Road Transport

In September 1999 two main laws were enforced and their implementation was started, i.e. the Road Transport Law (enforced on 17 September 1999) and the Road Traffic Law (enforced on 1 September 1999). The new Roads Law, which approximated Bulgarian legislation to European requirements, was enforced on 4 April 2000. The law regulates the public relations related to the ownership, operation, management, construction, repair and maintenance of road infrastructure. All the three above laws distribute the functions related to their implementation between the state institutions and provide the legal background for issuing secondary legislation and introducing the specific requirements of European legislation. More than 15 secondary legislative documents have been adopted in the field of road transport. They regulate road traffic safety, the requirements for professional competence of road haulage operators and vehicle drivers, the conditions for and the obligations of performing periodic tests of the technical fitness of vehicles and the establishment of a database.

On 1 January 2000 the general Directorate „Road Transport Administration" was established under the Minister of Transport and Communications. It is a single, budget-aided legal entity, which has a central office in Sofia and 27 territorial units. The functions of the General Directorate are regulatory and controling and result from the provisions of the Road Transport Law and the Road Traffic Law. They are directly linked with administrative servicing and the control over the national and international road carriage of passengers and goods performed on the territory of the Republic of Bulgaria by Bulgarian or foreign hauliers. The Directorate issues licenses to the transport companies performing passenger taxi services and international and national carriage of passengers and goods by road on the territory of the country. It also issues permissions for performing periodical technical checks of the technical fitness of vehicles by the relevant technical laboratories. The specialized body under the General Directorate, the „State Automobile Inspectorate" is responsible for performing roadside tests of vehicles carrying passengers and goods and for checking all the documents related to haulage.

The „Road Traffic Police" is an existing structure under the Minister of the Interior, exercising specific functions related to the organization and control of road traffic safety and the control over the proper technical condition of road vehicles.

Following the requirements of the Road Traffic Law a specialized body – an inter-agency consultative Commission, has been established in order to co-ordinate the activities concerning traffic safety between the different institutions and the public. The specific functions of this Commission are to assist the Minister of Transport and Communications in taking decisions on road traffic safety and to analyze the information related to problems of safety by issuing a yearly report.

The „Roads" Executive Agency (REA) was set up following the requirements of the Roads Law and on the basis of the General Roads Administration. It is a single, budget-aided legal entity under the Minister of Regional Development and Public Works, which has a central office in Sofia and 27 territorial units. The following important units

function under REA: Central laboratory on roads and bridges and the „Road Charges and permits" Directorate. The Agency performs the state policy in the field of roads and manages the national road network. REA is directly responsible for the study, design, construction, maintenance and safety of the Bulgarian national road infrastructure as well as for issuing and controlling permits for the haulage of cargo exceeding the determined limits and the collection of road charges. Taking the REA out of the Ministry of Transport and communications did not prove to be very successful, since this impedes the co-ordination in performing the policy of developing the road networks.

One of the problems that need to be mentioned here concerns the provisions of Council Directive 96/53 of 25 July 1996 laying down the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic for certain road vehicles circulating within the Community. According to the legislation in force in Bulgaria the bearing capacity of the road network is 10 tons per axle, while the maximum authorized weight in the EU Member States is 11 tons per axle and the up-to-date trucks are manufactured with such technical parameters. Therefore, the Community motor vehicles crossing the Bulgarian territory exceed the national requirements for axle load and are levied with additional road charges, which bring about a sharp reaction from them. Resolving this technical problem is linked with substantial financing and requires a long period of time.

In the field of road transport a bilateral Agreement Establishing Certain Conditions for the Carriage of Goods by Road and the Promotion of Combined Transport was signed between the Republic of Bulgaria and the European Community, which was enforced on 1 May 2001. The Agreement specifies the conditions for mutual access to the road transport markets and regulates the process of exchange of authorisations for performing carriage of goods by road through the territories of Bulgaria and EU Member States. As far as the requirements of Council Directive 96/53 are concerned, a schedule has been agreed in Annex 5 for a phased introduction of the axle load requirements along the main transit routes crossing Bulgaria.

The deadlines after which the EU carriers will not pay charges for overload are given in the table below:

Date and Road Code	Road Section*
After 31 December 2001	
E79	Sofia to Kulata and the Greek border
E80	The Federal Republic of Yugoslavian border to Kalotina and Sofia
E80	Orizovo to Haskovo

* The Agreement was initialed in Brussels on 4 December 1998, the EU Council approved the decision for its signature on 28 March 2000 and the document was signed in Brussels on 26 July 2000. The Agreement was published in the State Gazette, issue No 44/2001.

E80/E85	Orizovo to Haskovo
E83	Bjala to Pleven and Botevgrad
E85	Russe to Bjala
E85	Svilengrad to the Greek border
[redacted]	
E79	Vidin to Vratza and Botevgad
[redacted]	
E85	Bjala to Veliko Tarnovo and Haskovo

Immediately after the enforcement of the Agreement, the Community vehicles conforming to Council Directive 96/53/EC shall be exempt from any special charges relating to them being in excess of the Bulgarian rules on weights and dimensions, providing the vehicles keep to the following transit routes within Bulgaria:

Transit Route	Road sections, exempted from any special charges
Vidin/Kulata (Pan-European Corridor IV)	The ferryboat from the Romanian border to Vidin, E79 from Vidin to Vratza and Botevgrad, E79/E83 from Botevgrad to Sofia, E79 Sofia south-eastern bypass and E79 from Sofia to Kulata and the Greek border
Russe/Kulata (Pan-European Corridor IX)	The Danube bridge from the Romanian border to Russe, E85 from Russe to Bjala, E83 from Bjala to Pleven and Botevgrad, E79/E83 from Botevgrad to Sofia, E79 Sofia south-eastern bypass and E79 from Sofia to Kulata and the Greek border
Kalotina/Kulata (Pan-European Corridors X and IV)	The E80 from the Federal Republic of Yugoslavian border to Kalotina and Sofia, E80 Sofia south-western bypass and E79 from Sofia to Kulata and the Greek border
Russe/Svilengrad (Pan-European Corridor IX)	The Danube bridge from the Romanian border to Russe, E85 from Russe to Bjala, E85 from Bjala to Veliko Tarnovo and Haskovo, E80/E85 from Haskovo to Svilengrad and E85 from Svilengrad to the Greek border
Vidin/Svilengrad (Pan-European Corridors IV and IX)	The ferryboat from the Romanian border to Vidin, E79 from Vidin to Vratza and Botevgrad, E79/E83 from Botevgrad to Sofia, E79 Sofia eastern bypass, E80 from Sofia to Plovdiv, Orizovo and Haskovo, E80/E85 from Haskovo to Svilengrad and E85 from Svilengrad to the Greek border
Kalotina/Svilengrad (Pan-European Corridors X, IV and IX)	The E80 from the Federal Republic of Yugoslavian border to Kalotina and Sofia, E80 Sofia southern bypass, E80 from Sofia to Orizovo, E80 from Orizovo to Haskovo and E80/E85 from Haskovo to Svilengrad, E85 from Svilengrad to the Greek border

On 13 April 2000 as a result of several years of negotiations Bulgaria initialled the multilateral European Agreement on the International Occasional Carriage of Passengers by Coach and Bus (INTERBUS Agreement). The following countries are parties to the agreement: the European Community, Bosnia-Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Slovakia, Slovenia and Turkey.

As regards road transport in its negotiating position Bulgaria has requested the following transitional periods:

- Cabotage – Council Regulation 3118/93 and Council Regulation 12/98 a four year transitional period. In accordance with the provisions of the Road Transport Law the foreign operators shall be allowed to perform road haulage services between two points on the territory of the Republic of Bulgaria if this has been agreed in an international agreement, i.e. all legislative pre-conditions for fulfilling the requirements of EU regulations have been created in advance. The provisions of the above-mentioned Regulations will be enforced in Bulgaria on 1 January 2011 at the latest. Before that deadline non-resident operators shall not be allowed to perform national road haulage services (cabotage) on Bulgarian territory.
- Access to the profession – appropriate financial standing of the undertaking (Council Directive 96/26 amended by Council Directive 98/76) – a five-year transitional period. The enforced Road Transport Law transposes the principles of the above Directives. In accordance with its provisions every undertaking performing international services should ensure a capital reserve of 5,000 Levs or 10 minimum working salaries per vehicle. The requirements of the EU legislation oblige the carrier to prove the availability of 9,000 Euro for every first vehicle and 5,000 Euro for every other vehicle. With regard to carriers operating international road haulage services for passengers and goods Bulgaria has declared that it will apply a step-by-step approach for the implementation of the considerable financial standing quantitative parameters for the minimal capital and reserves necessary to ensure the proper launching and proper administration of the undertaking. Introducing the above requirements will have an unfavourable effect on approximately 80% of the Bulgarian road transport enterprises, operating with one to three vehicles. Bulgaria has taken the obligation to introduce the requirements of financial standing by 1 January 2012 at the latest.
- Maximum authorized dimensions in national and international traffic and maximum authorized weights in international traffic – Council Directive 96/53/EC – the transitional periods are in compliance with Annex 5 of the bilateral Agreement Establishing Certain Conditions for the Carriage of Goods by Road and the Promotion of Combined Transport, which were explained above.

In the road transport sector all companies performing taxi services and vehicle repair have been privatized. 90% of the enterprises performing carriage of goods and mixed haulage have also been privatized.

As far as the transport of dangerous goods by road is concerned, Bulgaria has joined the Europe Agreement on international carriage of dangerous goods by road (ADR). The negotiating position on Chapter 9 Transport Policy specifies that the requirements of the European legislation on the issue will be entirely transposed by mid 2001.

2.2.2.2. Railway Transport

The Law on Railway Transport (and on combined transport) was adopted by the National Assembly on 15 November 2000 and will enter into force on 1 January 2002. Following its provisions a specialized body has been established, namely the Executive Agency „Railway Administration". This is a separate budget-aided structural unit under the Minister of Transport and Communications, which has regulative, controlling and other functions in respect to licensing and other activities.

It is envisaged that during 2002 the institutional separation of operation of services and infrastructure will take place by establishing the National Company „State Railway Infrastructure". With the entering into force of the Law on Railway Transport a Committee will be set up to manage the separation of assets and liabilities of the National Company BDZ between BDZ as an operator and NC „State Railway Infrastructure".

The access to railway infrastructure will be regulated by introducing a system of licensing of railway undertakings in compliance with Council Directive 95/18/EC, based on the requirements for issuing a safety certificate as well as the introduction of user charges on railway infrastructure. The funds accumulated in this way shall be allocated for the construction, maintenance and operation of the national railway infrastructure.

The implementation of the Railway Rehabilitation project is ongoing. The project is financed with loans from the international financing institutions (the World Bank, EBRD, export credit) as well as PHARE grants, the state budget and BDZ's own funds. Its total value amounts to USD 296 million. The project implementation started on 1 March 1996, but instead of the initially planned 3 years it continued for 4,8 years. The closing date is expected to be 30 June 2001. In the World Bank's Joint Portfolio Review, March 2001, the implementation of the project objectives is estimated „at risk", in spite of the fact that the funds have been disbursed.

The first phase of NC BDZ restructuring on the basis of technological principle and business activities has now been completed. The number of territorial structural units has been reduced as well as one level of management. Internal separation of assets and working force has been achieved between freight haulages, passenger haulages and infrastructure, thus creating the basis for the introduction of a market oriented structure. The above structural changes led to the reduction of the number of administrative personnel and to the improvement of organization of activities and operation. The total number of personnel was reduced by over 6,000 employees.

The second phase of the railway restructuring program was completed at the end of 1999 by division and accountancy separation of the „Railway Infrastructure" enterprise within the State Railway Company (BDZ). The functions of the newly established enterprise relate to the development, repair and maintenance of railway infrastructure.

The third phase of railway restructuring and the harmonization of the national legislation with the European requirements started at the beginning of 2000. The 2000 Regular report from the Commission on Bulgaria's progress towards accession noted that „the full harmonization with the railway and combined transport acquis forms part of the third phase of restructuring although no progress has yet been achieved in these fields".

The restructuring is also accompanied by initiatives on privatization of the railway industry – procedures for 13 undertakings have been launched. It should be noted that privatization in this sector is delayed.

As regards railway transport, in its negotiating position on Chapter 9 „Transport Policy" Bulgaria has requested the following transitional periods:

- Council Directive 91/440/EC of 29 July 1991 on the development of the Community's railways – a three year transitional period is required. i.e.:
  - Bulgaria will be in a position to implement the requirements of the above Directive by the end of 2006, with the exception of Article 10, item 1 (i.e. within the deadline specified as the time of accession);
  - the requirements of Article 10, item 1, which reads „The main function of the State Railway Infrastructure company will be to ensure the use of the railway infrastructure by licensed carriers at equal conditions" should come into force as from 1 January 2010. During the transitional period Bulgaria has expressed its willingness to continue the application of the rule of granting access to the national railway infrastructure to international railway undertakings on the basis of international agreements to which the Republic of Bulgaria is a party. The request of a transitional period is justified by the necessity of continuing the processes of restructuring, commercialization, privatization and granting concessions on some activities in the railway sector.

2.2.2.3. Air Transport

In the field of civil aviation a law on the Amendment of the Civil Aviation Act was adopted in 1998, and enforced on 1 January 1999. Twenty-nine secondary legislative acts have also been adopted, which introduce the requirements of the *acquis communautaire* and cover the standards and the recommended practices of the International Civil Aviation Organization (ICAO). The following administrative units have been established: General Directorate „Civil Aviation Administration" and General Directorate „Air Traffic Services Authority" – both are separate legal budget-supported entities, directly subordinated to the Minister of Transport and Communications.

Twenty-one airport handling operators have been licensed and certificates of operational fitness have been issued to 5 international airports by strictly observing the EU requirements for licensing of airport undertakings and ground handling operators. Three ground handling companies operate in Sofia airport, performing different ground handling activities. A methodology is under preparation for establishing the necessary criteria for market access. Twenty-six undertakings are licensed to perform maintenance and repair of aircraft.

The Republic of Bulgaria has been a member of ICAO since 1967. In 1997 the country became a member of the European organization for air traffic safety (EUROCONTROL). Since 9 May 2000 the General Directorate „Civil Aviation Administration" has been a member of the Joint Aviation Authorities (JAA).

A step-by-step approach is implemented in the civil aviation sub-sector to ensure the necessary creation of conditions for loyal competition and market liberalization.

The negotiations for signing the multilateral Agreement for the Establishment of a European Common Aviation Area (ECAA), which were held from 1997 on, have been completed. The European Commission and the ten associated countries of Central and Eastern Europe are parties to the Agreement. As a result of the negotiations an agreement has been reached on the transitional periods and measures for introducing the *acquis communautaire* in the civil aviation sub-sector. Draft Protocol V has been agreed between

the European Community and Bulgaria and initialed, where the date 31 December 2005 is envisaged as a reasonable deadline for the preparation of Bulgaria for full membership in the European common aviation area. The agreed transitional period is divided into two phases: the first phase shall run until 31 December 2003 and the second until 31 December 2005.

As regards civil aviation, in its negotiating position on Chapter 9 „Transport Policy" Bulgaria has requested transitional periods in accordance with Protocol V of the Agreement for the Establishment of a European Common Aviation Area as follows:

- Council Regulation 2407/92 of 23 July 1992 on licensing of air carriers – the Bulgarian side requested a three-year transitional period for the existing carriers who may continue to operate with a valid license until the end of 31 December 2003. Exemptions from the financial criteria will also be applied to small air carriers, i.e. those engaged in operations with aircraft of less than 10 tonnes and/or less than 20 seats. Bulgaria undertakes to apply this regulation without exemptions to the newly established commercial air transport operators.
- Council Regulation 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes – Bulgaria envisages the following transitional measures: for the first phase on routes between Bulgaria and a Member State of the Community an increase of 3 percentage points in the capacity share is accepted; and for the second phase – 5 percentage points, compared to the situation during the previous corresponding season. However, carriers licensed by Bulgaria and air carriers of the Community may on routes between Bulgaria and a Community Member State in any event claim a capacity share of 60 per cent.
- Council Regulation 2027/97 of 9 October 1997 on air carrier liability in the event of accidents – Bulgaria shall only apply this Regulation to air carriers operating services to/from other contracting parties to the Agreement for the Establishment of a European Common Aviation Area.
- Council Regulation 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation – until the end of the first phase Bulgaria will not apply the technical requirements (JARs) of the Joint Aviation Authorities and during the second phase (end of 2005) the technical requirements will only be applied to JAR certified aircraft types.
- Council Directive 92/14/EEC of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention of International; Civil Aviation (Chicago Convention) – until 2005 Bulgaria will allow the operation of airplanes over 25 years old to/from airports of third countries, i.e. countries outside the Common European Aviation Area.

The unsuccessful privatization of „Balkan Airlines" EAD, Sofia should be mentioned as a serious failure in the civil aviation sector. On 30 June 1999 the Privatization Agency signed a privatization contract for selling out 75% of Balkan Airlines' capital to the Israeli consortium „Zeevi Group". Following a number of serious problems, in 2001 the company was declared insolvent with all the related consequences in the framework of the merciless competition in the aviation sector.

The 2000 Regular Report of the Commission on Bulgaria's progress towards accession noted that Bulgaria has not ensured that „the privatization of Balkan Air complies with the conditions of majority ownership and control as laid down in the third EC liberalization package and this fact needs further attention".

2.2.2.4. Water Transport

In the water transport sector a Law on the Maritime Spaces, Inland Waterways and Ports (State Gazette, issue 12/2000) has been adopted. The following administrative structures have been established with a view to implementation of the new legislation:

- Executive Agency „Maritime Administration" is a separate legal budget-supported entity, directly subordinated to the Minister of Transport and Communications. The Agency has regional units in Varna, Burgas, Russe and Lom. It performs control on the incoming and outgoing Bulgarian and foreign vessels in the Black Sea and the main Danube ports, in line with the requirements of the Convention on Maritime Law. The Agency performs checks on the means of navigation safety and the State port control. It also issues certificates for admission to the profession and investigates accidents with Bulgarian and foreign vessels. It has the legal right to issue penalty measures for the infringement of legislation and for non-observance of the obligatory regulations related to the pollution of sea and rivers. The taxes and charges accumulated form Bulgarian and foreign ships and legal persons are contributed to the state budget.
- Executive Agency „Port Administration" is a separate legal budget-supported entity, directly subordinated to the Minister of Transport and Communications. The Agency performs the following tasks: ensuring the security and safety of ports; keeping a register and collecting statistical data for the port operators; ensuring control on the observation of the requirements for free access; application of equal conditions for competition for the operators; and solving all problems of direct public interest.
- Executive Agency „Study and Maintenance of the Danube River" is a legal entity seated in Russe, a second-level operant with budget credits under the Minister of Transport and Communications. It performs functions in accordance with national and international law on the study and maintenance of navigation conditions along the inland waterways of the Republic of Bulgaria.

As far as the inland waterways are concerned the negative effect of the interrupted navigation along the Danube needs to be mentioned.

The main criticism in the Regular Report of the Commission on Bulgaria's progress towards implementation of the membership criteria in the field of water transport has been directed to the observation of maritime safety regulations. The level of Bulgarian vessels detained under the Paris Memorandum of Understanding of Port State Control system has decreased from 12,5% in 1998 to 8,1% in 1999, but this is not enough. In comparison the average percentage of detained EU-flagged vessels is 3,6%. A positive step is the introduction of a vessel traffic control system (VTS) on the Bulgarian Black Sea Coast with the assistance of the Government of the Netherlands and the PHARE program. Significant efforts are still needed for the introduction of the safety performance requirements of the EU legislation.

On 7 April 2000 a Memorandum of Understanding on Port State Control and Flag State Control implementation in the Black Sea Region was signed on Bulgaria's initiative. The Memorandum aims at gradual removal from operation of substandard vessels compared with European requirements. All Black Sea countries shall have access to the newly created Information Center under the above Memorandum.

As far as state aids are concerned, currently state aids are not provided to maritime transport in Bulgaria.

Measures are taken for the:

- improvement of the fiscal conditions of the shipping companies;
- creation of conditions for improved competitiveness;
- investment aid for the structural reform, including privatization.

It is envisaged for the water transport sector that after restructuring and transformation, some administrative units and activities, which are not related to the main activity of the shipping companies shall be privatized (when ready). The ports shall be privatized after the enforcement of the Law on Ports, mainly through granting concessions.

Bulgaria is a member of the International Maritime Organization (IMO), so upon accession it should reconsider its position on some legislative documents of the Organisation, which the EU has accepted with reserves.

It is expected that upon accession (by 1 January 2007) Bulgaria shall fully meet the EU requirement in maritime transport and inland waterway navigation. This is the reason why no transitional periods have been requested in the negotiating position on Chapter 9 „Transport Policy".

2.2.2.5. Combined Transport

The provision of services in the field of combined transport between the EU Member States was liberalised in 1992 by enforcing Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States. In spite of that, some infringements are still made, mainly related to competition and the barriers to railway transport, which in the case of combined transport is the main transport mode for overcoming long distances. Notwithstanding the large amount of subsidies allocated by Member States for the promotion of combined transport, it is still clear that this mode of transport is not as efficient as it should be within the Community. An estimation of that could be made judging by the:

- relatively small market share;
- numerous complaints of the users of transport services, concerning mainly the quality of services and the prices.

A Program for the Development of Combined Transport in the Republic of Bulgaria until 2010 has been elaborated. In March 1999 the national Assembly ratified the Protocol on combined transport by inland waterways enclosed to the European Agreement on the most important lines for combined transport and the related facilities (AGTC). It is obvious that there is a lot of work ahead in order to reach the European standards.

No transitional periods in the field of combined transport have been requested in the negotiating position on Chapter 9 „Transport Policy".

2.2.3. Development of Transport Infrastructure

Bulgaria's geopolitical location adds special importance to the integration of the country's transport sector into the European structures. The country is situated on a major crossroads and represents a natural point of redistribution of traffic flows from Western and Northern Europe to Asia and the Near East, from the Mediterranean basin to Europe, the Caucasus region and Central Asia. The transport corridors on Bulgaria's

territory follow historically established routes and five of the ten Pan-European transport corridors defined during the meetings in Crete/Helsinki cross the territory of the country. Bulgaria has a well-developed infrastructure, which today needs modernization and maintenance in order to meet European standards.

Bulgaria has focused its efforts towards the planning and setting up of a national transport infrastructure system, which would enable the country to become an integral part of the European system of transport corridors by creating possibilities for alternative trans-border haulage. Transport corridors must offer equal alternatives while functioning under the conditions of free market competition.

A four-year Medium-term National Investment Program for the period 1998-2001 has been elaborated, which determines the obligations of the State budget for development of the country's infrastructure. 25 projects of the Ministry of Transport and Communications are approved under the above program.

An Investment Program for the Development of the Transport Infrastructure of the country has been elaborated. The program includes 32 priority investment transport infrastructure projects, situated along the five Pan-European transport corridors No IV, VII, VIII, IX and X with total investment needed amounting to USD 4,449.5 million. Based on the Indicative program and the Investment program of the Government for the period 1998-2001, one more document has been prepared, namely: „Strategy for the Development of Bulgaria's Transport Infrastructure for the period 2000–2006". This Strategy is incorporated into the National Economic Development Plan of Bulgaria for the same period and it forms the basis for the applications submitted to the European Commission asking for grant funding of transport projects under the EU pre-accession financial instrument ISPA.

The long-awaited agreement for the construction of a second bridge over the Danube between Bulgaria and Romania was reached on 7 February 2000 in Brussels in the presence of the Special Co-ordinator of the Stability Pact for South-Eastern Europe Mr. Bodo Hombach and the Commissioner on enlargement Mr. Günter Verheugen. The report defining the exact location of the bridge in the region of Vidin- Kalafat was signed on 23 February 2000. An Agreement on the technical, financing, legal and organizational issues related to the construction of the bridge was signed between Bulgaria and Romania in June. Terms of References have been drafted for the execution of preliminary studies on financing the project. A draft Terms of reference has been prepared regarding the technical design of the bridge. The execution of the technical, economic and financial analyses for the construction of the new bridge has started in order to update the financial and social evaluation of the project. The implementation of this task is carried out with the funds granted from the French Development Agency and the study is performed by the French company BCEOM. The company Lahmeyer International has been selected to perform the environmental parts of the Second Danube Bridge pre-investment studies, while the German company Rhein-Ruhr Ingenieur-Gesellschaft was entrusted with the geo-technical and hydrological studies. A loan agreement was signed in December 2000 with the European Investment Bank.

