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Chapter 24 – Cooperation in the Fields of Justice and Home Affairs

REPUBLIC OF BULGARIA

SUPPLEMENTARY INFORMATION TO NEGOTIATING POSITION

ON CHAPTER 24 “CO-OPERATION IN THE FIELDS OF JUSTICE AND HOME AFFAIRS”

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The Republic of Bulgaria wishes to refer to its Negotiating Position on Chapter 24 “Co-operation in the Fields of Justice and Home Affairs” (CONF-BG 9/01; CONF-BG 19/01; CONF-BG 73/01; CONF-BG 46/02) and to the EU Common Position (CONF-BG 10/02).

Bulgaria would like to confirm that it accepts the new *acquis* on Chapter 24 “Co-operation in the Fields of Justice and Home Affairs” adopted between 1 January and 30 June 2002 and will implement it as from the date of accession.

I. THE SCHENGEN ACTION PLAN

The EU appreciates the submission by Bulgaria of the Schengen Action Plan (CONF-BG 73/01). The EU takes note of the detailed information provided, according to which Bulgaria intends to align with the Schengen acquis and implement it. The EU encourages Bulgaria to continue its efforts in this field and invites Bulgaria to provide additional information as regards:

- *clarification of the deadline set (end of 2002) as regards Article 2 of the Convention Implementing the Schengen Agreement;*

In its Negotiating Position on Chapter 24 ‘Co-operation in the fields of Justice and Home Affairs’ (CONF-BG 9/10), the Republic of Bulgaria states that it completely accepts and will implement the EU *acquis* in the fields of justice and home affairs, including the Schengen *acquis* as an integral part thereof.

The Republic of Bulgaria takes into account that the Schengen *acquis* contains legal and practical provisions that cannot be implemented as at the date of accession to the EU. This applies particularly to the provision of Article 2 of the Convention Implementing the Schengen Agreement concerning the abolition of checks on persons at internal borders, which requires a separate decision made by unanimity after Bulgaria has acceded to the EU and is in compliance with EU regulations.

The Republic of Bulgaria will implement all necessary conditions for abolition of control at internal borders within the meaning of Article 2 of the Convention Implementing the Schengen Agreement within 12 months of its accession to the EU. To that end, the following specific legislative measures will have been accomplished:

- Amending the Foreign Nationals Act by creating a legal possibility to abolish checks at internal EU borders;
- Drafting and adopting a Border Security Act (see attached) and accompanying secondary legislation, which will contain precise instructions on control abolition;¹
- Bilateral agreements for border police co-operation with neighbour countries.²

The plans towards meeting all deadlines laid down in the National Schengen Action Plan, envisaging drafting and adopting of laws, including those by the end of 2002, are supported by the necessary concrete actions. The practical implementation of individual provisions of those instruments regulating abolition of checks at internal borders will be

¹ See attached detailed information on the indicated pieces of legislation.

² See attached detailed information on the indicated agreements

feasible within 12 months of Bulgaria's accession to the EU. Such a deferring conditions will be exclusively included in the text of the relevant provisions.

The Republic of Bulgaria recognises that the creation and operation of a National Schengen Information System is a key compensatory measure, which is a prerequisite for the abolition of checks at internal borders. In that regard, the Republic of Bulgaria has already taken concrete action to establish a National Information System that is in full compliance with the Schengen criteria and requirements (see the information below). The Republic of Bulgaria acknowledges that, currently, the European Union is developing the parameters of the future SIS-II. Subsequent concrete steps in that direction will be made as soon as the Republic of Bulgaria has been provided with complete SIS-II technical specifications.

– *the content of the intended Border Security Act and the secondary legislation for its implementation, scheduled for the end of June 2003;*

The draft Border Security Act has been elaborated in partnership with German experts from the Federal Border Guard within the framework of a PHARE 1999 twinning project on 'Institutional Strengthening of the Bulgarian Border Police'. The project incorporates the basic border control principles and provisions of the Convention Implementing the Schengen Agreement in addition to other EU Member States' experience in that area.

The draft Act includes ten chapters, as follows:

- General provisions;
- Definitions;
- Goals;
- Powers;
- Border controls at border checkpoints;
- Border Police Service Terms of Reference;
- Assistance;
- Information activity and data protection;
- Training;
- Compulsory administrative measures.

Provisions of the Border Security Act harmonized with the Convention Implementing the Schengen Agreement:

Chapter One regulates the general provisions, the subject of legal regulation and the main principles applying in that area.

Article 6 of the draft Act deals with the legal basis of international co-operation, in compliance with the provisions of Article 7, Article 39 et seq. of the Convention. It should be noticed that the draft Border Security Act provides regulation of the possibility to implement in principle the various forms of border police co-operation laid down in Articles 7, 39, 40, 41 et seq. of the Convention. The concrete scope of that co-operation will be a subject of detailed regulation in bilateral and multilateral international agreements.

Chapter Two, Article 8 gives legal definitions of some of the main terms related to border security, in line with Article 1 of the Convention. Here, it should be taken into account that the rest of the definitions in the Convention are included in other instruments of the national legislation (the Foreign Nationals Act, etc.).

Chapter Three takes in the basic goals of the Border Guard. Article 10 indicates the two main elements of border security – border control (Article 6, Paragraph 2 of the Convention) and border surveillance (Article 6, Paragraph 3 of the Convention).