2.2.3.1. Road Infrastructure

Bulgaria's road network is relatively well developed. Its total length is 37,288 km, out of which 386 km are motorways, 3,029 km are roads of national importance, 16,025 km are roads of regional importance and 17,848 km – roads with local importance. The

roads of the national road network are classified into five groups: motorways and 1st, 2nd, 3rd and 4th class roads. About 2,500 km or 80% of the first class roads in the country form part of the European road network and have the relevant numbering. The average density index (0,33 km/km²) corresponds to the conditions of the country: a substantial proportion of mountainous relief and high level of urbanization. Only 171 settlements with about 25,000 inhabitants are not covered by the road system with a permanent surface.

The repairs and the rehabilitation of the main international road routes (the motorways and first class roads) are aimed at achieving the standards and requirements of the European road infrastructure. The necessary measures should be taken for the improvement of the road network structure both at national and regional level, the development of new road axes and the new categorization of the existing ones. The construction of road networks interoperable with the European ones, which meet the relevant standards is an important condition for the successful integration of Bulgaria's economy in the Common European market.

The second important direction is the „opening" of the road network towards the countries in the region in order to stimulate the interaction between them and to enhance the process of trans-border co-operation and regional integration. An important step in this field is the opening of new border crossing points, which will have a positive impact on the integration of the road networks in the region and subsequently, on the regional economic co-operation. The pursuit for development of the road infrastructure in the border regions is related to the acceleration of the process of trans-border co-operation.

The third important direction is improvement of the technical and operational condition of the road infrastructure of national importance and bringing to equal standards the level of services in the different parts of the country with a view to giving equal chances for the attraction of investments and further development.

Due to the economic crisis and the inflation processes, the state budget finances allocated for the maintenance and repair of the road network by the middle of 1997 were insufficient. As a result the condition of the roads, especially of the road surfaces deteriorated considerably. The state budget was preserved as the main financial source for the road network until 1993.

In 1993 the Government of Bulgaria signed a loan agreement with the European Bank for Reconstruction and Development (EBRD) amounting to USD 43 million and a loan agreement with the European Investment Bank (EIB) amounting to 21 million Ecu. The funds from the two above loans were meant for the financial support of the project for rehabilitation of the road network „Transit Roads I". The aim of this program was to stop the deterioration of the technical and operational condition of the roads in Bulgaria which accommodate the international traffic through the country and to revive the development of the road network. In the beginning it was planned that 60% of the program would be financed by external loans and the Bulgarian Government would ensure the remaining 40%. In 1994 the EU PHARE program also supported the project by taking over part of the co-financing of the lots, financed by EIB and granting 10.4 million Ecu to replace some of the government payments for the program.

The „Transit Roads I" program was completed in 1997 with the following results: construction of 32 kilometres of the Trans-European Motorway (TEM) – the section Plovdiv – Orizovo and rehabilitation of 650 km of road network. The total amount of investment used was USD 107 million.

A new loan agreement was signed with the EIB amounting to 60 million Euro for the joint financing of the project „Transit Roads II". The co-financing parties were the Government of Bulgaria (43 million Euro) and the PHARE program (30 million Euro under the 1996 National Transport Program). The total length of the road sections rehabilitated under the program „Transit Roads I and II" was 859 km.

In the year 2000, 38 km of motorways were constructed and 672.4 km of roads of the national road network were rehabilitated for the total amount of 419 million Levs, including: a new section of the „Trakia" motorway (Plodovitovo – Orizovo) and a new section of the „Hemus" motorway (Pravets – Boaza). The following sections continued to be under construction: Kaspichan – Shumen (the „Hemus" motorway), Svilengrad – Kapitan Andreevo and Harmanli – Ljubimets (the „Maritsa" motorway).

- The Southern by-pass road junction of Veliko Tarnovo, the Kilifarevo by-pass and the „Rhodope" transport junction;
- The by-pass roads of Silistra, Malko Tarnovo and Dolni Dabnik as well as the Sofia ring road are still under construction;
- Tender documentation has been prepared for the launching of tenders for the construction of engineering equipment along the road Elhovo-Lessovo-Hazambeili/ the Turkish border;
- The road section of the Russe – Giurgiu Danube bridge has been rehabilitated using PHARE funds;
- The road section „Dunavci-Dimovo" has been constructed using funds from the PHARE program and the „Republican Road Network" Fund;
- The work on the feasibility studies for granting concessions for the „Trakia" motorway from Orizovo to Burgas and the „Cherno More" motorway to Varna. The funds for the studies amounting to 300,000 Ecu have been granted by the PHARE program.

Presently the programs „Transit Roads II and III" are under implementation, which includes general repair of sections from the national road network, namely:

- Road sections in the main directions: „Pirdop – Karlovo – Kalofer", „Sliven – Karnobat – Aitos – Burgas", „Primorsko – Tsarevo", „Kortina – Sevlievo", „Veliko Tarnovo – Omurtag", „Russe – Razgrad – Shumen – Preslav" and a section of the „Trakia" motorway – all the sections listed above have been renewed and brought into compliance with the European standards and requirements.
- Road sections under active construction: „Veliko Tarnovo – Antonovo", Antonovo – Omurtag", the bridge over the Rossitsa river, „Varna – Sarafovo – Burgas", a section of the „Hemus" motorway, a section of „Cherno More" motorway, the Vidin access road, and the sections „Montana – Vratsa", „Vratsa – Orjahovo", „Vratsa – Mizia", Mizia – Orjahovo" and „Krivodol – Bjala Slatina".
- Contracts have been signed for the construction of: the Vidin access road for the sections Montana – Vratsa, Vratsa – Orjahovo, Vratsa – Mizia, Mizia – Orjahovo and Krivodol – Bjala Slatina, the sections Stara Zagora – Dimitrovgrad and Radnevo – Galabovo; a section of the „Trakia" motorway.
- Tender documents have been prepared for the sections Kazanlak – Stara Zagora, Stara Zagora by pass road, and a section of the „Hemus" motorway.
- Design has been ordered for sections of the „Trakia" motorway, road section Sofia – Pirdop, Veliko Tarnovo – Gurkovo, Sliven – Burgas, Aitos – Burgas, Kazanlak – Sliven, Vidin – Montana, a section of the „Hemus" motorway (viaduct).

The program „Trans-border Infrastructure Projects" is also under implementation, including:

- Rehabilitation of the road Pernik – Radomir – Kjustendil;
- The projects „Adjoining road connection" and „Ilinden" border crossing point;
- Completed design of the tunnel on the route Ilinden border crossing point – Exsoki in the Gotse Delchev region;
- The international consultancy company „COWI" completed its work by reviewing the design of the road link project for the border crossing point „Makaza" (Podkova – border line);
- A contract has been signed for the construction and the rehabilitation of the E-79 road „Dupnica- Kulata". Phases of construction activities have been completed;
- International tender was carried out for the rehabilitation of the E-85 road „Haskovo – Svilengrad". The contract for construction activities has been signed;
- The contract with the Italian company „SPEA" for the design of the „Struma" motorway is under implementation;
- The design of the „Ljulin" motorway has been completed;
- The laying of a fiber-optical cable in the direction Haskovo – border line is under construction.

14.2 million Levs have been transferred to the municipalities for the construction, reconstruction and maintenance of the fourth class road network. Road development projects have been funded on the territories of all the municipalities, the priority being given to projects in a devastated condition.

2.2.3.2. Railway Infrastructure

The development of the railway infrastructure is of major importance for the enhancement of combined transport and the attraction of transit freight traffic. In the beginning of the new millennium the well-developed railway network will be the key infrastructure with a view to accession.

The railway network in Bulgaria is among the best developed in the Balkan region. The first railway line, used for performing combined transport haulages between the Danube River and the Black Sea in the direction „Russe – Varna" was built in the middle of the nineteenth century (in 1866). More than a century later, the length of the railway network in Bulgaria is 4,290 km. The dual track lines are 969 km (22,6% of the total length of lines), while the electrified lines are 2,908 km (67,8%). The main part of the railway lines is of standard gauge 1 435 mm, (94% of the total length). The main lines in the country are with standard gauge, two secondary lines are with narrow-gauge, while only the straight tracks of the ferry terminal Varna-Ilichovsk are with 1 520 mm gauge. The density of the Bulgarian railway network is 3,9 km/100km^2, calculated with respect to the territory and 0,5 km/1000 inhabitants, calculated with respect to the population. The lines in the North-South direction are underdeveloped.

In the period 1989–1995 the development of the railways was at a standstill. The efforts in investment were directed towards to the extension and electrification of some railway sections. The main obstacle was the lack of financial resources.

In 1995 a program for the restructuring of the railways was developed, which was aimed at harmonizing the activities with the needs of the developing market economy and the market mechanisms.

The program includes four main components:

- Establishment of an institutional framework for the development of BDZ in the coming years;
- Technological restructuring of the main economic activities of the railway company and establishment of a trade-oriented structure of operations;
- Financial and accountancy restructuring of the trade activities as well as separation of the infrastructure from operations with a view to better financial management;
- Restructuring of the railway industry with a view to more-efficient performance in the market economy conditions.

In the framework of the financing allocated under the loan agreements, the rehabilitation measures include priority tasks in the infrastructure development, rolling stock renewal and introduction of information technology.

The program was supported by the international financing institutions – the World Bank, EBRD, export credit Agencies. The PHARE program also allocated 20 million Ecu for the program. The program implementation started at the beginning of 1996.

The modernization and development of the railway infrastructure is one of the priorities of the investment activities.

The following projects, financed under the PHARE program have been completed:

- Delivery of axle counters with a view to improving railway safety, project amount: 1,360 million Euro;
- Delivery of 19 numerical telephone exchange center for the BDZ, total value of project: 3 million Euro;
- Delivery of dispatcher radio-link equipment for BDZ, total value of project: 2 million Euro;
- Delivery of automatic locomotive signalling equipment for the railway section Plovdiv – Stara Zagora – Burgas, total value of project 10,360 million Euro;
- Technical assistance to the Project Implementation Unit.

A loan agreement was signed with the EIB for the project „Reconstruction, modernization and electrification of the railway line Plovdiv – Svilengrad – border of Turkey/Greece and optimizing the route for speeds of up to 160 km/h". The estimated total value of the project is 384 million Euro, distributed as follows: EIB – 154 million Euro, application for ISPA financing – 150 million Euro, state budget and BDZ's own financing – 80 million Euro.

Two million Euro have been allocated under the „Large Scale Infrastructure Facility", Financing Memorandum (BG 9903–01) for the preparation of the above project and drafting of tender documentation. Two contracts were signed on 31 May 2000 with the company PB Kennedy and Donkin. This project is suffering substantial time delays. Only 0.732 million Euro have been disbursed so far, while the disbursement period of the Financing Memorandum expired on 31 May 2001. Steps have been taken for the extension of the FM by one year. Taking into consideration the fact that this project will apply for ISPA financing, the registered delays can be considered as a cause for concern.

With a view to supporting the rehabilitation program of the Bulgarian State Railways 20 million Euro have been allocated under the 1998 „Large Scale Infrastructure Facility", Financing Memorandum (BG 9811) to be used for the repair and track renewal of 55

km of railway lines along transport Corridors IV and VIII. The project is implemented by the Czech company SZ Brno a.s., while the supervision of construction is carried out by the British company Halcrow. The following railway sections will be rehabilitated under this project:

- Vakarel – Verinsko (tracks 1 and 2) – total length 16 225 m
- Zimnica – Straldzha (tracks 1 and 2) – total length 12 412 m
- Straldzha – Tzerkovski (tracks 1 and 2) – total length 25 064 m
- Tunnel No 9 between Strjama and Klissura – total length 2 000 m

A few delays have so far been registered in the construction of some of the above sections due to bad organization. It is expected that the delays will not exceed one month.

The following was accomplished during the year 2000:

- The implementation of the project „Reconstruction and electrification of the railway line Dupnica – Kulata" is ongoing. Contracts have been signed for the construction and supervision of works amounting to 36 million Euro. Putting into operation of the section Dupnica – Simitli is forthcoming. By the end of October 2000, 25 506 000 Levs were utilized, while some 28 000 000 Levs were planned for the three-year period. The train dispatcher connections Sofia – Kulata have been completed.
- Another ongoing project is „Modernization of the railway line Sofia – Vidin", which includes renewal and rehabilitation of railway line sections.
- Two million Euro have been allocated for the project „Railway Organisational Restructuring – Management Development of the Railway Infrastructure Company" under the 2000 National PHARE program (BG 0002-03). The proper implementation of this project is of particular importance with a view to the institutional separation between infrastructure and operations, planned for the beginning of 2002 and the forthcoming establishment of the National Company „State Railway Infrastructure".

2.2.3.3. Sea Ports

Maritime transport is of particular significance for Bulgaria's economy. About 60% of the international commercial turnover is achieved using maritime transport. Varna and Burgas are the key Black Sea ports along the Bulgarian coast. Their vicinity to the major ports of Russia, Georgia and Turkey defines those ports as important maritime junctions ensuring access to the countries of the Black Sea basin.

The Port of Burgas is the first large Black Sea port after crossing the Bosphorus. Its natural geographic location and the good road, rail and air connections to the remaining parts of the country and also to the countries of Central and Eastern Europe make the port an important transport junction in Bulgaria and also in the region of South-Eastern Europe. The port was opened to international traffic in 1903 and it offers Bulgaria key connections to the countries in Europe and the Near and Middle East. The port is an essential element of transport Corridor VIII, being at the same time a starting point for the extension of the corridor to the Caucasus region and the countries of Central Asia. At present it consists of five port areas: „Burgas-East" port, „Burgas-West" port, bulk cargo port, petrol port and Lozovo port storage yard.

The total length of the piers in the ports is 3,905 m, there are 28 berths, 24 of which are operational and equipped with various mechanization, 75,000 m² covered storage yards and 312,000 m² open-air storage yards.

A loan agreement was signed with the Government of Japan (Government Fund for Trans-border Economic Co-operation) amounting to USD 20 million for the development of the ports of Burgas. The tender procedure has been completed and a consultancy company was selected for the preparation of tender documentation and the relevant tender procedures for the construction work and delivery and assembly of technological equipment.

Technical assistance has been negotiated in the framework of the program developed by the Government of the Netherlands for Bulgaria. The following has been done so far:

- The „Master plan for the Reconstruction and Modernization of the Burgas Petrol Port" has been completed and adopted;
- The project „Strategic Plan for the Management of Waste and Ballast Waters in the Port of Burgas" has been completed (IVACO company).

Further to the contract for financial assistance, signed between the US Government, represented by the Trade and Development Agency and the Ministry of Transport, the final report for the project „Study for the Construction of a Container Terminal in the Port of Burgas" has been adopted.

In 2000 the investments for the development of maritime transport were directed mainly to the port of Burgas. Tender documents have been prepared and pre-qualification procedures were carried out for the construction of a new terminal and a breakwater. The annual amount needed for this project is USD 2.36 million.

The **port of Varna** is situated on a huge territory stretching over 30 kilometres in the Northern part of the Bulgarian Black Sea coast. Its significance is determined by the proximity to the large industrial enterprises and the excellent transport links. The port's significance for Central Europe is determined by the excellent road and railway links with the port of Russe on the river Danube, the distance being some 200 km. Regardless of the need of transfer to land transport, this route reduces the travel time if compared to the competing route via the channel Cherna Voda – Constanta. The port of Varna is a very important node for the future continuation of Corridor VIII to the East. It plays a major role for the destination Central Europe – Russia/Ukraine and also to the Middle East and Central Asia.

The ferryboat Varna – Ilichovsk (Ukraine) was put in operation in 1978 and it was served by four specialized ships with a capacity of 102 wagons. The ferryboat station is equipped with the necessary devices for changing the gauge from standard to 1,520 mm wide to fit the railway systems in Ukraine, Russia and other countries of the former Soviet Union. The ferryboat port has a free capacity, which can be utilized for performing combined transport services between the Black Sea countries or for conveying transit transport flows. The potential of the ferryboat station for changing gauge from standard to wide is not utilized. This station is not included in the agreement on the railway lines and combined transport, which can be assessed as a serious mistake, since this is the only station along the Western Black Sea coast able to provide this type of service.

An „Updated Master Plan for the Port of Varna EAD up to 2020 and directions for further perspectives" has been elaborated and adopted. The favourable forecasts for the port are based on the: good conditions for navigation throughout the year; strategic geographic location; perspectives for the development of Corridor VIII and the potential of the port to develop as a „sea door" of Europe towards the countries of Central Asia and the Near East; well-developed infrastructure, allowing for flexible operation when compared to the competing port of Constanta; possibilities for performing transit haulage

in the direction the Black Sea-the Danube river, which can provide an alternative to the channel Constanta – Cherna Voda.

2.2.3.4. River ports

The river Danube is the only navigable river in South-Eastern Europe. The project „Study of the Navigability Conditions along the Bulgarian-Romanian Section of the Danube and Measures for their Improvement" has been completed with PHARE program funding. Eight ports have been constructed on the Bulgarian coast: Vidin, Lom, Orjahovo, Somovit, Svishtov, Russe, Tutrakan and Silistra. Two of them – Russe and Lom have been given an international statute.

The **port of Russe** is the largest Bulgarian port on the Danube. The following projects have been completed with PHARE program financial assistance:

- Dragging in the port of Russe-East (320 095 Ecu)
- Parking in the ferryboat area in the port of Russe-East (363 540 Ecu)
- Rehabilitation of the breakwater wall in the port of Russe-West (493 660 Ecu)
- Modernization of the Russe port equipment amounting to 1.2 million Euro and delivery of a specialized thruster-tug ship.

The **port of Lom** is considered an element of Trans-European corridor IV. It lies on the shortest transport route connecting the river Danube and the large Greek port of Thessaloniki.

A Master plan for the development of the port of Lom has been elaborated under PHARE program funding. The introduction of an up-to-date financial control system in the port of Lom is under implementation. Tender documentation is under preparation for the priority projects.

2.2.3.5. Airports

Air transport has the smallest share in the transport system of the country. Unlike water transport the majority of air traffic in Bulgaria relates to passengers. In recent years, due to the economic difficulties of the country the domestic flights have undergone a progressive reduction. Presently regular domestic flights are carried out only between Sofia and Varna and Sofia and Burgas. However the importance of air transport in performing international passenger services has been retained. The above tendencies without any doubt reflect on the airports in terms of the infrastructure necessary to meet the needs. Only four out of the ten civil airports built some years ago are now functioning and these are Sofia, Varna, Burgas and Plovdiv. Regular flights are carried out only from the first three. Charter flights are implemented from the airport of Plovdiv, which is also used as an alternative to Sofia airport in the case of emergency. The airports of Varna and Burgas are mainly oriented to serve the traffic of tourists. Under these conditions the importance of Sofia airport can easily be understood as the main national and international airport.

The financial study of **Burgas airport,** adopted in 1997, was elaborated by the British company „MottMacdonald" and financed under the PHARE program. A financial technology scheme was proposed for the negotiations with potential investors. The value of the project was evaluated at USD 66 million. The repair and reconstruction of the

Burgas airport passenger terminal was completed in 2000. The value of this project amounted to 525 508 Levs.

Sofia airport is situated on the crossroads of three Pan-European corridors: No IV, No VIII and No X. The airport provides for the air connections of the country with the rest of Europe, Nort America, Africa and Asia, thus allowing the carrying out of regular passenger, charter and cargo flights. This is the only Bulgarian airport which serves regular international flights throughout the year. It accounts for about 95% of the total air traffic activity of the country.

The project „Reconstruction and Development of Sofia Airport" amounts to184 million Euro. It is co-financed by the European Investment bank (60 million Ecu), the Kuwait Funds for Arab Economic Co-operation (USD 40 million) and ISPA (28 million Euro for the year 2000, 50 million Euro negotiated for the project). The Master plan for the reconstruction and development of the airport has been adopted, tender procedures have been carried out for the selection of the following consultancy companies: airport operator; designer; and independent supervisor. The contracts signed with the consultancy companies are of a total value of 7.6 million Euro. They are financed under the 1998 PHARE National Transport Program.

The project for the repair and upgrading of Sofia airport is divided into two phases, which include:

- Phase I – construction of a new passenger terminal and the adjoining equipment for 2.5 million passengers per year (2,500 passengers per hour at peak hours); total surface 26,000 m² with the relevant adjoining infrastructure, road connections and parking areas.
- Phase II – extension of the runway for taking off and landing up to 3 600 m in length and 45 m in width, which should bridge the Iskar river; construction of adjoining airstrips and aprons with a total surface of 20 000 m², construction of a cargo terminal for 30 000 tons with the adjoining equipment, road connections and parking areas for vehicles. The design for the cargo terminal allows for a quick extension of up to 60 000 tons per year.

The company NACO B.V. from the Netherlands is the contractor for the sub-project „Reconstruction and Development of Sofia Airport – Lot B: Technical Assistance to the design and Supervision". The contract was signed on 28 September 1999, however the company did not manage to keep the deadlines for submission of a detailed design in accordance with the Terms of Reference and for the preparation of the relevant tender documentation and that led to delays of the project. This is the reason why an extension of the disbursement period as specified in the Financing Memorandum BG 9808 will be requested. An addendum to the contract is under preparation, which will specify the updated deadlines for the project implementation with respect to task – term – schedule of payment. It is expected that the tender for the selection of a construction company shall not be completed by the end of 2001 and thus the ISPA 2000 funds for this project shall not be utilized.

The construction phase of the project „Air Traffic services Authority" has been completed. It included the modernization of the Air Traffic Control Center in Sofia and Varna. The total amount of the project was 83.5 million Ecu, out of which 60 million Ecu were an EIB loan and 23,5 million Ecu were own resources.

2.2.3.6. Combined Transport

The combined transport is meant for the transportation of passengers and freight over long distances. It is closely related to the development of the transport infrastructure and to the existence of intermodal terminals, which are equipped with the necessary information and/or distribution systems. Transport means using interconnected infrastructures (roads, railway lines and sea and river ports) are used for the intermodal or combined transport operations, which create a transport chain for each haulage.

Presently the following combined transport systems are used in Bulgaria: container haulages, maritime Ro-Ro transport, maritime railway ferryboat transport, river Ro-Ro and railway ferryboat transport and haulage of containers along the Danube river using catamarans.

The geographic location of the Balkan Peninsula as a link between three continents defines the necessity of construction of the relevant infrastructure, which should provide conditions for the use of combined transport. Sofia airport is the only Bulgarian airport with perspectives to develop as an intermodal terminal.

Intermodal Transport Terminal in Sofia – the project aims at creating a distribution centre out of the country's strategic transport junction of Sofia, which is situated on the crossroad of three Pan-European transport corridors. The project will optimize the use of the railway infrastructure for container haulages and will help transfer cargo from/to different modes of transport. Thus rail transport will be used for medium and long distances, while road transport will be used for shorter distances.

The project includes in the first phase modernization of the existing container terminal in Sofia and, in the next phases, its removal to another site which will allow its expansion and development, the necessary covered, open air and refrigerating storage areas, the delivery of the necessary equipment and mechanization, including the introduction of an information system and a system for electronic control of operations. According to the preliminary study for this terminal, which was carried out by the American company „Sea-Land" and partially financed by the US Trade and Development Agency, the necessary resources for this project amount to USD 18 million. The organization of combined transport haulages by the so-called „block-trains" between Sofia and Thessaloniki is also envisaged.

Combined Transport Terminal in Dimitrovgrad – the aim of this project is the reconstruction and modernization of the existing terminal, the upgrading of the road and railway access infrastructure, construction of covered and open air storage areas and the introduction of the relevant controling systems. Dimitrovgrad is an important junction in the transport system of the country. It is a crossing point of Pan-European transport corridors No IV and IX. The implementation of this project will make the terminal more attractive which, in its turn, will increase the traffic flow and will bring a positive impact at both local and national level.

Modernization of the Combined Transport terminal in the Port of Russe – the project envisages upgrading of the existing access infrastructure and delivery of mechanization and equipment for the processing of containers. These measures will increase the capacity and the efficiency of the port of Russe. The time for cargo processing will be decreased while at the same time safety will increase. The port of Russe is an important node in the transport system of both the country and the region. It is a crossing point of Pan-European transport corridors No VII and IX.

Construction of a Combined Transport Terminal in the Port of Lom – the project envisages the construction of a new pier equipped with the necessary facilities and mechanization for the processing of containers and the construction of a Ro-Ro terminal. The need for this project can be justified with the necessity of unfolding the port of Lom to its full capacity as a part of the river system Rhein-Main-Danube. The Danube River, being an important inland waterway and an element of the Pan-European transport corridor No VII, is of national and international importance. The project will enlarge the number of services offered by the port of Lom by adding container Ro-Ro haulages to the conventional cargo processed at present.

These projects are included in the Program of the Ministry of Transport and Communications for the national investment priorities in the field of transport. However, due to financial restrictions their implementation will be delayed.

2.2.4. Conclusions and Recommendations

The efficiency of the transport systems is of vital importance for economic growth. The transport sector in Bulgaria is facing the difficult task of contributing to the transformation of the economy and to the growth of the country's GDP in the near future and in the long-term, by giving guarantees in this way for the competitiveness of the economy on the international markets.

The analysis of the international traffic from a continental point of view shows a clear regularity in the distribution of haulages. It has been found out that the large, prevailing traffic volumes are transported at distances around 2 000 km. After that the relative share of freight turnover and the long distance haulages shows a sharp decrease. It is obvious then, that the carriers are mostly attracted by the above mentioned long distance carriages.

It is here that the enormous opportunity of Bulgarian carriers, the transport system and, in a certain sense – the opportunity of the Bulgarian economy can be found. With haulage shoulders of the magnitude of 2 000 km, starting from the centre of the Balkan Peninsula, the carriers can cover most of Europe, the post-Soviet economic space and the Near East. Using the combined transport technology, the transport schemes to Central Asia can also be profitable. At the same time these transport schemes can prove to be the most successful ones for the carriage of semi-manufactured goods to South-Eastern Europe and for their further processing and export to third countries. In the West-East direction the above can be valid for industrial goods, while in the opposite direction – for goods related to natural resources and agriculture. This is an economic and transport model which would no doubt be advantageous for investing in joint undertakings in the region.

Since 1997 Bulgaria has achieved promising progress in the restructuring of the transport sector, namely:

- Privatization and liberalization in the field of the road haulage industry;
- Adoption of a new Law on Railway Transport, which establishes the legal framework for further continuation of the structural and regulatory reform of the rail sub-sector;
- Privatization and liberalization in the field of the airline industry;
- Adoption of a new Law on Maritime Spaces, Inland Waterways and Ports, based on which the port infrastructure is separated from operations. This law establishes the

legal framework for further harmonization of legislation with the *acquis communautaire* in the field of maritime transport, especially in view of the criteria for maritime safety;

- Elaboration of a Middle-term National Investment Program for the development of the country's infrastructure and a Strategy for the Transport Sector for the period 2000–2006, which determine the priority transport infrastructure projects and the necessary investment, mainly related to the Pan-European transport corridors;
- Good progress in the harmonization of transport legislation with European regulations and the establishment of the main administrative structures for its implementation.

In spite of the progress achieved, hard work still lies ahead for the further liberalization of the transport markets and the successful implementation of the programs for the development of transport infrastructure. In this respect the following **recommendations** can be made:

Road Transport

1. Simplify and approximate the road user charges and taxes on the territory of the country with those of Europe. The acting legislation remains complicated, it lacks transparency and some of its aspects appear discriminatory towards Community transport operators.
2. Further improve the condition of road infrastructure through successful implementation of the road rehabilitation program and efficient use of the IFI loans and the EU PHARE and ISPA grants.
3. Provide the necessary funding for maintenance of the road network.
4. Take steps to improve road traffic safety.
5. Establish and fund independent surveys to assess how well the market is working (the price and the quality of road haulage services) and to identify areas that need improvement with a view to taking the necessary measures.
6. Market access – special attention should be paid to the need of substantial investment for updating the vehicle fleet in order to meet the European requirements in the field of safety and environmental protection, taking into consideration the increased transport market competition and the strict standards of European legislation.

Railway Transport

1. Catch up with the delay in restructuring of the railway sector. Complete the vertical separation of infrastructure from operations and take measures for giving the railway infrastructure (exploitation and maintenance) on concession. The complexity of this problem should not be underestimated.
2. Privatize the commercial activities of NC „BDZ" with a view to rationalizing the system; close down loss making activities.
3. Eliminate any remaining barriers on competitive entry of private companies into the rail services market.
4. Establish and implement a clear legislative framework regulating the private operators' access to railway infrastructure and introducing the relevant tariffs for such access. Create conditions for fair competition between the private operators.
5. Establish a simple regime of financing non-profit activities of a social character, in the cases when those need to be financed for social purposes. Develop a strict policy and transparent tender procedures for the giving out of subsidies.

6. Improve the condition of railway infrastructure and create conditions for higher speeds.
7. Improve the quality of services.
8. Implement the Program of the Ministry of Transport and Communications for the development of combined transport.

Air Transport

1. Further harmonize legislation in the field of air traffic safety, technical standards, rules for market access and tariffs.
2. Strengthen the administrative capacity, including the necessary human and financial resources.
3. Introduce a price control system for airport services that would enable the individual airport administrations to reduce costs and to exploit the possibilities arising from commercial operations.
4. Catch up on the delays of the project „Reconstruction and Development of Sofia Airport". For this project the loans given by the EIB and the Kuwait Fund for Arab Economic Co-operation have not been utilized for four years now. The funding granted by the EU pre-accession financial instrument ISPA is also endangered.
5. Take decisive measures in order to overcome the consequences of the unsuccessful privatization of the national air carrier „Balkan Airlines" EAD; ensure compliance with the ownership and control conditions of the *acquis communautaire*, as specified in the 2000 Regular Report from the Commission on Bulgaria's Progress Towards Accession.

Water Transport

1. Continue the efforts for meeting the EU requirements on maritime safety; introduce and implement secondary legislation, including rules for issuing ship certificates, carriage of dangerous goods and ship registers.
2. Strengthen the administrative structures and the competency of personnel to implement the *acquis communautaire* both in the field of Flag State control and Port State control.
3. Identify the options and implement the possibilities for reorganization of port activities, exploit the opportunities for private sector participation in the operation of the large port complexes.
4. Introduce mechanisms for relevant future determination of port charges and services.

Privatization

Ensure greater transparency of the process of privatization and restructuring of the transport sector, including by means of the execution of civil control.

Transport Infrastructure

1. Implement on time the commitments undertaken in the Middle-term Investment Program for the development of the national infrastructure. Provide the necessary financial resources for the development of the transport infrastructure in line with EU requirements.
2. Re-evaluate the appropriateness of the decision to take the Roads Executive Agency out of the Ministry of Transport and Communications, in view of the necessity for performing a consistent policy on the development of multi-modal transport corridors.
3. Strengthen the administrative structures and the competency of staff, involved in the development of the transport infrastructure.

4. Ensure possibilities for foreign investment, for example by giving large infrastructure projects on concession and strictly follow the international requirements. In the coming years the necessity of substantial financing in the transport infrastructure will continue to be outstanding while taking sovereign guaranteed loans or using budget funds will not always be the best solution.
5. Considering the obvious tendencies for delay in the implementation of projects, which are applying for or have already been granted ISPA financing and the participation of international consultancy companies in this process, special attention should be paid to the:

- clear and detailed definition of tasks in the Terms of reference as well as the obligations and the final output, which is expected by the contractor. Reaching unanimous understanding on the investor's requirements during the process of contract negotiations;
- exact estimation of the time needed for the project design and the co-ordination and approval of design, with a view to negotiating realistic deadlines for project execution;
- increased role and responsibilities of the Bulgarian sub-contractors for meeting the deadlines in the process of preparation of tender documentation, without violating the FIDIC rules;
- increased role, interaction and responsibility of the organs engaged with project implementation at all levels;
- updating of the existing Bulgarian legislation related to construction works, including recommendations for better regulation of the specific features of the infrastructure projects (for example acquisition of land, etc).

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2.3. Communications

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2.3.1 Telecommunications

2.3.1.1. EU Experience

The European approach towards the sector being monopolized till several years ago comprises a ten year period of gradual liberalization, which reached its culmination at the moment of full opening of the market for services and networks on 1 January 1998.

As a result of updating the sector policy in the area of the telecommunications networks and services, a new regulatory framework of the European Union was outlined, consisting of the following proposals for new directives:

- Directive on a common regulatory framework for electronic communications networks and services;
- Directive on universal service and users' rights relating to electronic communications networks and services;
- Directive on access to, and interconnection of, electronic communications and associated facilities;
- Directive concerning the processing of personal data and protection of privacy in the electronic communications sector;
- Directive on unbundled access to the local loop;
- Directive on the authorization of electronic communications networks and services.

The Current EU regulatory framework was focused primarily on the transition to market relations and the establishment of a competitive market. The new regulatory framework aims at increasing the competition in all market segments and is dedicated to dynamic and unpredictable markets with a large number of players.

The main objectives of the new EU policy in the area of telecommunications are:

- To promote and sustain an open and competitive market for communications services;
- To benefit European citizens by ensuring that all have affordable access to a universal service;
- To consolidate the internal market in a converging environment.

The main principles of regulation for achieving the above-mentioned objectives are as follows:

- To be based on clearly defined policy objectives;
- To be the minimum necessary to meet those objectives;
- To further enhance legal certainty in a dynamic market;
- To aim to be technologically neutral;
- To be enforced as closely as practicable to the activities being regulated.

2.3.1.2. Status of Telecommunications in Bulgaria

The required fundamental policy and legal and institutional framework in accordance with the achievements of European law in the field of telecommunications has already been established in the Republic of Bulgaria.

The strategic objective of the telecommunications sector policy is the provision of opportunities for access of the population and businesses to a variety of modern, good quality and efficient telecommunications services provided at affordable prices under conditions of fair competition, observing the principles of equal treatment and transparency also, taking into account the requirements for Bulgaria's accession to the European Union.

The main tasks of the telecommunications sector policy are:

- To continue the process of establishing the legislative basis that corresponds to the new conditions and is harmonized with that of the European Union;
- To establish and improve the policy for allocation and management of scarce resources (radio frequency spectrum and numbering plan);
- To liberalize the telecommunications market and provide modern telecommunications services adhering to the principles of equal treatment, transparency and fair competition;
- To provide universal service;
- To protect the interests of the users of telecommunications services;
- To develop human resources;
- To expand the R&D activities.

The performance of the telecommunication activities is settled in accordance with the Telecommunications Law adopted by the National Assembly on July 27, 1998 and amended in May 2001.

The main task of the law is the separating of the state policy-making functions, performed by the Ministry of Transport and Communications from those of regulating the telecommunications market, performed by the State Telecommunications Commission.

A National Radio Frequency Council to the Council of Ministers has been set up in accordance with the Constitution of the Republic of Bulgaria for allocating the radio frequencies and radio frequency bands for civilian needs, for the needs of defence and security and for shared use.

The law envisages the liberalization of telecommunications networks and services excluding the provision of the fixed telephone service (local, long-distance, international and transit) between terminal points of the fixed network and the provision of leased lines. A state monopoly has been established over those activities till 31.12.2002. This period was defended before the WTO and adopted by the National Assembly with a Law for Ratification of the Fourth Protocol to the general Agreement for Trade and Services (SG 117/1997).

The institutional framework in the field of telecommunications is defined in the

Telecommunications Law followed by Decrees of the Council of Ministers as per the law. The law allocates direct responsibilities to the Council of Ministers in the area of telecommunications for:

- Adoption of the telecommunications sector policy;
- Approval of licenses for construction of telecommunications networks and provision of telecommunication services using the radio frequency spectrum;
- Approval of licenses for radio and TV activities using the radio frequency spectrum;
- Adoption of a Methodology for determination of the tariffs for the fixed telephone service, provided via the fixed network of the Bulgarian telecommunications company (BTC Plc.) and for provision of leased lines under publicly announced conditions.

The main institutions in the telecommunications sector

The Ministry of Transport and Communications (MTC) develops, submits to the Council of Ministers for approval and pursues the sector policy in the field of telecommunications. The MTC exercises ownership rights as regards the capital of the commercial entities in the communications sector where the state is a shareholder or partner.

The main activities of the MTC in the field of telecommunications are related to:

- Restructuring of the communications sector;
- R&D activities in the field of telecommunications;
- Information society development;
- European integration;
- Management of telecommunications activities in emergency conditions.

The State Telecommunications Commission (STC) is the national regulatory authority as per the Telecommunications Law. The STC is a state body under the Council of Ministers. It consists of five members including chairman and vice-chairman, appointed by the Prime Minister as a result of a Council of Ministers' decision and having a respective term of office. The STC is a legal person. It is not financed by a budget subsidy, but its budget with regard to the costs is defined by the Ministry of Finance in accordance with the rules for the legal persons relying on budget subsidies and the state administration. The main activities of the STC are:

- Licensing of telecommunications activities;
- Licensing of radio and TV activities after a decision of the National Radio and TV Council;
- Co-ordination of frequencies and radio frequency bands, and radio equipment for civilian needs, as well as for their manufacturing and distribution throughout the territory of the country;
- Development of the national numbering plan and allocation of numbers to the operators;
- Type approval of terminal equipment and radio equipment for civilian needs and issuing of the respective certificates;
- Consideration of problems that arise among telecommunication operators in relation with interconnection of their networks and the provision of leased lines;
- Development and submission for approval of the secondary legislation;
- Implementation of control functions for the key signature providers as per the law on electronic document and electronic signature.

The National Radio Frequency Council (NFRC) – a consultative body to the Council of Ministers. The Chairman of the NFRC is nominated by the Council of Ministers. The NFRC consists of representatives from the Ministry of Transport and Communications, The State Telecommunications Commission, the Ministry of Finance, the Ministry of Defence and the Ministry of the Interior. The NFRC prepares and periodically updates the National Frequency Allocation Table. It also considers and settles disputes aroused among the main users, related to electromagnetic compatibility. The National Frequency Allocation Table is approved by the Council of Ministers and it is public.

The political, regulatory and institutional framework described above is developed in accordance with the acquis communitaire and represents a basis for further implementation of these norms.

Current status of the harmonization in the different directions of *acquis communitaire*

Liberalization

The market of the telecommunications equipment in Bulgaria has been fully liberalized since the beginning of the 80s. The harmonization with Directive 88/301/EEC for the abolition of the exclusive and special rights over the import, sale, connection, placing into operation and maintenance of the terminal telecommunications equipment is ensured by the secondary legislation. All testing and measurement procedures for the terminal equipment are done in laboratories, accredited and certificated as per EN45 000.

The Telecommunications Law envisages full liberalization of the telecommunications activities and services (as per Directive 90/388/EEC for introduction of competition on the market for telecommunications services and abolition of the special and exclusive rights over the provision of those services). By Ordinance No 13/2001 the Minister of Transport and Communications defines the specific level of deregulation. In this Ordinance those networks and services are listed subject to individual licensing, registration under class licensing and free regime. The installation and operation of public payphones is liberalized and there are already three operators on the market. The exception of this list is the fixed telephone service provided via fixed network and the provision of leased lines. Up to 31.12.2001 BTC Plc. has exclusive rights over both.

The provisions of Directive 94/46/EC for harmonization of the authorization regimes in the field of the satellite communications and for free access to the satellite segment are reflected in the Telecommunications Law. The required regulatory package is developed and already approved. All measures as regards the participation of Bulgaria in the international satellite organizations INTELSAT, EUTELSAT and INTERSPUTNIC are in compliance with the EC Directives. Bulgaria allows more than one operator to be signatory in those organizations.

Mobile services. The requirements of EC Directive 96/2/EC for abolition of restrictions and introduction of principles of equal treatment concerning licensing, allocation of frequencies and interconnection of mobile operators as well as for liberalization of the mobile services market are incorporated in the Telecommunications Law. At present, in Bulgaria, two mobile licenses for construction, operation and maintenance of a public

telecommunications network according to digital standard GSM 900 have been granted – to MOBILTEL and to GLOBUL. There is also a mobile operator of a network-according analogue NMT 450 standard – MOBICOM. A decision is expected to be taken for granting a license to a third GSM operator, but it is closely related to the strategy for privatization of the incumbent operator BTC.

Non-discriminating prices for using the radio frequency spectrum have been introduced by a Council of Ministers' decree and in accordance with an ordinance of the Minister of Finance.

Full liberalization as per Directive 96/19/EC will be effectively introduced after 01.01.2003.

A large part of the frequency resource that will be necessary for the introduction of some pan-European and satellite networks is still used by the ministries responsible for security and defence and substantial financial resources are required for freeing it, especially for the Ministry of Defence.

Open Network Provision (ONP)

The Telecommunications Law and the Law for Protection of Competition are harmonized with the basic requirements of the common ONP framework as per the provisions of Directive 90/387/EEC. The secondary legislation that has been developed and adopted corresponds to the provisions of Directive 97/51/EC.

As regards the leased lines the implementation of the Directive 98/80/EC is ensured by the Telecommunications Law and the license granted to BTC. Till the end of 2002 BTC has exclusive rights over the provision of local and international leased lines from the fixed network. BTC's obligation is to provide the leased lines within a defined term and with specified quality parameters on equal basis. The requirement for prior publishing of the prices of a set of leased lines – analogue and digital with a transmission speed up to 2Mbits/s – has been satisfied. In the cases where the incumbent operator is not in a position to provide the requested service within a period of 3 to 6 months, then the applicant may apply to the State Telecommunications Commission and will be given the right to install its own transmission capacity.

The Telecommunications Law and Sector Policy stipulate the main principles of the interconnection. Besides that, the Telecommunications Law requires an Interconnection Ordinance to be developed, which will contain the basics of the Reference Interconnection Offer.

Licensing

The licensing regime, according to the Telecommunications Law, is following the principles for abolition of the restrictions and gradual deregulation as per the EU framework (Directives 96/19/EC and 97/13/EC and Resolution 710/97/EC). The provisions of the law include requirements for individual license, registration under class license and free regime. The conditions of the licenses should be the same for the telecommunications network and services of the same type. The State Telecommunications Commission grants the licenses in an order and manner set in the Telecommunications Law and following clear, transparent, and non-discriminatory procedures.

Universal Service Provision

According to the Telecommunications Law the scope of the universal service is as follows:

- Access to fixed telephone service (local, long-distance and international) provided via fixed network, for every household;
- Access to emergency call services free of charge;
- Access to telephone directories for the subscribers of the fixed telephone network;
- Access to fixed telephone service via public payphones;
- Access to the services listed above for disabled people.

The geographical coverage of the fixed telephone service is relatively good – above 80% of households have access to the service.

In order that the obligation for provision of universal service has to be met as per Directives 96/19/EC, 97/33/EC and 98/10/EC, a suitable solution shall be found for financing the provision of the service before full liberalization. According to the Telecommunications Law an Ordinance should be issued by the Minister of Transport and Communications and the Minister of Finance where conditions will be defined for imposing obligations for provision of universal service by the operators as well as for establishing a mechanism for financial compensations of the operators obliged to provide the universal service.

Numbering Plan

In 1980 Bulgaria implemented Resolution 92/264/EEC for using a standard code for international dialling. Bulgaria supported the initiative for using international code 388 for the future pan-European services.

The principles of the national numbering plan have been developed and the plan itself has been updated in accordance with the Green paper on Numbering of the EU. The operators have been requested to free the numbering capacity which is intended to be used for pan-European numbering and other services corresponding to the respective international recommendations.

In the license granted to BTC the operator is obliged to offer call-by-call carrier selection after 01.01.2003 and carrier pre-selection – after 01.01.2005, in the regions where the status of the network allows this.

Data protection

There is no specific provision in the Telecommunications Law providing for a secondary legislative act to regulate the data protection in the telecommunications sector. There is a provision with a common requirement that the policy-making and regulatory bodies and the public telecommunications operator should guarantee freedom and secrecy of communications. In the licences of the operators there are conditions for data protection.

Mutual recognition of the conformity of the telecommunications terminal equipment

The new Ordinance for conformity assessment of radio equipment and terminal equipment, corresponding to Directive 98/13/EC provides for a more liberal regime of conformity assessment of radio equipment and telecommunications terminal equipment. It means that there is a procedure in progress for recognition of certificates, issued by recognized European laboratories as well as certificates from European notifying bodies. This unilateral recognition of certificates and protocols will become bilateral after the introduction of European conformity assessment protocols, which will be used by the CEE countries via specific agreements for mutual recognition of conformity assessment.

Standardization

After the adoption of the new law on national standardization providing for removing of the obligation for implementation of the Bulgarian state standards it is already possible to implement European standards on the original language. The Telecommunications Law provides that harmonized European standards in the field of telecommunications are deemed obligatory by an Order of the Minister of Transport and Communications.

2.3.1.3. Conclusions and Recommendations

According to Chapter 4, Art. 23(3) in the Telecommunications Law, the State Telecommunications Commission is established. It is independent from the telecommunications operators. But the law provides an opportunity for the Ministry of Transport and Communications to intervene in the process of the elaboration of the secondary legislation. It creates a conflict of interests because of the Ministry's ownership role. In order to achieve the effective structural separation required by Art. 5a of the Directive 90/387/EC the Republic of Bulgaria should commit itself to privatizing BTC. If the Government intends to keep its ownership role or continues exercising a significant control over BTC it should commit itself to the tronsfering of the ownership and/or control functions to a different institution by an amendment of the Telecommunications Law.

One of the main prerequisites in the EU regulatory framework is that the national regulatory authority should have the necessary power to enforce the requirement of that framework, regardless of whether it is about the settlement of disputes or having an ex-ante initiative (always considering the possibility of appeal before an independent body). The national legislation provides, up to certain extent, for the power of the STC to enforce the requirements of the interconnection regulatory framework. But, regarding enforcing ex-ante decisions or settlement of disputes, the powers of the STC are not sufficient and stronger legal support is required.

There are no clear and detailed obligations in the national legislation for the operators with significant market power to provide requirements for cost-orientation of the tariffs for interconnection and fixed telephone service or to publish the Reference Interconnection Offer. It is expected that Bulgaria will commit itself to this within specific periods. It is expected that the State Telecommunications Commission, in its capacity of a national regulatory authority in the field of telecommunications and in relation with the forthcoming full liberalization after 01.01.2003, will undertake the necessary actions for identifying the SMP operators and will organize an awareness campaign for its future regulatory policy in this respect.

In the licenses of the operators there are too many provisions which, in practice, outline an overall regulatory policy. In future all these provisions should be included in an appropriate manner in the primary legislation for ensuring full transparency.

It is expected that further harmonization with EU legislation will be carried out on the following issues:

- When the regulator may refuse license or registration. Apart from in the cases of using scarce resource, everybody shall be entitled to a licence or registration;
- An opportunity should be given in licenses and in registrations for consultations and possibilities for objections on behalf of the affected party;

- Introduction of number portability – this is a difficult issue for Bulgaria. For this reason Bulgaria has requested a transition period. Because of the low level of digitalization of the network and the necessity for possible changes in the national numbering plan it should be forecast if the costs for achieving full digitalization are economically justified, especially taking into account INTERNET and VoIP service. For the time being the national numbering plan reflects the dominant position of the incumbent operator on the telecommunications market, three-layer structure of the network and the lack of flexibility due to the functional restrictions imposed by the local analogue exchanges. In order to satisfy the needs of a fully liberalized market a substantial reorganization should be undertaken. Such a reorganization is not economically justified for a network where the number of the subscribers connected to analogue exchanges is more than 15–25% of the total. In the near future decisions should be taken for the structure, details and implementation of procedures from administrative, technical and consultative points of view as regards the changes in the national numbering plan.

In relation to the forthcoming liberalization after 01.01.2003 it will be necessary to amend the Telecommunications Law, to adopt a law on data protection and privacy, and the respective legislation for arranging the issues related to the rights of way and co-sharing facilities.

BTC Privatization

Although the privatization of the incumbent operator is a purely national issue, for the telecommunications sector it is considered, in principle, as one of the ways for ensuring resources for development, innovation, increase of the technological level and diversification of the rather expensive telecommunications networks and services.

The first actions for the privatization of BTC were undertaken in the autumn of 1996. After they had been followed by two Bulgarian governments and after a year and a half of negotiations had been conducted with the only potential candidate, the consortium KPN-OTE – the Greek and the Dutch telecommunications operator, in mid 2000 the negotiations failed. Thus BTC missed the opportunity to receive additional resources. Besides that, taking into consideration the international situation on the telecommunications market, a new strategy is expected to be adopted by the Bulgarian Government.

Liberalization

Further actions for successful liberalization in Bulgaria are related to the preparation and readiness for liberalization of monopoly services and development of regulatory policy in respect of:

- Regimes for implementation of telecommunications activities;
- Interconnection of networks;
- Universal service provision;
- Allocation of scarce resources;
- ONP;
- Harmonization of standards;
- Tariff rebalancing.

A year before the introduction of liberalization, a review of the regulatory framework is to be done and preparation will start for publishing the basic documents. This is necessary because it will ensure certainty in respect of continuation and predictability in the development of the national legislation as well as clarification of the rights and obligations of the market players in a fully liberalized telecommunications environment.

The progress of liberalization in Bulgaria will depend on the development of the convergence of telecommunications and media and information technology in the context of the Green Paper on Convergence of the Telecommunications, Mědia and Information Technology sectors, published by the EU. Washing away the boundaries and meshing the different services as well as their independence from the transmission media will require the development of necessary legislation, guaranteeing adequate regulation of the market.

In the area of ONP and interconnection the principles in the respective current EU Directives and also those in the new-proposals for Directives in the EU will be followed. The objective will be to create a balance of the rights and obligations of the market players tailored to their market position. SMP operators may be imposed to undertake certain obligations in order to guarantee equal treatment in the process of interconnection negotiations with new and smaller market players. A new regulatory framework in the field of interconnection is to be developed, which will guarantee the interconnection of the networks and their interoperability, at the same time taking into account the necessity of universal service provision.

As regards the leased lines it will be necessary to ensure the conditions for the provision of effective and open access. The SMP operators will be obliged to ensure a predefined set of analogue and digital leased lines with harmonized technical interfaces.

During the preparation for full market liberalization one of the substantial issues to be solved is that concerning access to the local loop. For this purpose the provisions of the Directive for the local loop should be implemented (still a proposal). A regulatory decision should be found for an issue concerning the unbundling of the local loop. The EU approaches on this matter are many and varied in substance, but still there is no clear regulatory framework. However, liberalization in the EU started on 01.01.1998. In Bulgaria this issue is to be studied.

Licensing

Bulgaria is going to harmonize the general regulatory framework with the provisions of the new EU Directive for authorizations for telecommunications activities following a further deregulation process without decreasing the efficiency of monitoring the market.

Universal service provision

Taking into consideration the real status of universal service provision in Bulgaria, the following measures are to be undertaken:

- Development of secondary legislation to regulate the universal service provision;
- Evaluation of the net costs of BTC Plc. for universal service provision;
- Development of a concept and starting preparation for introduction of compensation schemes for the costs incurred for universal service provision;
- Development of a policy for universal service provision for disabled and low user schemes.

Numbering plan

Fast development of the telecommunications networks and services and the prospective for expansion of the telecommunications market pose the question related to numbering, naming and addressing. Bearing in mind the extent of the development of the public telecommunications network in Bulgaria and based on detailed studies an opinion should be outlined of how the changes of the national numbering plan will influence market participants from a technical, economic and social point of view. In view of the significance of the national numbering plan for the process of liberalization of the market and taking into account the current situation in Bulgaria, it is necessary to start preparation for:

- Creating prerequisites for the introduction of carrier selection;
- Ensuring number portability;
- Introduction of European services on the basis of the international code „388" allocated for European Telephony Numbering Space (ETNS);
- Opportunity for touch-tone dialling by accepting the pan-European standard for key terminal devices.

Data protection

With regard to the rapidly progressing process of liberalization it is important to shape an overall legal and regulatory framework complying with the requirements for acquisition, processing and use of personal data by operators providing telecommunications services on commercial basis as adopted by EU Directive 87/66 and including the following components:

- Principles of viability of acquired information;
- Security, i.e., an obligation to undertake relevant technical measures that ensure security of the networks and informing the users in the case of security risks;
- Confidentiality;
- Restrictions as regards the scope of traffic and billing data;
- Giving the right to the user to present or restrict the identification of the calling or connected line;
- Guaranteeing to mobile subscribers that the data about their location will be processed only with their consent;
- Automatic call forwarding, i.e., giving the rights and means to subscribers to reject and return calls forwarded to their line;
- Giving the users the right to refuse their inclusion in printed or electronic directories that are available to the public or omit part of their address;
- Unsolicited communications, i.e., the right of the users to reject unsolicited messages for direct marketing purposes.

Standardization and conformity assessment

After removing the monopoly of the incumbent telecommunications operator, priority should be given to the introduction of European standards, harmonized with ONP Directives and related to the requirements for provision of analogue and digital leased lines, public telephone networks, packet switched data networks and respective services, ISDN and network interconnection.

2.3.2 Postal Services

The new economic conditions, the restructuring of the postal sector and the different requirements for the postal market are part of the reality imposing changes on the regulatory and legal framework in the area of postal communications.

All components and definitions originate from EU Directive 97/67. The categories „universal service", „reserved sector", „non-universal service", etc. have already appeared in the economic environment of all European countries. Gradual decrease of the reserved sector will result in removing the monopoly and the establishment of real conditions for loyal competition on the postal market.

Postal market and postal market players

„Bulgarian Posts" Plc. is the national public operator, 100% owned by the state. It manages, develops and maintains the national postal network. The operator provides throughout the whole territory of the country the overall scope of the universal service, defined in Directive 97/67/EC, express postal services, advertisement services, transport of deliveries and money orders. The company is the only operator providing a universal postal service.

„Press distribution" Plc. entity is also 100% state owned and implements subscription, acceptance, transport and delivery of press items throughout the territory of the country.

„Bulgarian Railway Company" (BDZ) participates on the market of parcel deliveries. It operates the national railway network, and access points are located at railway stations in the country.

In Bulgaria there are also private postal operators. Their interest is directed towards the „cream skimming" value added services, mainly express services (correspondence, advertising materials, parcels, etc.), offered mostly in the larger cities of the country. Some of the private operators are „Artefact", „Tip-top Courier", „City Express", the transport company „Group", etc. In Bulgaria there are also foreign postal operators – „DHL", „In Time" and „TNT". They provide express services on national and international levels.

Liberalization

The postal market in Bulgaria is practically liberalized. The prices of the services are not regulated, apart from prices for some services provided by „Bulgarian Posts". Universal service provision and the financial viability of the incumbent postal operator impose the necessity of the temporary introduction of a reserved sector. The scope and parameters of this sector are defined in the new Postal Services Law, fully in compliance with Directive 97/67/EC.

Management and regulation of the postal sector

According to the Postal Services Law executive power in the postal sector is exercised by the Minister of Transport and Communications. He is supported by a postal administration. The Ministry of Transport and Communications develops postal policy and defines the strategy, principles and stages of development of the postal sector.

The regulatory functions of the Ministry include but are not limited to:

- Elaboration and enforcement of the secondary legislation as per the law;
- Granting licenses and registrations;
- Ensuring provision of the universal postal service in the country;
- Ensuring conditions for loyal competition;
- User protection;
- Equal treatment of postal operators;
- Ensuring privacy of correspondence.

Licensing

Postal law provides for provision of postal services under the licensing regime. It is based on the principle for the objective criteria for granting a licence, equal treatment of operators, public awareness, observance of the exclusive rights of the incumbent operator and providing reserved sector services. Each person is entitled to provide postal services only if this person is licensed or duly registered.

Conclusions and recommendations

One of the main problems to solve is the effective independence of the regulatory structure for the postal sector. It should be effectively separated from the owner. In this way the compliance with the *acquis* will be ensured.

Chapter 3.
COMMON FOREIGN AND SECURITY POLICY

Georgi Dimitrov

3.1. Common Foreign and Security Policy of the European Union

In 1950, France, Germany, Italy, Belgium, Luxembourg and the Netherlands created a project for a *European Defense Community*, which envisaged the creation of a common European army. In 1953, political institutions of a federal type supplemented this construction and the project was called *European Political Community*. After a lively debate, the French Parliament rejected it in 1954.

The idea of political unity was reborn later on the initiative of General De Gaulle. In 1961–1962, a project for a „Treaty on the Union of States" (the so-called *Fouchet Plan*) was prepared. Under this plan, inter-State co-operation was to lead to a unified foreign policy, security guarantees for Member States against aggression and coordination of their defense policies. In the longer perspective the Treaty on the Union of States was to encompass the European Communities. The partners of France however rejected its initiative, as they wished to preserve the inter-state character of co-operation within the European Communities and the defense links with the United States and NATO.

In 1969, at the Hague Summit, the six EC Member States pointed out the need for the political unification of Europe. One year later, in Luxembourg, they adopted the „Davignon" Report, which marked the beginning of the *European Political Co-operation (EPC)*. EPC pertained only to foreign policy and aimed at the development of common understanding and solidarity of Member States on major international issues through contacts between their diplomatic services. In 1973, a joint desire was expressed for the elaboration of common approaches and coordination of diplomatic activities. Ten years later, the political and economic aspects of security, but not the military ones, were added to EPC. The harmonization of foreign policy still remained a marginal activity for the EC and continued to be carried out through unofficial arrangements and without permanent structures. In the Single European Act of 1986, aimed at reforming the EC,

the establishment of the EPC Secretariat was set out, but the term „common foreign policy" was still not introduced.

As it may be seen therefore, despite interacting closely on major international issues, the western European countries had refrained from assuming contractual obligations for common foreign policy for more than 40 years and had preferred it to stay a sphere of exclusive national prerogative. Ultimately however, the international and regional crises (for example that in former Yugoslavia), as well as the processes of economic integration within the European Union itself, presented greater requirements for the foreign policy activities of the union and its capacity to influence the international decision-making process. The efforts of the European Union to develop a common foreign and security policy became part of the process of strengthening European integration.

The Treaty of Maastricht (1992) launched the Common Foreign and Security Policy of the EU (CFSP) and formulated its main objectives. The Treaty of Amsterdam (1997) complemented the provisions in this area and laid down in a systematic way the instruments of the CFSP.

CFSP objectives

The Common Foreign and Security Policy does not cancel the foreign policy independence of individual Member States or the possibility of taking autonomous decisions in the field of defense and security. Yet it allows them to reach agreements on major international problems, to form common positions and act jointly in cases of mutual interest. Article 11 of the Treaty of the European Union defines the following CFSP objectives:

- To safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter.
- To strengthen the security of the Union in all ways;
- To preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders.
- To promote international co-operation;
- To develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms

The Member States undertake to support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity, to ensure conformity of their national policies with the EU common positions and to defend these positions at international fora and to support the joint actions of the EU.

CFSP bodies

CFSP is conducted with the help of the following *bodies with the participation of EU Member States*:

- *The European Council*, composed of heads of state and government and the President of the European Commission, meets at least once every six months to set priorities and give guidelines for EU policies, including CFSP;
- *The Council of the European Union*, composed of foreign ministers and the Commissioner on external relations forming the General Affairs Council, meets at least once a month to decide on questions related to the elaboration and implementation of CFSP in accordance with the instructions of the European Council;
- *The Committee of Permanent Representatives* (known as „Coreper", composed of the ambassadors of Member States to the EU and the Deputy Secretary General of the Commission, meets at least once a week to prepare Council meetings and decisions, including those related to the General Affairs Council and CFSP;
- *The Political Committee*, composed of political directors and representatives of the Commission, meets about twice a month to review international affairs and the implementation of CFSP decisions, as well as to formulate opinions on CFSP to be submitted to the General Affairs Council;
- *The European Correspondents* of EU Member States and the Commission assist the Political Directors and prepare the meetings of the Political Committee and the CFSP agenda items of the General Affairs Council and the European Council.
- *CFSP Working Groups*, composed of experts from EU Member States and the Commission, prepare policy documents and draft decisions on different geographical and functional problems for the consideration of the Political Committee;
- *The CFSP Counselors* of the Permanent Representations of EU Member States and the Commission examine legal, institutional and financial aspects of CFSP.

Presidency

The EU Presidency is responsible for the implementation of decisions in the field of CFSP and, on this basis, represents the EU in international fora. The Secretary General of the Council assists it in his capacity of High Representative for CFSP and, if needed, by the Member State that will be the next to assume the Presidency. This group is referred to as the „EU Troika". The Secretariat of the Council also assists the EU Presidency in certain ways.

European Commission

The European Commission participates in all aspects of work on CFSP to ensure the necessary close link with the two other areas where the Commission plays a leading role – external economic relations and development. Like any Member State, the Commission may submit issues and proposals to the Council, may request the Presidency to convene an extraordinary meeting of the Council and may inform the European Parliament about CFSP developments. The Commission is responsible also for the implementation of the CFSP budget and has the right of representation in international relations.

High Representative/ Secretary General

The Amsterdam Treaty instituted the post of High Representative for CFSP who is also Secretary General of the Council. The High Representative assists the Council in the formulation, preparation and implementation of political decisions on CFSP matters and, at the request of the Presidency, conducts a political dialogue with third countries on behalf of the Council and represents the EU in external relations.

Policy planning and early warning unit

The unit is established within the Secretariat of the Council under the responsibility of the Secretary General (High Representative). Its tasks include the monitoring, analysis and assessment of international developments and events and giving early warning of

potential crises. The unit elaborates political scenarios, strategies and recommendations to be presented to the Council.

Special representatives

The Council has the right to appoint special representatives with a mandate related to a specific political issue, for example the Middle East, South-East Europe, the Stability Pact etc.

European Parliament

The European Parliament has only a consultative role in the field of CFSP.

CFSP Instruments

The Amsterdam Treaty introduces the concept of *common strategies*, which the EU will implement in areas where the Member States have important common interests (for example Common Strategy for Russia). The European Council on a recommendation by the Council adopts the common strategies. Their purpose is to concentrate resources and to ensure conformity and continuity of EU actions and individual Member States. The Commission also plays a significant role in the elaboration and implementation of common strategies.

For the implementation of each common strategy, the Council adopts *joint actions and common positions*, which are legally binding for the Member States (for example a common position on human rights, democratic principles, the rule of law and good governance in Africa, joint actions in the field of non-proliferation of nuclear weapons etc.). They are presented primarily in international fora, mainly UN and OSCE. The common positions have no direct application. They may become the subject of joint actions (imposition of sanctions, for instance) with the adoption of an EU legislative act or where national legislation is at hand. Joint actions are undertaken in such spheres as security and co-operation in Europe, non-proliferation of weapons of mass destruction, trafficking in arms and weapon technologies etc. The Council's decision on a joint action is binding on the Member States.

Another instrument of the CFSP is *international agreements*. Negotiations for concluding agreements with a given state or international organization are held, at the request of the Council, by the EU Presidency assisted, when needed, by the Commission. Agreements are concluded by the Council, which decides on the matter with unanimity. The agreements do not, however, bind a Member State which has stated in the Council that its own constitutional requirements should be met in the first place. In such a case, the other Member States may decide to apply the agreement on a temporary basis. Furthermore, a declaration, annexed to the Treaty of the EU, stipulates that no international agreement can provide for the transfer of whatever competence from Member States to the EU.

Declarations are a flexible instrument for rapid reaction to sudden events in concrete countries or regions, or on specific international issues. They are entitled „Declaration of the European Union", when the Council has met and adopted a position, and „Declaration of the Presidency on behalf of the European Union", when the Council has not convened.

Systematic co-operation in the field of CFSP includes the exchange of information and consultations between Member States on issues of mutual interest, coordination of national actions, etc.

Contacts with third countries are also an important instrument of the CFSP. They are conducted mainly through meetings in the framework of „political dialogue" and *„demarches"*. The EU is engaged in a *political dialogue* with a wide circle of states and groups of states at all levels: heads of state and government, ministers, political directors, senior officials and experts. The Presidency, the „troika" or all Council Member States represent the EU at such meetings and the Commission is also present. *The demarches* are a confidential means for solving questions connected with human rights, democratic order or humanitarian actions in third countries.

The strategy for the preparation of associated countries from Central and Eastern Europe for EU membership (Essen, 1994) initiated an intensified political dialogue with them. It consists of: a) acceptance of joint declarations, *demarches*, actions and positions; b) co-operation in the framework of international organizations and fora; c) co-operation in third countries; d) meetings of joint working groups; and e) meetings of European correspondents, political directors and foreign ministers of EU and associated countries (General Affairs Council). After the European Council in Luxembourg (December 1997), multilateral dialogue between the EU and the accession countries, including that in the field of CFSP, developed in the framework of the European Conference at the level of heads of state and government and of foreign ministers.

Decision-making process in the field of CFSP

As a rule, decisions in the field of CFSP are taken unanimously. However, the Treaty of Amsterdam allows so-called constructive abstention. Under this procedure, a Member State is not required to apply the decision but does not block its adoption. It is also envisaged that qualified majority voting may be used in the Council in taking decisions on: a) joint actions, common positions and other acts for the implementation of common strategies decided on by the European Council; and b) the implementation of joint actions or common positions. If, however, a Member State declares that it will oppose the adoption of a decision by qualified majority for important reasons of national policy, such vote will not be taken. In this case, the Council may, by a qualified majority, refer the matter to the European Council for a unanimous decision. It should also be noted that the qualified majority in taking decisions on CFSP is in practice a „reinforced qualified majority", as 62 votes in favour cast by at least 10 Member States are required.

The European Security and Defence Policy as part of the CFSP

The possibility of conducting a common European Security and Defense Policy (ESDP) was envisaged for the first time in the Treaty of Maastricht. The Treaty of Amsterdam specifies further EU policy in this direction. The so-called Petersberg tasks (humanitarian, rescue, peacekeeping and crisis management) are expressly mentioned as elements of the security policy of the union. Guidelines for the development of CFSP towards the establishment of common defense are given. The possibility of integrating the West European Union (WEU) into the EU is also stipulated and strengthening of the institutional links between the two organizations is provided for.

The European Council in Cologne (June 1999) adopted a Declaration on the strengthening of the common European security and defense policy. A differentiation was made there between collective defense, which will continue to be ensured by NATO,

and the Petersberg operations, which require the build-up of relevant forces and capabilities by the EU. A proposal for the establishment of new EU bodies in the field of security and defense was made. The European Council in Helsinki (December 1999) took important decisions, aimed at strengthening the EU role in this field, among which were the following:

- Establishment of European rapid reaction forces: By the year 2003 a capacity should be built for the deployment (within 60 days) and support (for at least one year) of an army corps, consisting of 15 brigades with a total personnel of up to 60,000 people. The EU Members States are to determine by themselves the amount of their national contribution. The European NATO Member States, which are not EU members, as well as the EU candidate countries, are invited to participate. The Council will take decisions for the launching of operations and the involvement of the union in crisis management, but the inclusion of national forces in the operation will be decided by each Member State individually.
- Establishment of new permanent bodies within the Council:
- A Standing Political and Security Committee at the level of ambassadors of the Member States – responsible for all aspects of the Common Foreign and Security Policy, including ESDP; under the Council's direction, exercises a strategic guidance and political control of the crisis management operations and guides the activities of the Military Committee with the help of directives.
- A Military Committee composed of the chiefs of general staff of the Member States, represented by their delegates, assists the political bodies on issues of a military nature by giving opinions and recommendations and oversees the EU Military Staff.
- Military Staff carry out early warning and assessment of the situation, exercise the strategic planning and direct command of ongoing operations and determine the national and multinational forces needed for the execution of the operations.
  - EU High Representative for CFSP who is also the Secretary General of WEU – responsible for organizing the interaction between EU and WEU in the transitional period of setting up the new bodies and for assisting the Council in the area of security and defense.
  - Consultations and co-operation with non-EU countries and NATO in the process of institution and implementation of ESDP at the level of experts, ambassadors and ministers within the EU single institutional framework and its autonomous decision-making procedure. At the same time, the countries providing significant military forces will have equal rights with EU Member States in the day-to-day command of operations.
  - Development of EU non-military capabilities for crisis management, including : police forces for the conduct of civilian police missions ; teams for search and rescue ; and humanitarian and medical aid.

Until the establishment of the permanent bodies, consultations with NATO Member States that are not members of the EU and with EU candidate countries will be held at least twice per presidency, including once at the level of ministers (the so-called format 15+15). After the setting up of the permanent bodies, a mechanism of interaction, tailored to the specific situation, will be introduced: a regular dialogue in a routine, non-crisis situation; intensive dialogue and consultations in a pre-operational situation; committee of the contributors *ad-hoc* – at the operational stage. The co-operation between the EU and NATO in the context of ESDP is to be organized at this stage in four working

groups: on security matters ; capacity building ; EU access to NATO assets and forces ; and the elaboration of a permanent arrangement for consultations EU-NATO. A mechanism for the coordination of national non-military means for crisis management was created within the Council's Secretariat, which works closely with the European Commission.

A procedure for the formation of civilian police units for international conflict prevention and crisis management operations is underway. Member States should be able to recruit and deploy one thousand police officers for the purposes of such EU-led operations within 30 days. At the Capabilities Commitment Conference in November 2000, the Member States pledged their national contributions to crisis management operations, forming a „Force catalogue" that includes more than 100,000 persons, 400 warplanes etc. In addition to the collective EU military capacity, „third countries" in the format 15+15 also made commitments for national contributions.

The major question that arises about ESDP is about the division of competence and the character of relations between the EU and NATO. Though a final vision on this matter is not yet available, there is a prevailing opinion that the creation of an autonomous EU military capacity will go hand in hand with the development of stronger co-operation and consultations with NATO on the basis of a concrete mechanism. The necessity of defense planning coordination and EU access to NATO operational plans and use of its assets and forces is also referred to in this context. This will allow the Europeans to respond effectively to UN and OSCE demands for conducting military operations in the cases when NATO as a whole is not willing to be involved. Those, who are more sensitive on the issue of preserving the transatlantic link, advance the idea of joint defense planning and participation of non-EU Member States of NATO in European crisis management operations. In practical terms however, this problem is not relevant now. Experts think that the EU will not be in a position at least in the next 10–15 years to conduct operations without the participation of NATO.

Irrespective of the need for further consideration, the issue of the impact of ESDP on the future of WEU does not seem so crucial from a strategic viewpoint, given that WEU has always been an essentially political organization with limited military functions. Nevertheless, the question of institutionally linking WEU with the newly created security and defense structures or even integrating it into the EU will become topical at a given stage.

3.2. The Bulgarian Foreign and Security Policy Regarding EU Requirements

The main prerogatives in the field of CFSP belong to the Member States and the EU bodies with direct membership participation, while the powers of the European Commission, the European Parliament and the European Court of Justice are limited. Respectively, the legal instruments „directive" and „regulation" are not applied to CFSP. *Acquis communautaire* is implemented mainly through co-operation at the intergovernmental level. Therefore, a special harmonization of national legislation is not required. Common policy is carried out through joint actions *vis-a-vis* certain international problems and events.

Based on the practical experience of EU enlargement and the ongoing negotiations for the accession of new members, the following *general requirements of the EU* related to CFSP can be denoted:

- Devotion to the EU objectives in the field of CFSP;
- Acceptance of the decisions, adopted by the EU in this sphere;
- Eagerness to participate productively in CFSP;
- Ability to contribute to the development of CFSP and the strengthening of co-operation among Member States.

In the course of the accession negotiations, Bulgaria stated that it shared the common values, principles and objectives of the European Union in the area of CFSP. It also declared its willingness to participate actively in the implementation of the common policy, including the development of regional co-operation in South-Eastern Europe, the common European security and defense policy and the building of capacity for action by the EU in managing crises. It was noticed that the Constitution of the Republic of Bulgaria and the bilateral and multilateral agreements related to CFSP, to which Bulgaria is a party, are not at variance with EU requirements. Availability of structures, administrative capacity and organisational experience needed for the implementation of *acquis* in the field of CFSP was also reported. It was concluded therefore that no derogation or transitional periods should be required in this area. The National Assembly approved the negotiating position of the Bulgarian Government with consensus and this chapter was closed quickly at the negotiations on Bulgaria's accession to the EU.

Of course, this is more or less the formal side of the question of the degree of readiness of Bulgaria to assume the responsibilities connected with CFSP. More important is the substantive part – what kind of foreign policy is Bulgaria conducting and how does it conceive its future participation in and contribution to the joint enterprise?

Political dialogue with the European Union

The dialogue between Bulgaria and the EU in the framework of CFSP in recent years has contributed to better information exchange, created opportunities for the elaboration of common positions and promoted co-operation in international organizations *vis-a-vis* third countries. As a rule however, Bulgaria had to join documents and *demarches* that had already been agreed upon within the EU, without being able to make its view known beforehand. In certain cases, an opposite but equally negative tendency could be observed, when Bulgaria sustained different positions from those of the EU – for example in the voting of UN resolutions on Middle East problems. The existing EU mechanisms of co-operation with countries in other regions and their organizations, for example in Asia, could be also used by Bulgaria to widen the field of activity of its diplomacy and foreign policy.

Bulgaria embraced the overall EU approach to conflict prevention and crisis management, expressed its desire to take part in ESDP even at this stage, including in its industrial dimension, and officially announced its concrete contribution to the enhancement of European military capabilities.

Regional policy

As a whole, Bulgaria demonstrated the ability to generate security and stability in the region of South-Eastern Europe. Its stabilizing role in the Balkans during the conflicts in former Yugoslavia was internationally recognised. Bulgaria was the first to recognize the independence of the former Yugoslav republics and contributed a great deal to the early entry of the Republic of Macedonia into international organizations. By strictly applying UN Security Council sanctions against Yugoslavia, Bulgaria made also a contribution to the achievement of the Dayton peace accords of 1995. Bulgaria settled or began settling the open questions in the relations with its neighbors, pursuing the aim of including the region in the processes of integration in Europe. The meeting of foreign ministers of countries of South-Eastern Europe, held in Sofia in July 1996, revived the multilateral Balkan co-operation. Concurrently, Bulgaria became an active participant in other regional endeavours – the Roayamon Process initiated by the EU and the US South-East Europe Co-operative Initiative. The various forms of trilateral co-operation with other Balkan states in different configurations are also part of the regional policy of the country. Bulgaria was among the initiators of the regional co-operation in the field of security and defense. One important outcome of this co-operation is the establishment of Multinational peace forces in South-Eastern Europe, which can be assigned to NATO or WEU for peacekeeping operations under a UN or OSCE mandate. Some actions however, at times provoked the impression that relations were being developed with certain states at the expense of others, and that some Balkan countries were being isolated from joint regional undertakings. Solutions of a number of bilateral problems could not be found for a long time and some of them are still unsolved. New subjects of contention emerged periodically in the relations with some of the neighbors. At the bilateral level in general, there is a notable reserve for the development of co-operation with every country of the region without exception.

Multilateral co-operation

The contribution of Bulgaria to the activities of the international organizations testifies to its commitment to the strengthening of European security and co-operation. Bulgaria participates actively in all forms of co-operation with the North Atlantic alliance and has declared its willingness to become a NATO member. The participation in „Partnership for Peace" is particularly important for security in South-Eastern Europe. Bulgarian military men are still serving in SFOR and KFOR. The status of WEU associated partner that was given to Bulgaria is a significant step towards future full-fledged participation of the country in the new institutional forms of security and defense co-operation within the European Union.

The participation of Bulgarian representatives in a number of UN and OSCE missions is a sign of the serious attitude to this important aspect of the activities of the two organizations. Bulgaria became a member of the Council of Europe, acceded to its major international legal acts and recognized the jurisdiction of the European Court.

Non-proliferation and arms control

The Bulgarian policy of export control of weapons and dual-use equipment and technologies follows the mainstream of international and European standards. Accordingly, the national legislation and administrative procedures in this area have been modified in the past few years, their application has been improved, and the respective organs and mechanisms have been reinforced. By acceding to the Wassenaar Arrangement Bulgaria got the chance to take part in the shaping of international policy in a very important and sensitive area, to draw from the experience of more advanced countries and eventually – to become involved in the international exchange and division of labour in the military/industrial sphere and receive access to high technology. Regrettably, these opportunities have not been used up to now.

Bulgaria became party to the main international agreements in the field of arms control and disarmament which were concluded in the last decade – the Chemical Weapons Convention, the Comprehensive Nuclear-Test-Ban Treaty, the Convention on the Prohibition of Anti-Personnel Mines, and others. After the entry into force of the Treaty on Conventional Forces in Europe, Bulgaria showed timely and good faith fulfilment of its obligations for arms reductions and took an active part in the follow-up negotiations on the adaptation of the treaty to the post-bloc situation in Europe.

Relations with Russia

The policy towards the Russian Federation in the past decade moved back and forth depending on the internal political changes in Bulgaria and often had an ideological shade. Periods of pragmatic co-operation, stagnation and even strained relations succeeded each other. As a result, the traditional economic and commercial ties with Russia were ruined. Other areas of co-operation were also impaired – scientific and cultural exchanges, education, etc. Important bilateral problems remain unresolved. As a whole, Bulgaria could not add its relations with Russia to the main stream of the policy of European and Euro-Atlantic integration, although the strategic documents of both the EU and NATO encourage partnerships with Russia.

3.3. Recommendations

The common foreign and security policy is in principle one of the least problematic areas in the preparation of Bulgaria for EU accession. In most cases, Bulgaria abides by the common European positions in its external relations even now. The country has the potential to contribute even more to CFSP before its accession to the EU, by taking part in the elaboration of common positions even at its initial stage, especially in areas where it possesses undisputed knowledge and experience, for example in co-operation in South-Eastern Europe.

Bulgaria and the EU – joint efforts to strengthen co-operation, stability and security

Security and co-operation in the European space and its South-eastern part will undoubtedly remain at the centre of relations between Bulgaria and the European Union. The following main tasks can be outlined in this area:

- *Contribution to common security* by carrying out a manifold foreign policy; respect for international legal rules and support of the efforts of the UN and the European and Euro-Atlantic organizations in this direction;
- *Consistent safeguarding of the specific interests and priorities of Bulgaria* in the context of the European orientation of the country;
- *More active participation in the working forms of dialogue within the EU*; adherence to the common European line of action on major international issues;
- *Contribution to the building of a European defense potential*, together with developing the partnership with NATO;
- *Carrying out a balanced regional policy,* developing relations with all neighbors according to the European standards and norms; promoting co-operation, good-neighborliness and peaceful settlement of disputes between the states of the region;
- *Bringing the attention of the EU to the processes in South-Eastern Europe*; close interaction in specifying its responsibilities and elaborating a comprehensive approach to the region; support of all EU initiatives, directed at the stabilization of South-Eastern Europe and the creation of an atmosphere of confidence, attractive for foreign investment;
- *Effective involvement of Bulgaria in the trans-European infrastructure projects and networks;*
- *Utilization of appropriate means of informing the public in EU Member States about Bulgarian history and culture and the achievements and potential of the country in various fields;*

Contribution to the establishment of new security architecture

The security of Bulgaria will be best guaranteed through a full-fledged and coequal participation in a joint European security system where all institutions with competencies in this area will act together in an interlocking way.

NATO plays a particular role in the framing of the European security architecture, including in the region of South-Eastern Europe. The consensus achieved in the country among the main political forces has opened the door for the membership of Bulgaria in the alliance in the near future. This will help to achieve national security guarantees and to assure the direct participation of the country in decision-making and the expansion of its role on the international scene.

Priority tasks in the process of preparation for NATO membership are:

- adjustment of the national security policy to NATO requirements;
- active participation in the „Partnership for Peace" program and in the activities of other NATO partnership bodies;
- further adaptation of the Bulgarian armed forces to the alliance's standards;
- continuation of the work, in a dialogue with NATO Member States and its governing bodies, on the optimization of the Membership Action Plan;
- yearly update of the National program for NATO membership in accordance with the results of the implementation of „Plan 2004" for the reform of the Bulgarian army;
- intensification of consultations with the new members of NATO – Poland, the Czech Republic and Hungary – with the purpose of drawing from their experience and obtaining their support;
- continuation of the participation of Bulgarian military units in the peacekeeping operations in Bosnia and Herzegovina and Kosovo;
- fuller use of the opportunities provided to Bulgarian officers by NATO structures and institutions for training, exchange of information and consultations;

The development of the common *European security and defense policy* holds an important place in the long-term policy strategy for expanding the role of the European Union on the international scene. The combination of future military and non-military crisis management instruments with the financial, commercial and investment mechanisms that are available now will tremendously widen the scope of EU competencies and turn it into a unique international organization. This will require the acquisition of additional capabilities and successful coordination between the existing and the newly established bodies and mechanisms, both within the union itself and in its relations with other organizations and partners.

The mechanism for dialogue and consultations in the 15+15 format allows for effective involvement of the partners, including Bulgaria, in the process of ESDP shaping. The adopted permanent arrangements for relations with „third countries", which set the mechanism for consultations between them and the EU, as well as the guidelines for their participation in EU-led crisis management operations, are of particular importance for Bulgaria. Bulgaria's participation in this mechanism will contribute to the future full integration of the country into the permanent ESDP structures. The common European security and defense policy also includes enhanced co-operation in the field of military

industry, needed to lay a solid foundation of a truly effective common defense. It is in the interests of Bulgaria to become an active participant in various forms of industrial co-operation even at this stage.

The Organization for Security and Co-operation in Europe (OSCE) is an important instrument of preventive diplomacy, conflict settlement and post-conflict building of peace and democratic order. With its work on the elaboration of a model for common and comprehensive security, OSCE gave a practical expression to the concept of interlocking institutions and outlined the general framework of interaction and coordination between them. Its comprehensive approach to security and rich experience in crisis management and conflict prevention make OSCE a valuable EU and NATO partner in tackling various international issues in different geographical areas. Further active and constructive participation in OSCE remains an imperative priority and necessary condition for the integration of Bulgaria into democratic Europe, as well as for guaranteeing durable peace, strengthening security and developing co-operation in the Balkans. The issues related to the implementation of international agreements and the post-conflict rehabilitation of former Yugoslavia, the situation in South-Eastern Europe, the monitoring in Kosovo, the economic dimension of security, the infrastructure etc. hold priority for Bulgaria.

The Council of Europe is another component of the system of interlocking institutions. With its enlargement to the East, the real process of building a united Europe began. The Council of Europe put forward the concept of „democratic security" and started to uphold it by means of assiduous application in the practice of European states of the principles of rule of law, respect of human rights and pluralistic democracy. In the fulfillment of its tasks, the Council of Europe established special juridical and control mechanisms and accumulated considerable experience and expertise in legislative and institutional areas. This could be particularly useful in the interaction with the EU and other organizations at the stage of post-conflict building of the democratic foundations of society.

Irrespective of the still existing political and financial limitations, the *United Nations* remains the most authoritative international organization with the potential to develop as the general framework of a global security policy. However, the road of turning the UN into an operative system of collective security is still long. In a number of cases, the UN was unable to undertake enforcement measures of a military character according to chapter VII of the Charter. Such functions were transferred to *ad-hoc* coalitions using NATO or individual Member States' assets. This may well become a steady practice. In such cases, the Security Council's mandate should remain a *conditio sine qua non* for the conduct of operations and the single indicator for their legality. The EU statement, that the development of ESDP is directed at enhancing the ability of the union to contribute to international peace and security according to UN principles, is particularly important in this connection. The European Council in Goteborg (June 2001) confirmed the primary role of the UN Security Council in the maintenance of international peace and security and drew up measures for enhanced co-operation between the two organizations in conflict prevention and civil and military aspects of crisis management.

In recent years, the Security Council has often imposed economic sanctions as an enforcement measure under chapter VII of the UN Charter. The assessment of the relevance and effectiveness of this measure is equivocal. The discussion on this matter within the UN, whose main initiator was Bulgaria, has still not brought about solutions to major problems, such as the ways to restrict the negative side effects (economic, social and

humanitarian) of the sanctions, including with respect to third countries, the formulation of objective and transparent criteria and procedures for their introduction, application and termination. This is one of the main questions which Bulgaria should continue to raise not only in the UN but also in its relations with the EU, OSCE and the international financial institutions, both in view of the losses suffered so far by the country and of its future participation in international actions of this kind.

The international organizations and various multilateral initiatives and regimes provide many opportunities for safeguarding Bulgarian interests and strengthening national security. The Republic of Bulgaria should gain anew and affirm its role in these organizations and regimes in close co-operation with the permanent members of the UN Security Council, the EU, the candidate countries and other leading states. Priority tasks in this direction are:

- Election of Bulgaria as a non-permanent member of the UN Security Council and successful carrying out of the responsibilities arising from membership; timely preparation for and efficient implementation of the functions of the OSCE presidency in 2003;
- Further participation, in accordance with the capabilities and interests of the country, in peacekeeping operations under the aegis of the UN or OSCE; improvement of the internal legal basis for participation in such operations;
- Deepening of international co-operation in the fight against the proliferation of weapons of mass destruction, the illicit trade in arms and dual-use goods and technologies, drug trafficking, terrorism and organized crime;
- Use of all opportunities within the international organizations and regimes for the development of the Bulgarian military industrial complex; modernization of the technological base of the military industry; and preservation and progress of Bulgarian military science;
- Initiation of projects for the protection of the environment with foreign participation.

Bilateral relations with European countries, the USA and Russia

The strategic goal of full membership of Bulgaria in the European and Euro-Atlantic structures presupposes further widening and deepening of *relations with the individual European countries, the United States and Russia.* The progressive development of bilateral relations has an important stabilizing impact on security and co-operation in the region and contributes to the acceleration of economic reforms and the advancement of democratic processes in the country. Priority tasks in this direction are, *inter alia*, the following:

- support of the efforts of European countries, the USA and Russia, aimed at the stabilization of South-Eastern Europe;
- refraining from acts which could lead to confrontation among those states on the Balkans;
- undertaking measures for the increase of commercial exchange;
- improvement of the conditions for foreign investment, including in the infrastructure;
- development of relations in the fields of culture, science and education;
- the businesslike and mutually beneficial solution of remaining problems in bilateral relations;

A new policy in South-Eastern Europe. Security and stability through co-operation and integration

The negative consequences of the wars on the territory of former Yugoslavia require a rethinking of the policy in South Eastern Europe by the Balkan states and the international community alike. The region is facing the following dilemma: co-operation and integration on the basis of the principles set up by the EU and adapted to the regional specifics; or continuing fragmentation and disconnection from the European processes. The choice of the model of development will also largely determine the future of Europe as a whole and its place in the world of ongoing globalization – whether it will become a „success story" and a leading factor of world progress or a secondary international player.

Unfortunately, the attempts to manage the consequences, rather than the causes of the conflicts in the region (Bosnia and Herzegovina, Kosovo, Macedonia), have so far not suggested lasting solutions for a number of key problems. Among them are the following: the building of confidence in bilateral relations; the deterrence of extreme nationalism of both majorities and minorities; ethnic-religious relations in combination with the issue of existing borders; refugees; the ecology of the region; the underdeveloped infrastructure, additionally destroyed by wars; the investment deficit; the militarized mentality and day-to-day life etc.

There is now an urgent need for overall reassessment of the regional policy in South-Eastern Europe, aimed at the following:

- lasting security;
- economic and infrastructure development;
- raising living standards;
- integration of the region into Europe;
- joint response to the new global challenges.

The concrete co-operation mechanisms are known – UN, OSCE, NATO, EU and the Council of Europe on one hand and the various regional initiatives, including the Stability Pact, on the other, working closely together with a common strategy. The pacification, rehabilitation and stabilization tasks can be accomplished with their help in a comparatively short-term perspective, laying at the same time the foundation for integrating the region into Europe, the latter being the only means for enduring solution of the problems of security and development. The European Union is to play a leading role in these processes and should give a clear signal as to when and how it intends to draw the region towards the single European space. There are two possible approaches along this way:

- Putting the emphasis on the development of regional Balkan integration as a pre-accession strategy; The shortcoming of this approach is in the fact that the region could hardly generate economic development and prosperity bringing it closer to the European standards by itself.
- Speeding up the integration of individual Balkan states into the EU; Here, a possible flaw is the risk of continual escalation of the EU membership requirements on one side and of unhealthy competition among the Balkan countries on the other.

Both approaches have their grounds. It seems however, that the arguments of their respective proponents and opponents have to do mostly with the actual state of the region, rather than with the long-term objectives in a broader European context. As in other cases, here also the valid answer could be found perhaps somewhere in the middle – a stage-by-stage and all-embracing expansion of the co-operation among the countries of the region, going in parallel with their integration into the EU. In other words, while boosting regional co-operation, the European Union should at the same time place every country of the region on a „European track" corresponding to the particular level of development, but clearly defined in each individual case.

Today's world political agenda includes a number of initiatives, aimed at changing the current situation in South-eastern Europe as a source of serious international tension and the post-conflict rehabilitation and reconstruction of the region.

The Pact on Stability, where the European Union plays a leading role, has embraced the ambitious goal to generate more security for South-eastern Europe, to spread the principles and practices of democracy and processes of co-operation all around the Balkans. It should be promoted as an expression of a new policy in the region – a policy based not on the use of force but on the mechanisms of co-operation, aimed at surmounting the deficit of democracy and achieving stability and prosperity. This initiative should lead to the advancement of the political and economic integration of the states of the region into the European Union.

The ideas of the Party of the European Socialists for the implementation of a new „Schuman Plan" are worth special attention. „The partnership for prosperity", proclaimed in this context, includes the three most important and sensitive spheres of relations in the region – democratic institutions, economic policy measures and regional security. Bulgaria should analyze and formulate positions even at this stage on some other ideas and proposals for the region, though they need further elaboration and refinement. Among them are plans of the „Marshall" type, ideas about the application, with the help of the EU, of strict monetary measures in the less advanced countries, about the creation of a free trade zone and a customs union in the Balkans, about the introduction of new categories of EU members, etc.

While implementing existing regional initiatives and devising new ones, the following approaches should be pursued:

- In order to mobilize the regional co-operation potential, the principles and forms of interaction between the Balkan states should be reviewed and developed in conformity with the new circumstances. The views and the active participation of the countries of South-eastern Europe are a decisive condition for the success of any initiative concerning the region. The universal principles of interstate relations embodied in the UN Charter, the Helsinki Final Act and the Paris Charter for a New Europe retain their validity. At the same time, the application of these principles in the region has lately acquired a certain specificity, connected with the human rights situation and the international operations under way, including that of a military character.
- The good experience from past initiatives could be used in the process of drawing up new ones. This refers to the „Baladur Plan", the Royaumon Process and the EU Platform of Action, the Southeast Europe Co-operative Initiative of the United States, the Sofia initiative for good-neighborly relations, stability, security and co-operation on the Balkans, the Central European Initiative and the Black Sea Economic Co-operation.
- The long-standing commitment of the European, Euro-Atlantic and global political and economic organizations, as well as of the international financial institutions, is of particular importance for the rehabilitation and development of Southeastern Europe and its integration in the European space. Every one of them has its own specific means to assist and support the countries of the region.
- Other interested extra-regional powers should participate on an equal and non-discriminatory basis and take into account the common interest of the states of the region – strengthening of security, economic reconstruction, prosperity and European integration. The external economic assistance should follow a realistic time schedule and have concrete objectives at any given stage. The aid should be extensive especially in the beginning to give the necessary momentum to the process of regional reconstruction and development.
- The objective conditions call for the early implementation of the following measures: provision of huge humanitarian assistance and creation of conditions for the return of refugees and displaced persons through the opening of job opportunities in their places of residence; restoration of transport and other infrastructure, including implementation of the pan-European infrastructure projects which implicate Southeastern Europe, support for infrastructure and social projects at the local (municipal and regional) level and development of cross-border co-operation; investigation and elimination of the negative effects on ecology in the region, on the Danube and the Black Sea.
- The reconstruction should be carried out primarily through the states of the region, by giving opportunities to their national companies to participate on a priority basis in the implementation of donor-funded programs.
- The next steps for stimulating economic development should be directed at the following: lessening the burden of foreign debt of the states of the region; better access of their goods to the Single European market; reinforcing the link of the region with the European Union in the field of monetary policy, customs etc.; establishing a Balkan economic area based on a multilateral agreement, as part of the process of European integration; sustaining small and medium-sized businesses with the means available to the EU and the Pact on Stability for Southeastern Europe; increasing the export quotas and other trade-promotion facilities for the countries of the region in the framework of the World Trade Organisation; governmental guarantees for private investors from the developed states.
- The following measures in the field of regional security should be undertaken: unconditional recognition of the inviolability of borders in the Balkans in conformity with UN and OSCE principles; elaboration of a universal mechanism for the implementation of peace agreements in the region, early warning and conflict prevention; adoption, under international supervision, of additional bilateral and regional confidence and security-building and arms control measures; joint actions against terrorism, drug trafficking, illicit arms trade and organized crime.
- Together with the above-mentioned, the efforts aimed at the strengthening of democratic institutions and the rule of law, should be continued. The existing mechanisms should be effectively used and new mechanisms should be instituted for the protection of human rights and minorities, encouraging cultural exchanges and contacts, ensuring the freedom of movement, visa-free student and youth traveling, etc.

Bulgaria can and must assume greater responsibility in the processes of stabilization and development of co-operation in Southeastern Europe. The bilateral relations and

multilateral co-operation in the Balkans should evolve on the sound basis of mutual interest, without sudden turns of disposition, building of „axes" and „triangles" and sub-regional division. For Bulgaria, regional economic, political and military co-operation is an important element of European and Euro-Atlantic integration and not its substitute. The extension of European integration processes to the Balkans remains the final objective.

Priority tasks on this road are:

- the expansion of all-Balkan co-operation with the active involvement of all leading international factors with interests and the capacity to act in the region;
- the achievement of the goals of other international initiatives on the enhancement of stability and promotion of regional co-operation (Pact on Stability, Southeastern European Co-operative Initiative);
- the intensification of activity in the framework of the Black Sea Economic Co-operation, its Parliamentary Assembly and the Black Sea Bank;
- the development of multilateral co-operation in the field of infrastructure projects with a view to improving and expanding the national and regional infrastructure and turning Bulgaria into a modern infrastructure center;
- the use of the possibilities offered by European and wider international fora for the realization of programs for the development of South-eastern Europe;
- the participation in post-conflict peacekeeping operations and missions under the UN/OSCE aegis;
- the mutually beneficial solution of the questions that are still unresolved in relations with neighbors, the improvement and development of the legal base of relations, the establishment of a balance in the relations and equal treatment of all countries of the region, intensification of the co-operation with those which have been overlooked until now for some reason.

Development of relations with other countries and regions

Bulgaria should extend the regional domain of its foreign policy beyond Europe. The development of ties with other states and regions does not repudiate and cannot impair the European orientation of the country. All efforts should be made to restore the confidence in the relations with the states of the Middle East, Asia, Africa and Latin America and to maintain much more active contacts with them. The opposite results in a loss of influential foreign supporters and friends, of important markets and spheres of political, economic and cultural influence. The main tasks in this respect are:

- The amelioration of the atmosphere of relations and restoration of the traditional positions of Bulgaria;
- The placing of relations on a stable long-term political basis;
- The expansion of trade exchange and encouragement of influx of foreign investment and know-how;
- The collection of unsettled payments by a number of states;
- The re-entry on to the markets in these regions;
- The development of relations in the fields of culture, science and education.

Protection of Bulgarians abroad

The effective protection of the rights of Bulgarian citizens abroad and of Bulgarian minorities and their societies and organizations is a primary responsibility of the Bulgarian

state and should become its permanent foreign policy objective. This would also contribute to the closer involvement of Bulgarians living all around the world in the discussion about and solution of the problems of their mother country. The main tasks in this respect are:

- Further liberalization of the traveling regime of Bulgarian citizens abroad;
- Protection of the rights and interests of Bulgarian minorities and persons with Bulgarian self-conscience in accordance with international norms;
- Support for the activities of Bulgarian companies and other legal entities abroad;
- Conclusion of agreements with the respective states on the economic and social status of Bulgarian immigrants;
- Active contacts and co-operation with those Bulgarians abroad who are willing to contribute to the social and economic development of Bulgaria;
- Propagation of the achievements of Bulgarian art and culture among Bulgarians abroad, rendering assistance for the preservation of their national and cultural identity.

Strengthening of the professional diplomatic service

The incorporation and faithful application of the European principles and mechanisms in the field of diplomacy is an important prerequisite for the success of Bulgarian foreign policy. A priority task in this respect is the speedy adoption of a *law on the diplomatic service* and other legal instruments aimed at upholding the professional approach, continuity and political impartiality in the work of diplomats and at the effective defense of their labor and social rights.

Chapter 4.
JUSTICE AND HOME AFFAIRS

4.1. Co-operation in the Area of Justice and Home Affairs in the EU framework

Pavlina Popova

The European Union Treaty, known as the Maastricht Treaty, which entered into force on November 1 1993, adds a new dimension to European integration: co-operation in the area of justice and home affairs or the so called „third pillar". Although various forms of co-operation were established as early as the 70s until the Maastricht Treaty entered into force, they were not within the Community framework (such a partial form of co-operation, which has an intergovernmental framework is the well-known Schengen Agreement, which was integrated in to the EU framework with the Amsterdam Treaty). The Maastricht Treaty and later the Amsterdam Treaty created a basis for close collaboration between the ministries of internal affairs and the ministries of justice of the EU Member States. They allowed dialog, mutual co-operation and joint efforts between the police, customs and immigration offices and justice ministries.

The co-operation between the **judicial administrations** of the Member States has two aspects: co-operation on civil matters and co-operation on criminal matters. Co-operation on civil matters deals, for example, with problems related to the mutual recognition of court decisions for divorces or custody of children, as well as with commercial matters (for example bankruptcy), parties to which are two or more Member States. The European Union has a series of programs, aimed at enhancing the knowledge of the magistrates of the individual Member States about the legal and judicial systems of the EU Member States.

The co-operation between the **customs administrations** of the Member States also secures the coordination and the joint efforts between them through compliance of the national legislation and the Community legislation. For example, the convention signed in December 1997, is aimed at a significant strengthening of the struggle against the

spreading of various forms of illegal trafficking and in this way the national administrations will co-operate in the fight against the illegal trafficking of drugs, weapons, cultural treasures, dangerous waste and nuclear materials.

The co-operation between the **police forces** of the Member States is necessary, bearing in mind the fight against terrorism, drug trafficking and crime. Europol, the European police force, which started to function on July 1 1999 will play an important role in this co-operation.

Immediately after this it must be noted that the co-operation between the customs, judicial and police administrations must not be divided, as their work is very often interconnected and incorporates different aspects of the same matters.

The need for co-operation in the area of justice and home affairs

There are several main reasons for co-operation in the area of justice and home affairs:

- The creation of space for the free movement of people had to be accompanied by complementary measures for strengthening of the external EU borders, giving of asylum and immigration policy.

One of the main aims of the European Community is the creation of a large European market, the achievement of which is impossible with borders between the Member States with separate national markets. Due to this, the EU needed to establish a space with no internal borders, in which goods, capital and services could move freely. The fourth freedom, however – the free movement of people – generated various problems, namely internal security in each Member State. The elimination of the borders between the Member States, allowing the free movement of people, could not lead to the loss of the security of the citizens, of public order or of civil rights. In order to overcome these problems the EU undertook complementary measures:

- Strengthening of the external boarders of the Union. With the elimination of the borders between the Member States, they were deprived of the ability to control and filtrate the entrance and identity of the persons crossing their borders, thus assuring the internal security of their own territory. In order to ensure the same level of security between the Member States of the Union and third countries it was necessary to shift the control from the internal to the external borders of the Union. This way each Member State, responsible for the control of the borders with third countries automatically became a guarantor not only for its own security, but for the security of the other EU Member States as well. Namely, the strengthening of the external EU borders required the enhancement of the co-operation between the internal and justice ministries and especially between the police forces, customs and immigration administrations;
- Immigration and third country nationals. *The free movement of people is intended for citizens of the European Union, i.e. for those who are citizens of one of the Member States. The space without borders posed a series of questions of a practical nature, which had to be answered. For example, what is the status of a third country national, legally residing on the territory of one of the Member States? – May he exercise professional activities in another Member State or not? Seen from another angle, the lifting of the borders raises the issues of the illegal immigration,*

and illegal residence or work. These questions had to be able to be solved jointly by the Member States;

- Asylum. *The Member States had to agree on the concept of political refugees itself, in order to avoid the situation in which one Member State grants asylum and another refuses or the submission of applications for political asylum in several Member States at the same time. The strengthening of external borders, as well as the question of immigration and asylum, which is related to the abolition of internal borders are very sensitive political issues for every state. They are considered to directly affect the sovereignty, security and citizens of each state. At the same time, however, the political culture, legal systems and administrative traditions of the EU Member States are very different. Due to this, the coordinated actions, understanding and dialogue on these matters in the context of justice and home affairs are fundamental.*
- Schengen and the free movement of people. In 1985 Germany, France and the Benelux countries signed the Schengen Agreement on an interstate basis. This agreement, supplemented by the Convention for its application in 1990, was aimed at the introduction of freedom of movement for all citizens of the European Community within the Schengen area and at settling the visa, immigration and asylum matters.

  The Amsterdam Treaty, signed on October 2, 1997 and entered into force on May 1, 1999, integrated the Schengen Agreement into the European Union framework. Thus, the free movement of people was achieved in the EU with the exception of Great Britain and Ireland, which reserved their right to exercise control over the people crossing their borders. Special provisions were set up for Denmark as well. An association agreement was concluded with Norway and Iceland, which allowed the co-operation with these countries to continue, as they were related to the Schengen area before the Schengen legislation was integrated into the EU legislation.

- The EU Member States could no longer solve some problems individually, but had to combine their efforts.

Drugs, organized crime, international fraud, trafficking of human beings and sexual exploitation of children are problems that have no borders and are of a great concern in all Member States. EU citizens want to take full advantage of the freedom of movement in the whole EU, but at the same time they want to be protected from the threats to their personal security. Europol was created in order to solve this problem. The aim of the European Police Office, Europol, is to enhance the police co-operation between the Member States to combat all serious forms of international crime. The Europol Convention entered into force on October 1 1998, and its implementation started on July 1 1999. The Europol headquarters is in The Hague and one of its tasks is to develop a system which will allow information concerning the latter matters to be exchanged, collected and analyzed at a European Union level.

How does co-operation in the field of justice and home affairs take place

The co-operation in the field of justice and home affairs is not carried out in the same way as other Community policies (for example the Common Agricultural Policy).

Bearing in mind the great sensitivity of the issues related to public order, the Treaties give especially great importance to the Member States and the EU bodies, in which the Member States participate directly. Due to this the authority of the European Commission, European Parliament and European Court are strongly limited and the implementation of the EU policy in the field of justice and home affairs is very different from the implementation of the other Community policies. In the provisions concerning justice and home affairs issues in the Maastricht Treaty there are no legal acts such as „directives" and „regulations", which exist for the other policies. It uses instruments that are specific for the „third pillar". Upon the entering into force of the Amsterdam Treaty, the civil law matters, visas, asylum, immigration issues and other policies related to the free movement of people turned into Community issues, while the police and judicial co-operation on criminal matters remained in the „third pillar". The Treaty also envisaged the measures, which are to be undertaken by the Council of the EU regarding the progressive establishment of a freedom, security and justice area within 5 years of its entry into force. The Amsterdam Treaty provided that during this transitional 5-year period, the Council would, in principle, unanimously pass the European Commission proposals or the initiatives of the Member States following consultations with the European Parliament. After this period the Council would pass only European Commission proposals, which therefore meant that only the European Commission would have the right of initiative. The Commission, however, is required to examine every request of a Member State that submits a proposal to the Council.

Regarding the areas brought under the Community, the Treaty provides for the implementation of the Community instruments, i.e. regulations, directives, decisions, recommendations and opinions. Thus, with the Amsterdam Treaty „the third pillar" was decisively reorganized – areas were changed, new legal instruments were added and the role of the institutions was determined and intensified.

The role of the EU Institutions in the field of justice and home affairs

European Council

The European Council brings together the Heads of State and Government of the EU Member States. The Chairman of the European Commission also participates in its work. Although his role is not specifically mentioned by the provisions in the field of justice and home affairs, this is especially important for overall EU development. Convening every six months, this institution determines the priorities, directions and leading political principles of the Union at the highest political level. A Special European Council, devoted exclusively to matters of justice and home affairs was held on October 15 and 16, 1999 in Tampere, Finland.

The Council of the European Union

The Council of the EU consists of the ministers in the respective area of each Member State. In the framework of the „Justice and Home Affairs" Council, these are the ministers of justice and internal affairs. A task of this Council is to adopt new positions and framework decisions and to prepare convention drafts in accordance with the EU objectives. With some exceptions, it takes its decisions unanimously.

The Council agenda is prepared by the Committee of the Permanent Representatives (COREPER), consisting of the ambassadors of the Member States to the Union, who take decisions in this area as they take decisions regarding the other policies of the Community or in the area of foreign policy and security, the so-called „second pillar". The Article 36 Committee (its name comes from article 36 of the Treaty that establishes it) consists of senior officials of the Member States. It coordinates the activities in the area of police and judicial co-operation on criminal matters and can offer its opinion to the Council by request of the Council or on its own initiative. A similar Committee is also established for the areas that are now within the powers of the Community.

Presidency

Every six months a different EU Member State takes over the Presidency of the EU, the Council of the EU and the bodies, preparing the agenda (COREPER, the Article 36 Committee and other lower level working parties). The Presidency participates in the preparation of the agenda and the consequences of the decisions taken as it is assisted by the General Secretariat of the Council in dealing with any organizational difficulties. The General Directorate H works on the three main sectors: asylum/immigration, police/customs co-operation and the judicial co-operation on civil law and criminal matters.

The Member States

The Member States inform and consult each other in the framework of the Council regarding the coordination of their actions and establishment of co-operation between the various offices of their administrations. They also defend common positions at international fora. But their main role is to provide initiatives: they may propose to the Council to adopt common positions or other joint decisions, or to prepare convention drafts in all areas of justice and home affairs.

The European Commission

As was previously mentioned, the European Commission does not have the right to sole initiative in the field of justice and home affairs as in other Community policies: it shares this role with the Member States. The Treaty, however, gives it the right of initiative in all areas of justice and home affairs. Regarding the areas that have passed under the Community, the Commission will have the sole right of initiative after the 5-year transitional period. The European Commission Chairman participates in the meetings of the European Council, and the European Commission participates in the meetings of the Council, COREPER, Article 36 Committee and of the working parties.

The European Court and the European Parliament

Although the role of the European Court and of the European Parliament was strengthened by the Amsterdam Treaty in this respect, they still do not have the powers that they have in relation to other Community policies. In the areas encompassed by the „third pillar", the Presidency consults with the EP on all decisions of a binding nature in the field of justice and home affairs. The Presidency and the Commission inform the European Parliament on a regular basis of the steps taken and the EP holds an annual discussion on the progress achieved in these areas.

The European Court does not have the authority that it has in relation to other Community policies either. Regarding the areas remaining under the „third pillar" (police and judicial co-operation on criminal matters), each Member State may acknowledge

the competence of the Court to give preliminary decisions on the validity and interpretation of the framework decisions and of decisions on the interpretation of the conventions and the interpretation of the measures for their implementation.

The Court has jurisdiction to check the legality of the framework decisions and of the decisions when proceedings are initiated by a Member State or by the European Commission, for example in a case of infringement of an essential procedural requirement or of infringement of the Treaty. The Court is also competent to settle disputes between countries.

The Court does not have jurisdiction to check the validity and proportionality of operations carried out by the police and other law enforcement bodies of a Member State or to give rulings regarding the responsibilities, assigned to the Member States in connection with maintaining law and order and safeguarding internal security.

Legal Acts in the Area of Justice and Home Affairs

As was mentioned above, concerning the issues in the field of justice and home affairs, which fall under the powers of the Community, the legal instruments of the Community are used – regulations and directives. Regarding the area, remaining under the „third pillar", the Treaty envisages the following instruments:

Common Positions

The EU Council may adopt „common positions" unanimously. They determine the approach of the European Union on a certain matter. Thus, before the Amsterdam Treaty entered into force, a common position on the harmonized implementation of the definition of the term „refugee" was adopted. This definition gave the national administrations the opportunity to follow the same rules when giving a person the status of a refugee.

Framework decisions and decisions

The EU Council may adopt framework decisions in relation to approximation of the laws and regulations of the Member States. They are binding for the Member States as regards the result that is to be achieved, but the Member States remain free to decide how to achieve this result. The Council may also adopt decisions in the field of justice and home affairs, but they may not be implemented directly and are accompanied by implementation measures.

The Council adopts the framework decisions and the decisions unanimously. The implementation measures, if they are required, may be adopted by a qualified majority.

Conventions

Conventions are traditional international law instruments. The EU Council may prepare drafts and recommend them to the Member States for adoption. Unlike the common positions and decisions, the conventions must be ratified by the national parliaments of the 15 Member States. Due to this the implementation of the conventions is usually slow and complicated. After the Amsterdam Treaty, entered into force, however, conventions enter into force after they have been adopted by at least half of the Member States, unless otherwise provided.

Resolutions, recommendations, declarations, conclusions etc.

The Council has a whole set of instruments at its disposal to express its political will. It may, for example, adopt resolutions for witness protection in combating organized crime, recommendations for prevention of riots occurring at soccer games or even declarations for motorcycle bands. These instruments are used very often because of their „flexibility" and, unlike the others mentioned above, they are not binding for the Member States.

EU enlargement and justice and home affairs

The European Council in Madrid underlined the need to adapt the administrative structures of the candidate countries in view of the creation of conditions for harmonized integration of these countries. The European Council in Feira, held in July 2001 emphasized that it is vitally important for the candidate countries to have a capacity to implement effectively and to enforce the newly adopted EU legislation, and added that this requires significant efforts from them for the strengthening of their administrative and judicial structures. Apart from this the European Council assigned the Commission to monitor the progress of every Member State on this matter.

As was repeatedly underlined, the candidate countries for EU membership shall be assessed in accordance with their own progress in view of the achievement of the Copenhagen and Madrid criteria, which establish the requirements for membership, including stability of the institutions guaranteeing democracy, rule of law, respect of human rights and protection of minorities. The rule of law in the democratic society, as it has been declared many times in EU documents, is of special importance for the EU Member States, as well as for the candidate countries. Bearing in mind the upcoming enlargement, the Amsterdam Treaty (art. 49 in relation to art. 6) established that the candidate countries must respect the rule of law as a common principle for all Member States. The conclusions of the Nordjick Conference contain the key elements of the rule of law, and they especially emphasize the independence of the judicial authorities, effective access to justice for the citizens, respect of the court decisions, an objective system of public prosecutors etc. i.e. the essential qualities that are expected from the judicial systems in democratic states. The operative role of the police also refers directly to the rule of law and it must be built on the basis of the democratic principles of accountability within the framework of the rule of law.

The functioning of the judicial system is closely related to the matters of justice and home affairs. Therefore, in its Regular Reports the European Commission highlights the ability of the judicial system and the law enforcement bodies to ensure the rule of law so that the candidate countries meet the membership criteria. In view of supporting them in this direction, the EU developed a horizontal program within the PHARE framework on justice and home affairs, and in the framework of the Accession Partnership – projects, specially aimed at strengthening the rule of law.

The question of the role of the judicial system in the performance of the EU membership criteria by Bulgaria is viewed in two aspects: the performance of the political membership criteria and the ability of the judicial system to implement the newly adopted legislation. This is why the reform in the judicial system is of vital importance and requires tremendous efforts for its achievement.

4.2. Judicial System

Pavlina Popova

4.2.1. EU Requirements

At the Tampere Summit in 1999, the leaders of the EU Member States decided to propose new measures, which would lead to a further elevation of the co-operation between the courts of the separate Member States. This was dictated by the need to secure a more rapid and more effective access to justice for EU citizens, regardless of where they are in the EU.

The main goal of the co-operation in the area of civil law matters is the establishment of better co-operation between the authorities of the Member States on trans-border cases. It should be directed towards not impeding or discouraging the people and economic operators in seeking their rights due to the incompatibility or complexity of the judicial and administrative systems of the separate Member States.

The planned measures include development of procedural rules for small and insignificant claims as well. This measure should lead to a facilitation of the small and medium enterprises and the citizens of the EU, if they are conducting law suits in another Member State, and not their own, in their understanding of what is going on during the proceedings. The Member States also agreed to introduce minimum legal aid standards, so that the defendants have the right to fair hearings in the whole EU.

The European Commission also proposed the establishment of a European judicial network on civil and commercial matters. It is aimed towards improvement of the judicial co-operation between the Member States and towards providing practical information to the public so that it is better informed in case it conducts lawsuits that are trans-border.

It is evident that EU Member States give great importance to judicial co-operation, which requires that Bulgaria prepare its judicial system so that it is able to fully carry out its functions when it becomes an EU Member State. Therefore, the development of the judicial system is under careful analysis and assessment by the EU.

In its Regular Reports about the progress of Bulgaria for 1999, as well as for 2000, the European Commission points out that the Bulgarian judicial system and the law enforcement bodies continue to be weak. According to the EC, for Bulgaria to be able to have a functioning market economy, the judicial system must be able to implement the Commercial Law and the contracts in relation to land and other property. Moreover, the EC explicitly notes that neither the rule of law is ensured in Bulgaria, nor are the rights of natural persons and legal entities appropriately protected and the implementation

and enforcement of the EU legislation is far from the manner necessary for membership. Therefore, the European Commission concludes that deep reforms are required before Bulgaria is able to implement this legislation and meet the standards of the Member States for administration of justice and law enforcement.

The short-term priorities that Bulgaria should carry out in the field of justice and home affairs, and more specifically those that affect the judicial system, are: to strengthen the judicial authority and the law enforcement bodies for continuing the combat against organized crime, drug trafficking and corruption; to ensure better coordination between the law enforcement bodies; and to develop a national strategy for fighting corruption. The most important of the mid-term priorities is the increase the independence of the judicial authority.

As a whole the most recent assessments of the European Commission on the performance of the set priorities is that very little has been done towards the improvement of the judicial system, which remains weak. The methods for recruitment of personnel as well as insufficient training and equipment continue to be a problem. Also, Bulgaria has not developed a national strategy for fighting corruption.

4.2.2. The State of the Bulgarian Judicial System and the Challenges Facing It for Bulgaria's Preparation for EU Membership

Structure of the Judiciary

The structure of the judiciary of Bulgaria is settled by the Constitution and the Law on Judiciary. According to their provisions the judiciary consists of judges, prosecutors and investigators.

According to art. 3, para. 1 of the Law on Judiciary „**The courts** in the Republic of Bulgaria are district, regional, military and appeal courts, the Supreme Administrative Court and the Supreme Cassation Court". Specialized courts may be set up with a law, but the establishment of extraordinary courts is not permitted. The courts hear civil, penal and administrative cases. The Supreme Judicial Council determines the number of the judicial areas and the seats of the district, regional, military and Appeal Courts. According to the Law on Judiciary it is possible that the areas of the regional, district, military and appeal courts do not concur with the administrative-territorial division of the country. The district, regional and military courts hear the cases determined by the law as a first instance. The regional courts hear as a second instance the appealed acts on district court cases, as well as other cases determined by the law. The Courts of Appeal hear the appealed acts on regional court cases, as well as other cases determined by the law. The Supreme Cassation Court carries out supreme judicial control for the strict and identical implementation of the laws by all courts and the Supreme Administrative Court carries out supreme judicial control for the strict and identical implementation of the laws by the administrative jurisdiction and rule disputes on the conformity with the law of secondary legislation. According to art. 56, para. 2 of the Law on Judiciary, the President of the district court prepares an annual report on the activities

of the court and submits it to the Supreme Judicial Council. According to art. 63, para. 3 the President of the regional court prepares an annual report on the activities of the regional court and the district courts in its judicial area and submits it to the Supreme Judicial Council. The President of the courts of appeal prepares an annual report on the activities of the court of appeal and the regional courts in its judicial area and submits it to the Supreme Judicial Council. The reports of the Presidents of the Supreme Cassation Court and the Supreme administrative Court are discussed every year at the Plenary Sessions respectively of the Supreme Cassation Court and the Supreme Administrative Court.

According to the Constitution the **prosecutor office** of the Republic of Bulgaria consists of a Prosecutor General, the Supreme Cassation Prosecutor Office, the Supreme Administrative Prosecutor Office, appeal prosecutor offices, military-appeal prosecutor offices, regional prosecutor offices, military regional prosecutor offices and district prosecutor offices. The structure of the prosecutor office is in accordance with the court structure. It is unified and centralized. Each prosecutor is in a state of subordination to the one respectively higher in office, and all of them – to the Prosecutor General. The military prosecutors and investigators are independent in the execution of their functions. The Prosecutor General carries out control for legality and methodical supervision on the activities of all the prosecutors. He may initiate a motion to the Constitutional Court. In addition to this, the Prosecutor General organizes and allocates the work of the deputy Prosecutors General, and also appoints and dismisses the employees of the Supreme Cassation Prosecutor Office and of the Supreme Administrative Prosecutor Office. The heads of the rest of the prosecutor offices organize and supervise their work and appoint and dismiss the employees in them. The Prosecutor General is assigned by the law to prepare and submit an annual report on the activities of the prosecutor office to the Supreme Judicial Council.

Chapter 8 of the Law on Judiciary deals with the structure of the **investigation offices** and in line with it the regional investigation offices are according to the seats of the regional courts. In the cases provided for by the law the investigators carry out a preliminary investigation and the orders in relation to them are binding for the government bodies, legal entities and citizens. With the 1998 amendments of the Law on Judiciary a Specialized Investigation Office was set up which, in the cases provided for by the law, carries out inquiries on cases with special factual and legal complexity on the territory of the country, as well as on cases of crimes committed outside of Bulgaria or opened in connection with legal aid agreements with other countries. The Specialized Investigation Office and the regional investigation offices are legal entities and are headed by directors.

The judiciary is headed by the Supreme Judiciary Council. It consists of twenty-five members, who must have at least fifteen years of legal practice, at least five of which as a judge, prosecutor, investigator or habilitated law scientist. The Presidents of the Supreme Court of Cassation and Supreme Administrative Court and the Prosecutor General are members of the Supreme Judiciary Council by right. Eleven of the Supreme Judicial Council members are nominated by Parliament and the other eleven by the judiciary bodies: respectively the judges nominate six; the prosecutors three; and the investigators two. According to the Law on Judiciary the administrative back up of the Supreme Judicial Council is carried out by the Ministry of Justice and the Minister of Justice, who does not participate in the voting, chairs its meetings. The Supreme Judicial Council is entrusted with a series of administrative, organizational and control functions. It proposes

to the President the appointment and dismissal of the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General. The Supreme Judicial Council determines the number, jurisdictions and seats of the district, regional, military and appeal courts by a proposal of the Minister of Justice; determines the number of judges, prosecutors and investigators in all courts, prosecutor offices and investigation offices; appoints, promotes, demotes, transfers and dismisses the judges, prosecutors and investigators; determines the remuneration of the judges, prosecutors and investigators; takes decisions on the lifting of the immunity and temporary dismissal of judges, prosecutors and investigators; decides on disciplinary cases against judges, prosecutors and investigators; submits the judiciary draft budget to the Council of Ministers and controls its execution; and annually requires and examines information from the courts, prosecution offices and investigation offices.

The status of the judges, prosecutors and investigators is settled by the Constitution, as well as by the Law on Judiciary. According to art. 29, para. 3 they become immovable after completing three years in the position they take. In view of ensuring their independence the Constitution explicitly lists the conditions for their dismissal, namely retirement, submitting a resignation, entering into force of a sentence, ruling a punishment of imprisonment for a premeditated crime, as well as in case of permanent factual inability to carry out their functions. At the same time the law sets a number of requirements to the judiciary servants, such as non-membership in political parties or organizations, movements or coalitions with political aims and non-performance of political activities. The law permits the establishment of and membership in professional organizations for the members of the judiciary, but sets the restriction that they may not unite with trade union organizations from another branch or sector at a national or regional level. Article 126 of the Law on Judiciary also lists the formal requirements which the judges, prosecutors and investigators must meet in order to be appointed: to have Bulgarian citizenship, to have a University degree in law, to have passed the required internship and to have acquired qualification in law, not to have been sentenced to imprisonment for a premeditated crime of a general nature, regardless of rehabilitation, as well as to have the necessary moral and professional qualities. In addition the law sets a requirement for length of service for the occupation of various posts in the respective branches of the judicial system.

Current State and Problems of the Judicial System

As it is evident from all the assessments of the Bulgarian judicial system, its functioning and organization show deficiencies that do not ensure the rule of law, impede the implementation and enforcement of the newly adopted legislation, do not assist the reduction of crime and do not allow an effective fight against corruption. The problems indicated below do not claim to be exhaustive, but are the main ones that Bulgaria is to solve in order for its judicial system to begin meeting the criteria required for EU membership.

Staff recruitment in the Judiciary

The judges, prosecutors and investigators are appointed by the Supreme Judicial Council. The candidates are chosen and nominated by senior officials in the courts, the prosecutor office and the investigation office in accordance with the rules set in the Law on Judiciary. The candidates for the posts of judges apply for the posts in the respective

courts and, although the formal appointment is carried out by the Supreme Judicial Council, the selection for appointment is carried out at a local level. In this regard the selection process is strongly decentralized and triggers a series of problems. Moreover there is a lack of criteria and unified appointment procedures at a national level. *Competitions* are carried out in some of the courts, but the results of the *competitions* are only recommendations. Promotion of the judges is done by a proposal of their supervisor. As there is a lack of criteria for this as well, a great risk of subjectivity exists. The fact that the appointments are carried out centrally by the Supreme Judicial Council offers no practical safeguard from this risk. Currently the Supreme Judicial Council does not have a sufficient administrative capacity to assess the qualities of the chosen candidates and therefore depends on the evaluation of the person proposing the candidate.

In this sense the need for introduction of mandatory *competitions* at a national level for the filling of the vacant posts for junior judges, prosecutors and investigators, that will ensure a minimum standard for the candidates, is obvious. Unified state criteria should also be established, for example minimum diploma marks for those who seek a career as a judge. Closely related to this is the issue that the Supreme Judicial Council, which is entrusted with the authority to appoint and promote judiciary staff and with a number of other general tasks in the judiciary, should have a sufficient institutional capacity to fulfill these obligations.

Before a given judge, prosecutor or investigator becomes immovable (after three years of service) or before he is promoted an appraisal of whether he is appropriate is carried out. At present these appraisals are done by the supervisor of the respective person (for example the President of the respective court or of the Supreme Court), which bears the same risk of subjectivity as in appointing. For an unbiased and precise appraisal of whether the respective person is appropriate to become immovable, more people at different levels should be included in it. A specific set of instruments for the suitability of a given judge, prosecutor or investigator to occupy the post must be developed and implemented.

Slow Court Proceedings

One of the main deficiencies of the Bulgarian judicial system is the slowness of the court proceedings. The introduction of the three instance system, required by the Constitution a few years ago is only one of the prerequisites for the slow procedures in civil, as well as in criminal cases.

It is customary for the Bulgarian judicial system for one civil case to reach a final decision after 5-8 years, or even 10 years. The dawdling of labor disputes for dismissals that are still in the courts for 3–4 years has become a practice of the courts in recent years, indeed some have just reached the appeal court and it is not known when they will end. It is still early to assess the results of the amendments made in the Civil Procedures Code, aimed at minimizing the possibilities for adjourning cases, facilitating quicker proceedings in certain cases and reducing the chances for case postponement and at the introduction of speedier procedures and bringing the insolvency procedure down to two judicial instances (district and appeal court).

A widely spread practice of the Bulgarian courts is also the slow pronouncing of the decisions on civil cases. The terms in the Civil Procedures Code are instructive, which leads to a pronouncing of the decision of the respective instance in some cases even after 6 months after the last hearing.

The amendments of the Penal Procedures Code entered into force on January 1, 2000. They were aimed at strengthening judicial control during all the phases of the procedure, as well as towards elimination of a series of unnecessary formalities in the period of the preliminary investigation. It is questionable, however, to what extent these amendments contributed to the improvement of the quality of the criminal procedures and the more rapid conclusion of the cases. As there are no provisions limiting the possibilities for returning of the cases by the court to the prosecutor office and from the latter to the investigating bodies, this has turned into a customary practice. Such a step by the court is unjustified, as the court already plays a central role in the trial and in the first and second instance is empowered to collect entirely new evidence.

Other reasons for the slow proceedings are of subjective nature. It is well known to the public that the reason for the returning of the cases, especially criminal cases, is very often non-procedural. It is a means for evasion or delaying of the criminal liability, and also a way to obtain undue benefits.

In conclusion it must be noted that the slow adjourning of the cases, especially in some cases (for example labor disputes) has such a nature that it is practically a denial of justice.

The role of the Judiciary in the fight against organized crime and corruption

One of the main goals of the EU in the field of justice and home affairs is the fight against organized crime and corruption. Unfortunately, Bulgaria has not made significant progress in either of these fields.

In the area of combating crime, especially organized crime, the amendments of the Law on Judiciary and the Penal Procedures Code from 1998-1999 did not contribute in any way to an improvement of the situation, they even led to its deterioration. With them the National Investigation Office was closed down as a unified investigation institution that was carrying out methodical functions, standardizing of the investigation practices and leading to a centralized staff policy. Together with this its existence gave immense possibilities for co-operation and successful operative solving of the tasks arising in an investigation, including the assignment of a great number of investigators in large-scale investigations. With its decentralization into 29 offices all the objectively necessary relations between them were automatically broken and thus the investigation of especially complicated crimes, committed by organized groups on the territory of the whole country, was seriously hampered.

At the same time a Specialized Investigation Office was set up with extremely limited authority in crime investigation. The Prosecutor General was given the power to assign to the Specialized Investigation Office crimes that were complicated from a factual and legal point of view, although he has not exercised this to the necessary extent, which is evident from the fact that from January 1, 2000 until now only 21 cases have been assigned. This is extremely insufficient in view of its capacity. The operative links between the respective offices of the Ministry of the Interior and the investigation bodies have been broken. The lack of regulation of the collaboration between the various bodies in relation to investigation is a serious barrier for the effective combating of crime and especially organized crime.

In its last regular report the European Commission notes „Corruption continues to be a very serious problem in Bulgaria. Whilst it is hard to know its extent, the persistent rumours about corrupt practices at various levels of the administration and the public

sector in themselves contribute to tainting the political, economic and social environment...", as a result of which „particular attention needs to be paid to the fight against corruption and improving the functioning of the judicial system". The wide extent of corruption in the whole of administration and at all levels, including the judiciary are noted as a special concern by the European Commission, by the World Bank and by a series of other international institutions and civil society structures.

At the same time the European Commission notes, „Whilst allegations of corruption are rife, it is difficult to obtain concrete information on how the judicial system is dealing with cases corruption." In conclusion the EC considers that the efforts of the law enforcement bodies for fighting corruption must be strengthened. The legal framework must be improved, especially regarding financial control as well as the areas that contribute to the transparency of public life. The internal mechanisms for control against corruption in the various administrative bodies, including the judiciary, must also be improved.

The Supreme Judicial Council, the institution that should undertake disciplinary measures against all judiciary servants, may be given as an example of the lack of internal control mechanisms. It is true that on one hand the Supreme Judicial Council suffers from a serious deficit of capabilities for the performance of these functions, as it does not have the necessary administrative capacity. On the other hand, however, the Supreme Judicial Council has neither developed a system for reporting and investigating disciplinary matters, nor any kind of clear set of instructions and guidelines for the behavior of the servants. Nor do any written standards for the behavior of the investigators exist. Moreover, the Supreme Judicial Council does not have experts to deal with the disciplinary actions in the judicial system. In addition to all that has been said, certain members of the Supreme Judicial Council were divested of the ability to make proposals for the opening of disciplinary procedures. As a result, inappropriate behavior of the people working in the judicial system often remains unpunished and from this the effectiveness of the judicial system suffers as a whole.

It is obvious that in this direction specific actions and measures for a significant improvement of the work of the judicial system and the law enforcement bodies in the fight against organized crime and corruption are required from Bulgaria.

Political interference in the work of the Judiciary

Political interference in the work of the judiciary is a public secret, which unfortunately has reached particularly great magnitude in recent years. In general it can be said that political interference starts from the appointment and promotion of the judges and other magistrates and ends with interference in the resolving of cases.

There are numerous examples for this, but maybe the most appropriate is the one of the Supreme Judicial Council, as this is the institution, in which the Constitutional rights to supervise and control the judiciary, are invested and its role and decisions to a great extent predetermine the overall work of the judicial system.

The contradictory Constitutional Court decisions for earlier termination of the mandate of Supreme Judicial Council members, which were obviously politically dictated, are well-known. In reality with the amendments of the Law on Judiciary 1998, the legally chosen Supreme Judicial Council members were deprived of the possibility to fulfill their 5-year mandate and were dismissed, while in their place the previous parliamentary majority chose others. As the Venice Commission to the Council of Europe (The European Committee for Democracy through Law) notes in its 1999 report regarding the judiciary

reform in Bulgaria: „Obviously, transitional clause number 4 of the Constitution can not be interpreted as allowing the dismissal of the Supreme Judicial Council and the election of a new Council every time in the future when new structural and procedural laws which implement constitutional mandates are enacted. Such an interpretation would allow any new parliamentary majority to introduce new procedural laws to implement the Constitution and thus alter the composition of the Council to adapt it to the new organization of the Judiciary. Consequently, this transitional clause must not be invoked again." Namely, the random and politically dictated changes of the Supreme Judicial Council members has had an extremely unfavorable impact on the whole judicial system in recent years and led to the lack of any progress in its work.

The observations in recent years on the personnel practices of the Supreme Judicial Council indicate that it takes decisions for the dismissal of its legally chosen members and at the same time places people who are obviously politically appointed at high ranks in the judiciary, even in contradiction of the Constitution.

For the first time, without having the Constitutional right to do so, the Supreme Judicial Council self-summoned itself and, under the pretext that it was carrying out a „revolutionary reform", took a decision that obliged the supervisors of the Investigation offices to suggest for retirement a great number of investigators, despite the fact that there were many vacant positions, as well as to lay off employees from the assisting personnel, which is much smaller in the Investigation offices than in the courts. For nearly 9 months the Supreme Judicial Council has not appointed investigators under the pretext that investigation is carried out by the bodies of the Ministry of the Interior, which is absurd.

The Supreme Judicial Council, with the exception of 4 or 5 members, supported without any reserves the final draft for amendments of the Law on Judiciary, which envisage divesting the magistrates of the right to challenge the Supreme Judicial Council decisions, which is in contradiction to the Constitution and violates their civil rights.

It is obvious that what has been indicated above has an extremely negative reflection on the work of the judiciary and significantly undermines the prestige of the judiciary and of the law enforcement institutions in the eyes of the public. Therefore, it is necessary for the reform of the judicial system to address the issue of the criteria for the selection of the Supreme Judicial Council members, to establish the principles of its work and to outline specific measures for increasing its ability to exercise effective control over the judicial system. Only through the introduction of strict rules and mechanisms, that do not change with every new government, will the work of the Supreme Judicial Council be directed by the principles of professionalism and unbiased and public interest in the name of the establishment of the rule of law.

In conclusion we would like to add that there is not a unified approach or practice for the forming of Supreme Judicial Council in countries with a developed democracy. In spite of this, there are models in which the interference of other powers (legislative and executive) are excluded and minimized and this interference varies depending on the social contents of the functions of the Supreme Judicial Council and the need for the administrative activities of the judiciary to be observed by the other powers. It is obvious that the judiciary must be responsible for its actions, notwithstanding that the task of the Supreme Judicial Council is to protect the independence of the judges, isolating them from ill-founded interferences from other powers on matters such as the appointment of judges and the exercising of disciplinary functions. The Bulgarian Constitution introduces

the principle of separation of powers and the independence of the judiciary, but more and more often the public is starting to ask: „Who is the judiciary in Bulgaria independent from?". It should be noted immediately that in the countries with a developed democracy the principle of separation of powers is combined with the principle of „checks and balances", i.e. in a democratic society there should not be a power that is not subject to any control and independent from all. The principle of „checks and balance" should be implemented in Bulgaria as well, particularly regarding the judicial system, which has obviously begun to consider itself untouchable in recent years. Since the Supreme Judicial Council is the body to which the courts report their work, we believe that mechanisms that are aimed towards evasion of direct political appointments and which impose on political forces to seek appointments that are based on professionalism and respond to the public interest for appointment of the Supreme Judicial Council members from the parliamentary quota must be found. As the Venice Commission states in its report: „A high degree of consensus in relation to election of the Supreme Judicial Council should be sought." In this regard we believe that if there is a political will for consensus, a preliminary examination of the nominations in the respective Parliamentary Committee could be implemented, with a requirement that the nominees be approved by the members of the committee with a majority of 2/3, in order for them to be able to be presented before the Parliament. This is the least that can be done in this direction, but on one hand it will create conditions for reaching political agreement on given candidates and on the other will force the political parties to nominate as candidates for the Supreme Judicial Council people not only with proven professional qualities, but also with a good public reputation, which will contribute to the strengthening and development of the judicial system, as well as for the raising of its public prestige. Seeking suitable mechanisms for more effective control on the work of the Presidents of the Supreme courts and the Prosecutor General, based on the idea of checks and balances, is closely linked with this.

Financial and administrative problems

As the European Commission observed „the financing of the Bulgarian judicial institutions is insufficient". In truth, it should be noted that insufficient financing is one of the serious problems of the Bulgarian judicial system, which leads to unsatisfactory conditions in the courts, inadequate capacity at a central level and a lack of human and other resources for carrying out and coordinating the required reforms.

The role of the judges needs to be better defined. In the judicial system the judges do not receive remuneration corresponding to their responsibilities and do not have protection against illegal pressure from other powers nor from organized crime. Moreover, the judges deal with non-typical bureaucratic functions (they write their own correspondence by hand or on a typewriter, study the case law and answer phone calls). Even the members of the Supreme Judicial Council are not relieved of such activities – most of them are regular judges as well, with a great burden of pending cases, which deprives them of the ability to carry out real control functions.

The public servants and administrative staff of the courts are relatively poorly paid and respectively are not always motivated to serve as part of a system entrusted with resolving claims.

The court cases that the courts have to deal with are too great in number, which, as indicated above, leads to chronic and excessive delays and postponements. This state is additionally worsened by the lack of any system for advancement of the cases and the

very low level of computerization (there is no central informational database, enlisting either case numbers, their classification according to type or duration).

In most courts the administration works using old methods and mainly through manual document processing. As a whole the case registers are maintained manually. The complicated and slow procedures for acceptance and registering, including the registration of the cases in several books with references to one another, are a custom of most courts. The manually kept registers create extreme difficulties for the staff and for the people who are interested in obtaining information from these registers as well as for the supervisors – to trace the conclusion of the cases. Moreover, there is a risk that incorrect information may be given by mistake or that information may be lost. In some courts computer registration of the cases has been introduced, but these systems are developed and implemented as local initiatives. Therefore, they are different in the different courts and their software as a whole is not compatible.

Training

In accordance with the Law on Judiciary, the Ministry of Justice is responsible for on the spot training of the judges. Currently, however, no kind of permanent system for such training is established or working, a serious consequence of which is that a large group of the judiciary servants do not have access to any training at all. The training of the administrative staff of the courts and of the prosecutors and investigators is extremely insufficient and incidental, although the professional development of these groups is vital for improving the efficiency of the judicial institutions.

The judges are trained, but mainly on the base of programs financed by donors. The existing training does not follow any kind of national strategy and does not have public institutions for the training of judges, except the Center for Magistrate Training, which is a non-governmental organization, financed by USAID (this financing will continue until 2002). In this relation it is necessary for the Government to assume financial responsibility for the setting up of a public institution for the training of judges along with the other financing. For the legitimacy of the institution it is necessary for it to be public in view of integrity of the coordinated policies and priorities of the judiciary, as well as in view of its long-term existence.

The need for training in all three of the judiciary branches is enormous. First of all, wide training on EU law is required. There is an urgent need for courses on national criminal law, tax law, criminal proceedings and commercial law as well on the whole European law newly adopted by Parliament. The need for training related to the combating of financial and organized crime and corruption, on a national as well as on an international level is urgent. The senior officials in the courts need additional training in administrative and financial management. All these needs should be analyzed and set in the national strategy for training and qualification of magistrates.

An important part of the good professional qualification of the judges, prosecutors and investigators is the quality of the legal education, which should be aimed more at professional and practical training of the students. The accreditation system should also be improved, which will undoubtedly lead to a lessening of the number of law faculties, but will increase the quality of the education that they give.

The internship of law graduates also needs reform, as it is very often a formality and is of no use either to the trainees or their observers. Therefore, a thorough study of the European practices followed by the development of a model suitable for the Bulgarian conditions is necessary. In any case the changes that should take place must result in the

best possible practical training of the graduates, as well as in a certain reduction of their patrons from the written and technical work with which they are burdened.

4.2.3. Recommendations

Need for a Judiciary Reform

First of all, the Bulgarian judicial system has some typical characteristics that differentiate it from the institutions and practices of most EU Member States. This requires a review of some basic legal measures in view of taking a decision as to whether the status of some judiciary personnel and structures should be changed before Bulgarian membership in the EU. Such is the matter for the inclusion in the judiciary not only of the judges, but also of the prosecutors and investigators, and their status, which is the same as that of the judges. This is not in accordance with the practices of the EU Member States and of the international conventions, which mainly determine the status, conditions for independence and protection of judges.

Second, it is obvious that Bulgarian citizens and businesses suffer from legal insecurity, ill-founded delays and overall weak practice of the courts and law enforcement bodies. Businesses suffer from ineffective procedures, for example for execution of court decisions or insolvency procedures that do not correspond to EU practices.

Third, it is clear that the necessary reforms are not only a matter of computerization, but should also go much deeper and affect all of the judicial and law enforcement bodies and their personnel and procedures. This involves raising the criteria for selection and work of the judges and safeguarding their professional independence. It involves improving the work of all the servants in the judicial system and the law enforcement institutions. It also involves raising the professional knowledge of the judges on the EU law and on the national law, which introduces the European law.

Fourth, what is particularly necessary is the setting up of a mechanism for effective co-operation between the law enforcement bodies in view of raising the ability of Bulgaria to combat organized crime and corruption. Currently, there is a lack of central coordination of the law enforcement bodies and the coordination in the judicial system and judicial administration is extremely insufficient. The procedures in the judicial system and between the institutions must be rationalized in order to be more effective, quicker and simpler. It is necessary to improve the mechanism for the monitoring of the advancement of cases from the courts and other bodies.

Fifth, the need for a general strategy for deep reform of the judiciary is dictated by the need for ensuring the rule of law, as well as by the need for implementing enforcement of the European law by the judiciary and the law enforcement bodies so that they effectively protect the rights of natural and legal entities, thus meeting the standards of the EU Member States.

General Principles of the Reform

The problems stated above obviously require the development of an overall strategy for a reform in the judiciary and the law enforcement institutions. The strategy should be a politically approved document setting common and agreed goals aimed at improving the effectiveness of these institutions and its implementation should be monitored at the highest level. The strategy should contain the objectives, the priorities and the sequence of measures provided for by it.

In the Bulgarian administration, as well as in most of the Member States, there is no central body or institution carrying out the reforms in the government institutions. The reform of the various institutions, their system and procedures are a responsibility of the respective institution. However, what must be underlined is that these reforms must be carried out in collaboration with other institutions. The same goes for the judiciary reform, which cannot be carried out in isolation, but in coordination with other powers. Therefore, the implementation of the judiciary reform strategy could be monitored by a specially established group (for example a Parliamentary Committee) that is able to undertake the necessary legislative measures set in the strategy and to which every institution has to report its progress. In this view the Supreme Judicial Council, as the institution that has authority regarding the judiciary, could coordinate, perform and implement the measures set in the judiciary reform strategy.

We think that the overall strategy of the judicial reform should include:

- Analysis of the existing problems and their clear definition, as well as an identification of the reasons for them;
- The general objectives of the reform, which should be aimed at preparation of Bulgaria for EU membership and towards the introduction of such systems and procedures that are able to ensure the rule of law and the implementation of the adopted European legislation;
- The required amendments in the legal framework;
- The strategy for personnel development determining conditions for appointing and for selection, career promotion, training and qualification, including that of the administrative staff. It should define unified national criteria for appointing and promoting, for performance of official duties etc.;
- A strategy for computerization and technical equipment of the judiciary, as well as the necessary investments for its accomplishment;
- The necessary budgetary resources for the implementation of an overall reform of the judicial system;
- Sequence of implementation of the separate parts of the strategy and determination of the terms for carrying out the various measures;
- Measures for better organization of the courts, prosecution and investigation offices and better defining of the role and responsibilities of the judges;

The specific goals of the strategy should be directed towards:

- Safeguarding the rule of law, efficiency and transparency in the administration of the judiciary and the law enforcement institutions, easy and effective access to justice;
- Protection of the independence of judges and other magistrates;
- Ensuring better selection of the members of the judiciary and development of their professional skills and career;
- Establishment of effective mechanisms for protection from political influence on the judicial system both of an inadmissible intervention in the appointment of the personnel in the judicial system and in the resolving of the cases;

- Ensuring the effective implementation of European legislation;
- Ensuring effective co-operation between the law enforcement bodies in combating organized crime and corruption;
- Ensuring effective and reliable protection of the rights of natural persons and legal entities;
- Ensuring effective execution of the court decisions in a reasonable time;
- Ensuring an increase of the public trust in the judiciary and the law enforcement institutions;
- Improving the working conditions in the courts and other law enforcement institutions.

Conclusion

It is obvious that the reform of the judicial system should turn into a priority of the executive and legislative powers and mostly of the judiciary. The efforts for the establishment of a strong, independent, effective and professional judicial system able to guarantee the absolute rule of law and the effective participation in the internal market should be decisive, purposeful and permanent. The main challenge now is the strengthening and intensification of the role of the institutions responsible for the implementation of the law so that they put it into effect precisely, on time and transparently.

4.3. Home Affairs

Petko Sertov

4.3.1. EU Requirements

The perspective for EU enlargement to the East poses a series of requirements for the candidate countries. In chapter 4.1 the mechanisms for interaction between the EU Member States as well as the main requirements of the Union towards the candidate countries in the area of justice and home affairs were indicated. Particularly in the field of home affairs the EU requirements for the candidate countries can generally be summarized in three groups:

1. Establishment of an adequate legal framework and organizational system, allowing the establishment and development of co-operation in the field of home affairs;
2. Effective counteraction against organized crime and its reduction to levels comparative to those of the EU Member States;
3. Effective border control and adequate immigration policy.

The main tasks related to co-operation in the field of home affairs, in accordance with the principles developed and adopted by the European structures are aimed at increasing and deepening the dialogue, mutual support, joint work and collaboration of the specialized structures in the area of combating crime. In this direction the co-operation between the police offices stands out, which above all is aimed at enhancing the effectiveness of the fight against terrorism, production and trafficking of drugs, trans-border organized crime etc. After EUROPOL given operative functions on 01.07.1999, it is expected that this structure will play a key role in supporting this co-operation.

In a united Europe without borders, every country assumes the duty to ensure reliable border and immigration control of its external borders or, in other words, takes over the responsibility of guaranteeing not only its own security, but the security of its partners in the EU as well. Namely this principle stands at the base of the requirements towards the candidate countries for ensuring reliable control, supposing that their borders will become external EU borders. Besides the building of a reliable system for border control that is ensured technically, operatively and in view of staff and information, the candidate countries are faced with a series of other matters related to this problem that must be solved. Among them the adoption and implementation of a common visa policy towards third countries and harmonization of the immigration policy, including that towards refugees are of significant importance.

The EU requirements towards the candidate-countries including Bulgaria should not be viewed as a final goal, with the reaching of which the need for work in this direction will be completed. On the contrary, they should be conceived as a permanent process of perfecting, harmonization and implementation of the positive experience of the partners.

4.3.2. The Situation with Combating Organized Crime and Border Control

Immediately after the political changes in Bulgaria in 1989/1990 the need for reorganization and restructuring of the security system in the country emerged. Thus, the State Security was dissolved only in 1990 and then began the building of an entirely different system, based on different principles and competencies, which found their place in Constitution of the Republic of Bulgaria and the Law on the Ministry of the Interior, adopted in 1991.

First of all, the principle of separation of powers – legislative, executive and judiciary (art. 8 of the Constitution of the Republic of Bulgaria) must be noted. The investigation apparatus, part of which was in State Security, respectively the executive power, was taken out of the Ministry of the Interior. The requirement for non-affiliation to political formations was posed on Ministry of the Interior personnel, with which the process of depoliticization was launched. An important step towards the demilitarization of the Ministry of the Interior personnel was also taken. The activities of Department Six, known as the political police, were suspended. A restructuring and reorganization of the special offices – intelligence and counterintelligence, was carried out, as the intelligence office was taken out of the Ministry of the Interior and was placed under the direct authority of the President of the Republic. The counteraction against organized crime was entrusted to the newly created police structure – The Central Office for Combating Organized Crime. The main tasks of the Ministry of the Interior were established with a law – art. 8 of the Law on the Ministry of the Interior and include:

- protection of national security and public order;
- combating crime;
- protection of the rights and freedoms of the citizens and safeguarding their life, health and property;
- ensuring fire and emergency safety;
- guarding and control of the state borders;
- protection of the economic and financial-credit system of the state and its cultural treasures;
- information back up of the ministry and the Government;
- providing assistance for other government bodies;
- international co-operation.

At a later stage, in the period before the signing of the Europe Agreement in 1992 until the offical application of Bulgaria for EU mebership in 1995, a series of matters related to the harmonization of the overall activities of law enforcement bodies was put on the agenda.

The bilateral and multilateral contacts in the field of justice and home affairs were activated for further implementation of the European Integration policy. In the context of the existing contractual framework in the field of home affairs, active co-operation and collaboration with EU Member States and with the associated countries from Central Europe was achieved. The process of widening of the contractual basis of the international police co-operation began, upon which some countries sent permanent representatives to Bulgaria. The signed bilateral agreements included clauses for co-operation with the respective country for combating international organized crime, illegal migration and the fight against the production, trafficking and distribution of narcotic and psychotropic substances, weapons and explosive materials.

In this direction both the bilateral relations with the separate Member States and multilateral initiatives, mostly through the PHARE program, were of particular importance as well as the relations within the framework of the various mechanisms for consultations under the „thrid pillar" and later with Europol. A series of expert meetings in relation to border and immigration control, combating organized crime, legal framework problems etc. was conducted. A specialized „European Integration" unit was set up in the Ministry of the Interior in 1995 with the task of coordinating the work in relation to the „third pillar" between the different departments in the Ministry of the Interior, as well as between the Ministry of the Interior and other ministries and government bodies.

Special attention was given to the development of joint mehcanisms between the competent offices of the various bodies for coordination of the fight against organized crime, drug trafficking and drug distribution and customs crimes.

In accordance with the priorities and requirements of European integration, a series of drafts of new legislation concerning public order and security was developed and adopted at a later stage. Readmission Agreements were prepared and signed with six EU Member States.

After 1997 the consensus reached among the political forces represented in Parliament in relation to the foreign policy priorities of the country, namely the full membership of Bulgaria in the EU and NATO was of particular importance. The process of co-operation for the improvement of border control, the fight against illegal migration, trans-border and organized crime, trafficking of drugs and stolen motor transport vehicles, was continued.

Parliament adopted laws amending the Law on the Ministry of the Interior, the Law on the Special Investigative Means and the Law on the Bulgarian Identification Documents.

A series of organizational and operative measures for improving the efficiency of the combat against crime is envisaged and has found its place in the Government program Bulgaria-2001, the Joint National Strategy for Combating Crime and the National Strategy for Bulgaria's Accession to the European Union.

It must be noted that some of the steps undertaken – such as personnel cleansing of the Ministry of the Interior, especially during the 1997–1999 period, executed according to criteria unknown to the general public, the appointment of people with no experience to high positions, even in violation of the Law on the Ministry of the Interior and generally placing administration in positions dependent on the governing political force etc., have nothing in common with the European values, nor with the declared priorities in the area of security and public order. A negative impact on the work of the Ministry of the

Interior, mainly with the tacit staff, and from there the fight against crime, and in particular organized crime, will probably be given by the so-called Law on the Dossiers.

In spite of the criticism, most of it objective and reasonable, the undisputed achievements must be noted – Bulgaria's being taken off the negative visa list, the start of the negotiations with the EU for full membership and the opening of chapter 24 „Justice and Home Affairs". No doubt these results are a great accomplishment for all of the specialists and experts who worked on the matters and who have made a personal contribution to their being achieved.

International organized crime and the terrorism related to it, spreading of nuclear, biological and chemical weapons, the high participation of non-governmental structures in the trading of weapons and goods and technologies with dual use can be determined as a major threat to security. The transit geographical situation of our country makes it especially attractive and in many cases an inevitable point in the transiting schemes of illegal trafficking.

In the region of South-East Europe international organized crime is determined as a real threat for economic and political development. The crisis in the region and internal political, economic and institutional problems are the main reasons for the emerging of organizations with a significant criminal potential, paving the way not only for the widening of the influence of organized crime, but also for its penetration into the state structures.

International terrorism remains a risk factor for regional and national security and its impact is determined by the functioning of international organized criminal groups, the conflicts between the ethnic and regional communities in the Western Balkans, the extremist acts of religious fundamentalists and the stream of foreign citizens, who attempt to pass through the country intending to immigrate into West European states.

Currently, especially bearing in mind the situation on the Balkans, the foremost risk factor for the security of Bulgaria seems to be the criminal activities of persons from the circles of ethnic Albanians. Its weight is enhanced by the active participation of ethnic Albanians in trans-national crime, smuggling, illegal money export and mainly trafficking of drugs, psychotropic substances and raw material for their production. The 2000 statistics for the uncovered and prevented attempts for smuggling of drugs, psychotropic substances and raw materials for their production through Bulgaria indicate that 21% of all the traffickers are of Albanian origin, compared to 9% in 1999. They account for 22% of the seized quantity of heroin and 29% of the seized raw material for drug production, especially acetate anhydride. In an attempt fat illegal trafficking on the Kosovo and Macedonia route an additional 252 kg. of heroin was seized, transported by buses of Turkish companies. Indicative of the criminogenic potential is the fact that the ethnic Albanians are around 1% of the population of Europe, while their relative share in charges of illegal trafficking and drug trade in the last three years is 15% of all the persons taken into custody. The profits from these activities are one of the main sources for financing of the radical forces among the Albanian community on the Balkan Peninsula. People from these circles co-ordinate large-scale cigarette smuggling through Kosovo towards Western Europe and operate channels for trafficking of women and stolen vehicles.

The threat of involvment of Bulgarian citizens and criminal structures in the drug trafficking channels is growing. The attempts of international drug trafficking organizations and people of Albanian nationality to build intermediary points for

temporary storing and re-loading of the drugs are also becoming a threat for security. A significant risk factor is the permanent criminal partnering on an ethnic and family basis of citizens from countries in the region and the emerging trans-border collaboration between criminal groups.

The degree of the risks coming from the smuggling of drugs, psychotropic substances and raw materials for their production through the territory remains. There are active attempts at trafficking in the Southwest direction of the Balkan route through Bulgaria to the Western Balkans, the North turning point of the Balkan route through Romania to Western Europe, Moldova and Ukraine and from Turkey and Latin America to Bulgaria.

The refugee problems and illegal migration also continue to be a serious problem at present. There are continued attempts at using the territory of the country as a transit point towards Western Europe, at organizing channels for the illegal transferring of Bulgarian citizens to Greece, Turkey and Western Europe, as well as at legal and illegal entry into the country of people from Romania, Turkey, Russia, Ukraine, Moldova, India, the Middle East and Africa with the intention of subsequent transferral to West European countries. The illegal residence of foreigners in Bulgaria continues to have a negative impact on the criminogenic situation. The organized illegal channels are used for the trafficking of people as well as of drugs, weapons etc. Various schemes for collaboration between the international criminal groups, including the making of false or forged passports, visas and other documents are being carried out. The emigrating foreigners get involved in smuggling and other criminal activities accompanying illegal migration.

The activities of **organized crime** in Bulgaria continue to be a significant risk factor for our security. We still cannot speak of the elimination of the risk from smuggling, tax and financial fraud, illegal gambling, money laundering and illegal export of capital performed by them. The violations of customs and tax legislation continue to cause great damage to the budget and are one of the most used mechanisms for obtaining criminal profits by organized crime structures. According to official government documents it is accounted that the structures of organized crime are re-directing towards the traditional areas for obtaining of criminal profits – drug trafficking, theft, blackmail and robberies – due to the constant shrinking of the possibilities for extracting, accumulating and legalizing illegal profits from the shady economy. As an achieved result in this area it is underlined that in the sphere of the shady economy controled by organized crime damages for 6,9 million Levs have been recovered and guaranteed and damages to the amount of 30,5 million Levs and $60,6 million have been averted. Apart from these results, there is an indication of a diminished threat of „dirty" capital entering the country as a result of the termination of the Agreement for Avoiding Double Taxation with Cyprus – one of the offshore centres intensely used by organized crime for „shady" business. Thus the export of capital with doubtful origin and its reinvestment by criminal groups is practically limited.

Due to joint actions of the customs administration for combating smuggling with excise and rapidly circulating goods some channels for the smuggling of tobacco goods through the checkpoints in Burgas, Varna, Vidin and Kalotina have been discovered and stopped as 9 294 master boxes of cigarettes have been confiscated with an approximate value of 28 million Levs, 1 025 tonnes of petroleum products, 240 thousand liters of alcohol, raw materials and goods for consumption with a value of over 2,3 million Levs.

Specific results are reported in the fight against crime in the area of the financial, credit and tax system, while uncovered and documented crime activity of persons and groups related to the illegal export of capital, the conclusion of illegal deals, hidden privatization, the granting of non-guaranteed credit, the use of documents with untrue contents and opened investigations against the perpetrator are also mentioned.

The risks of widening of drug-related crimes remain – of the offering and use of drug substances in the country, including among youngsters. The quantity of heroin, cocaine, marijuana and psychotropic substances uncovered and confiscated by the police and customs bodies is growing. The attempts at illegal production of opiates and psychotropic substances and the cultivating of drug-creating crops – opium poppy seed and Indian hemp – continue. There are processes of re-orientation of people from criminal circles towards drug distribution due to the relatively easy profits and reduced risk, coming from the degree of the convicting sentences. Drug addiction is turning into a strong criminogenic factor in certain social groups.

According to the statistics 938 people have been taken into custody for drug trafficking and drug distribution, 121 of which are foreign citizens. Preliminary proceedings have been opened against 747 people for use and distribution of drug substances. Around 663 specialized police operations for fighting drug trafficking and drug distribution have been carried out and 1,476 sites have been checked. Four laboratories for illegal production of psychotropic substances and raw materials for their production have been uncovered. 70 cases and 9 channels for trafficking of heroin, cocaine, synthetic drugs and raw materials – mainly acetate anhydride – have been found and closed down. The number of persons taken into custody for trafficking of drugs and raw materials for their production has doubled. 134 violators have been arrested, of which 104 were foreign and 30 were Bulgarian citizens. 1,035 people distributing narcotic substances have been put under prophylaxis. Jointly with the customs administration 2,079 kg of heroin, 514 kg of hashish, 331 kg of marijuana, 1,925 kg of cannabis leaves, 194 kg of amphetamine, 3,000 kg of precursors and 13,143 liters of acetate anhydride have been uncovered and confiscated during the current year. These are results that rank the country in one of the first places not only in the region, but also in Europe, by seized quantities.

A Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances has been drafted and is being implemented. With the support of the British Know-How Fund a pilot project in the Plovdiv and Sliven regions for limiting the distribution of drugs among students is being carried out.

There is also a growth in the registered cases of **detonations** that aim not only at the settling of personal and financial relations, but also at resolving the re-allocation of markets in a criminal way, including through the physical elimination of the „competition". These crimes have an extremely high degree of public danger and have wide public reverberation. Their growth indicates the need for undertaking additional specific measures for their curbing.

Special attention should be given to **crimes against property** – robberies and theft, including that of vehicles, which according to data of the Ministry of the Interior for 2000 are 72% of the crimes registered in the country.

These crimes affect a wide circle of people and have a significant influence on the developing of the feeling of insecurity among the citizens, as well as the lack of trust in

the police and to a great extent are the leading factor in the determination of the criminogenic situation. It should be mentioned that in this group of crimes the proportion between those registered and those not registered is most significant and therefore it could be considered that their comparative and absolute share is much higher than the official statistical data.

The state and dynamics of the criminal activities during the past year are relatively stable, compared to 1999. In 2000 the police offices registered 137,001 crimes, as opposed to 132,897 for 1999, or 3% more. An increase in some types of crimes is observed. In the generally hazardous crimes this growth is 13%. Crimes against property have risen by around 4%. There has been an increase in the number of murders, robberies, arson attacks and crimes connected with motor transport vehicles compared with 1999.

There is an overall tendency for the decline of crimes against persons. Compared with 1999 the registered decline is around 23%. Murder attempts have fallen by 36%, rapes by 14%. A decrease can also be noticed in some crimes against property: fraud and blackmail hates declined respectively by 29% and 51%. A drop in drug-related crimes has also been reported.

There has also been a fall in the rate of detection. 62,439 or 45% of the crimes registered in the past year have been detected. Additionally 15,785 crimes registered in previous years were detected.

In 2000 1,595 perpetrators of theft and possession of unlawful vehicles were registered. Channels for trafficking of vehicles – subject to crimes in Bulgaria or in other countries – from Western Europe, through the country towards the Middle East, the CIS, Albania and Kosovo, from Canada through Greece for Bulgaria; from Bulgaria for Albania and Kosovo, Macedonia, Serbia and the CIS countries has been detected.

There is no forecast data for the non-registered crimes through which a significantly more precise picture for the criminogenic situation and from here a more real assessment of the efficiency of the work of the law enforcement bodies could be obtained. There may be a great disparity between the official statistics and the actual state in the crimes against property, in which either the citizens do not submit the respective claim on the basis of which the registration is carried out or they simply are not registered by the competent authorities. This disparity also has a significant impact on the data concerning the detection of the crimes – one of the main criteria for the assessment of the activities of the law enforcement bodies.

On one of the most sensitive issues with great public resonance – **the fight against corruption** – significant progress is reported officially, which is aimed at limiting the impact of the criminogenic factors that determine it and widening the scope of legal and institutional measures. With the adopted Law amending the Penal Code the promising and offering of bribes to local and foreign officials was criminalized, as well as the asking for and agreement to receive a bribe by a local official. The restriction for punishing the active bribery of foreign officials is removed only in the carrying out of international trade activities. The punishments for all crimes in the „Bribe" section of the Penal Code are enhanced. A new crime has been established, which envisages criminal liability for officials for inexpedient spending of budgetary means and subsidies. The Law on Publicity of the Property of Persons Holding Senior Public Positions, regulates the setting up of a public register for annual declaring of the property, income and expenses of the people in

senior positions and of the members of their families. A main accent in the provisions of Articles 4, 12, 95 and 175 of the Tax Procedures Code is placed on the conditions and procedure for detection of income earned from crimes of corruption. During the past year the perpetrators of 6 788 crimes related to corruption are as follows: 2 393 crimes related to official duties, 3 217 frauds, 52 bribes, 938 cases of embezzling and 188 cases of conclusion of non-profitable deals. In spite of this data, the effect of which is difficult to determine, the general public is definitely not satisfied by what has been done during the past several years in the fight against corruption. On the contrary, the general public remains extremely dissatisfied by the constantly growing number of cases of corruption and by the measures undertaken for its restriction

After 1997 the National Border Troops Office was transformed into a police office. Later in 1999 the first stage was carried out and 1,000 military from the border police were replaced with 600 officers and sèrgeants, and in the year 2000 1 300 police officers were appointed in the place of the 2,000 military personnel.

Most of the border police departments and sub-departments currently have an entirely professional composition. Within the framework of PHARE a project „Setting up of a modern center for training and qualification of the Bulgarian border police for the introduction of an effective system for control of the state border" was implemented and in October a Center for specialization and professional training of border control officers was opened in Pazardzhik.

The restructuring of the National Office „Border police" continues as well as the implementation of a program for modernization of the material and technical equipping of border check-points. An information system for border control is put into operation, connecting all the border check-points with the systems for visa control in the Consular Offices of the Republic of Bulgaria abroad, thus to a great extent guaranteeing the non-accessibility of unwanted foreigners to the territory of the country.

A draft Law on Border Security is being prepared and it is considered as an important prerequisite for the building of a European type of border police office, corresponding to the standards of EU Member States.

Changes have been made in the organization concerning **border security and control**, the professional training of the officers and the technical equipment of the border departments. It is reported that in 2000 6 631 violators of the border and 204 people attempting to organize channels for taking people out through a border were arrested and the migration pressure to the European Union Member States was lessened. 6 635 foreign citizens were not permitted to enter the country due to lack of visas, means or invalid documents, mainly from Turkey, Romania, Moldova, Bosnia and Herzegovina and Armenia. 3 503 foreign citizens were expulsed and the right of long-term or permanent residence in Bulgaria of 385 foreigners was taken away.

The replacement of the **identification documents** assisted with the diminishing to a minimum of the possibilities for making and using false passports and visas or enhanced the efficiency of the fight against illegal immigration and ultimately restricted the immigration pressure on the European Union Member States from and through Bulgaria. Up-to-date technology and methods corresponding to the international standards are used in the preparation of the new documents. The high technology for making and

protection against falsification creates a reliable barrier against their use for illegal immigration. The deadline for replacement of the identification documents was extended by a parliamentary decision.

The implementation of the **criminal proceedings reform** began in January 2000. The carrying out of the police investigation started with the Criminal Code amendments. A program has been developed for the execution of the police investigation, which includes the initial training of the investigating officers – all in all 10 199 preliminary investigators, the performance of the specific job, the material and resource ensuring the proceedings. In the course of the implementation of the program the training of 4 875 officers from the sergeant staff of the police with preliminary investigative authority has been checked, and over 85% of them have met the requirements successfully.

According to official data 120,937 police investigations were executed in 2000, which cover 79,6 % of the committed criminal and economic crimes; 91 % of the police investigations have been concluded and the documentation has been handed over to the prosecution as on 29,8 % of them the proposal is for turning the perpetrators over to the judiciary. Besides the work on the newly opened police investigations, 68 917 cases and preliminary investigations have been transferred from the investigation offices. Of them 37 650 old preliminary investigations have been sent to the prosecutor offices, and the opinion of 14 334 of them is for raising charges.

EU assessment on the results achieved by Bulgaria in some areas

Various official EU documents underline the need for taking additional measures for strengthening the rule of law, respecting human rights and the rights of minorities. Special attention should be given to the fight against corruption and improving the work of the judicial system.

What has been achieved in the continuing process of demilitarization of the structures of the Police and the Ministry of the Interior is taken into account. Special attention should be given to the further reforms in the Ministry of the Interior, which must have suitable control mechanisms available in order to guarantee the legal basis for its actions.

Corruption is determined as a very serious problem in Bulgaria. In spite of the difficulties in determining its size, the constant rumors of corruption at various levels of the administration and the state sector by themselves contribute to the discrediting of the political, economic and social field. The ability of the Government to guarantee a forseeable and lawful environment for its citizens and economic and social institutions is affected. The customs, police and judicial system are determined to be most sensitive in this area and the implementation of a complex of measures for its limitation is recommended. Other cited professions include the lecturer staff at the universities and government officials, who have close contacts with the general public.

The efforts of the authorized bodies in fighting corruption should be activated. An improvement of the legal framework is required, especially regarding financial control and fields that contribute to transparency in public life, such as the financing of political parties, the relations between officials and businessmen, as well as the personal interests of civil servants and other officials. The mechanisms for internal control against corruption at the various administrative levels, including the judiciary, must be developed and refined.

The Government must further activate its efforts for creating an environment of zero tolerance towards corruption and diminish the potential for corruption during the process of drafting of a new legislation. Also, although separate measures for fighting corruption have been taken and although this is an element of the national strategy for combating organized crime, the Government would gain significantly from the establishment of a framework of a global, transparent strategy for fighting corruption with open support from the executive, legislative and judiciary power.

A series of positive steps undertaken in 2000 is underlined, especially at a legal level, such as:

- The Law on Public Register, which invites senior government officials to declare their property, income and expenses, adopted in April 2000.
- The amendments to the Criminal Code, which criminalize the giving of a bribe or attempt at bribery, adopted by Parliament in June 2000;
- The Law on Civil Servants creates prerequisites for control over the administration and its staff;
- The review of the license and registration regimes, finished in October 1999 and the elimination or simplification of some of them;
- The new Tax Code from January 2000, especially in the section envisaging measures for detection of incomes from corruption;
- The start of the implementation of the new Public Procurement Law;
- Development of projects by non-governmental organizations for collecting information on corruption, studying the public attitude towards corruption and informing the public of the legal means against corruption;
- The deposing by Bulgaria of the ratification of the Civil Convention on Corruption of the Council of Europe in June 2000. Bulgaria has ratified the main conventions for fighting corruption, but is still to ratify the Criminal Convention on Corruption of the Council of Europe.

The inter-ministerial working group set up for the preparation of the draft of the Law on Protection of Personal Data has been received positively, but it is underlined that Bulgaria has still not adopted such a law. Therefore, there is no system in place for protection of personal data, compatible with the *acquis*, which means that a short-term priority of the Accession Partnership for adopting a law and establishment of an independent supervisory body has still not yet been met.

The achievments in the field of harmonization of the visa policy and the fight against illegal immigration have been positively assessed. As a result of this Bulgaria was taken off the negative visa list of Schengen states and as of April 4, 2001 Bulgarian citizens do not need visas for these countries.

Particularly positive is the assessment on combating crime related to the international trafficking of drugs and psychotropic substances.

It is also necessary to underline the extremely negative opinion of the EU regarding the problems in the judicial system. It is obvious that with such an assessment of an institution with a leading role in the safeguarding of law and order it is difficult to expect tangible results in the fight against crime.

4.3.3. Recommendations

Bearing in mind the EU recommendations, as well as the state of the fight against crime, taking into account the adopted mechanisms and guidelines by EU Member States in this field, the following recommendations can be made:

1. The need of a new, improved legislaion that is more adequate to the reality in the country poses the question about the necessary development, adoption and implementation of an effective Law on Security and Public Order as an urgent task of top priority.

2. The development and adoption of main principles and mechanisms providing the support of the society in the ensuring of the security and public order of the country. At the same time a Code of Conduct of Police Officers must be developed, adopted and implemented as a matter of priority, and in this direction the use and implementation of the rich experience of EU Member States would be advisable.

3. The development and implementation of mechanisms for consultations and co-ordination of the fight against crime among the competent structures in the Ministry of the Interior framework, as well as among the separate ministries. The working out of a more precise and clearer definition of the competencies of the separate offices, that allows the uniting of their potential in combating crime is advisable, as well as the increasing of the positive impact of the competition between the different structures in their common tasks.

4. The opening of a wide public and political debate on the problems of combating crimes with wide public reaction, such as corruption, including through legislative initiatives, aimed at uniting the efforts of the whole society for their restriction.

5. The enlargement of the contacts with the law enforcement structures of EU Member States from an operative and tracking down point of view and exchange of information, as well as in the field of training.

6. Active international bilateral and multilateral co-operation in field of combating crime as a whole and in particular organized crime, as well as enhancing the Bulgarian contribution to the development and implementation of international legal instruments in the area of combating crime.

7. The development and adoption of a program aimed at improving the work of the police offices with citizens and towards the introduction of greater transparency in this direction.

8. Amendments in the Law on the Ministry of the Interior and the respective internal legal acts in view of decentralization of the budget of the National and Local Offices of the Ministry of the Interior. The widening of the competencies of the supervisors of these bodies will create the possibility for more effective planning and expenditure of their budgets, will limit the making of unnecessary expenses to a great extent and will create the opportunity for the allocation of means to where they are most necessary.

9. The development and implementation of a complex program for optimizing the Ministry of the Interior staff structure and its bringing into accordance with the practice of EU countries in this area. This process must encompass the proportion between supervising and executive staff, uniform and civilian, police staff per 1,000 capita in the larger cities and that in the areas with a smaller population.

10. Amending the Criminal Procedure Code aimed at significant limiting of the judicial procedures in time.

11. Amending the Criminal Code aimed at a significant growth of the sanctions for crimes of public importance such as murder, rape, terrorism, kidnapping, organized crime, drug trafficking etc.

In conclusion it must be underlined that in spite of all the recommendations that can be given and which could contribute to considerable progress in this area, in spite of the changes which could be made and could lead to tangible changes in the environment of combating crime, the loss of the results achieved up to now should not be allowed. This would only move us backwards.

Abbreviations

ACCEE	Associated countries from Central and Eastern Europe
GDP	Gross Domestic Product
BSR	Bulgarian State Railways
BNB	Bulgarian National Bank
BP	Bulgarian Posts
SJC	Supreme Judicial Council
SAEER	State Agency for Energy and Energy Regulation
CIE	Contract or Investments in Energy
SCT	State Commission on Telecommunications
SCER	State Commission on Energy Regulation
VAT	Value Added Tax
s.p. JSC	single person Joint Stock Company
EBRD	European Bank for Restructuring and Development
EC	European Commission
EP	European Parliament
EPC	European Political Co-operation
EU	European Union
LT	Law on Telecommunications
LEEE	Law on Energy and Energy Effectiveness
WEU	West European Union
LJ	Law on Judiciary
MI	Ministry of the Interior
MTT	Ministry of Transport and Telecommunications
MLSP	Ministry of Labor and Social Policy
NEC	National Electric Company
PC	Penal Code
PPC	Penal Procedure Code
CFSP	Common Foreign and Security Policy
CEPSD	Common European Policy for Security and Defense
CAP	Common Agricultural Policy
OSCE	Organization for Security and Co-operation in Europe
MV	Motor Vehicle
RHC	Regional Heating Company
WB	World Bank
CNRFS	Council for the National Radio Frequency Spectrum

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