Chapter Four describes the general and special powers delegated to border security authorities as well as the legal basis for use of physical force, auxiliaries and firearms.

Chapter Five regulates border controls implemented at border checkpoints.

Article 47, Paragraph 1 explicitly states that state borders shall be crossed only at border checkpoints during the fixed opening hours, in accordance with Article 3, Paragraph 1 of the Convention.

Article 47, Paragraph 2 admits in principle that state borders may be crossed at other places where it is regulated by an international agreement, in accordance with Article 3, Paragraph 1, second clause of the Convention (minor border traffic).

Articles 49-52 regulate the type and scope of border controls as well as the necessary conditions for crossing state borders, in compliance with Articles 5 and 6 of the Convention.

Article 54 provides for a possibility to abolish border controls in compliance with Article 2 of the Convention. Naturally, for that purpose it is necessary to have in place all other conditions and prerequisites (for instance, operational national SIS-II).

Chapter Six regulates the structure, organisation and management of the National Border Police Service.

Chapter Seven stipulates co-ordination on a national level in view of establishing conditions for integrated border management.

Chapter Eight lays down how the information activity and data protection must be organised.

Article 77(8) and Article 80 regulate protection as regards automated processing of personal data, in accordance with Article 102 et seq. of the Convention. That area has received detailed regulation in other legal instruments (Personal Data Protection Act, effective as of 1 January 2002).

Article 79 provides for a possibility in principle for the Border Guard to set up and maintain automated information databases for border security and control purposes, including national SIS, compliant with Article 92 of the Convention.

- *the content of the secondary legislation on border security and control;*
- 1. Regulation on Border Checkpoints. On 20 May 2002 the Bulgarian Council of Ministers adopted a new Regulation on Border Checkpoints (SG, No. 54/31.05.2002), which provides for the status, establishment, closing and management of border checkpoints. The Regulation lays a special emphasis on the modern forms of collaboration between border control services (passport control, customs control, veterinary control, phytosanitary control, etc.) on national and regional levels as well as mutual exchange of information in view of establishing integrated border controls and facilitating and accelerating border passage. In respect of collaboration, the instrument adopts an approach where border checkpoint services will sign memoranda of understanding on an annual basis, which will provide an opportunity for flexible adjustment of co-operation priorities and methods. In compliance with Article 2 of the Convention, the draft Act envisages the possibility to abolish border controls when it is stipulated by an international agreement signed by the Republic of Bulgaria.
- 2. *The relevant secondary legislation is being drafted in partnership with German experts within the framework of a PHARE 1999 twinning project, viz:*
 - *Draft Regulation on Maritime and River Border Security*, which will regulate the methodology and means of maritime border security in the Republic of Bulgaria (it is being drafted);
 - *Draft Regulation on Land Border Security*, which will regulate the methodology and means of land border security in the Republic of Bulgaria (it is being drafted);
 - *Draft Regulation on Border Controls*, which will regulate the methodology and means of passport and visa checks at the state border (it is being drafted);
 - *Draft Regulation on Training*, drawn up in March 2002, which regulates the training terms, conditions, areas and timing as well as the certification procedure at the Border Police Training Centre.

The drafting of the secondary legislation indicated above (except for the Regulation on Training) will continue within the framework of another Project under the PHARE 2002 Programme and is expected to be completed by the end of 2004 (the implementation of the project itself will start at the beginning of 2003 at the latest). The main target in the drafting process will be to make the best use of the expertise and experience of the Member States in the field of border control and management. The expert assistance provided by the twinning partner from the EU will guarantee full compliance of the new legislation with the EU/Schengen acquis requirements since it will reflect the provisions of the Common Manual on External Borders.

The adoption and implementation of the above secondary legislation is bound to the enactment of the Border Security Act.

- *the existing differences between Bulgaria's legislation and Articles 3, 5 and 6 of the Convention Implementing the Schengen Agreement and a detailed description of the legislation planned for full alignment with these Schengen provisions;*

Bulgaria has adopted the Schengen requirements for crossing of external borders and implementation of border controls and surveillance in their entirety as they are laid down in Articles 3, 5 and 6 of the Schengen Convention, and has included them in its penal law.

Currently, the provisions laid down in Articles 3, 5 and 7 of the Convention Implementing the Schengen Agreement have been adopted and included in the following pieces of national legislation:

Article 3, Paragraph 1 of the Convention

- **Foreign Nationals Act** – Article 17, Paragraph 1;
- **Bulgarian Identity Documents Act** – Article 33;
'Article 33. (1) Every citizen of Bulgaria shall be entitled to leave the country and return back holding a passport or a substitute document through the designated for that purpose points.

'(2) The points where the state border can be crossed shall be determined by the Council of Ministers.'

- **Regulations implementing the Ministry of the Interior Act** – Article 79;
'Article 79. The state border shall be crossed through the border checkpoints.'
- **Regulation on Border Checkpoints** (adopted on 16.05.2002) – Article 2, Paragraph 1;
'Article 2. (1) Border checkpoints shall be designated territories under a special clearance and security regime, which shall be established on international roads as well as in the precincts of international public railway stations, airports and ports, through which and only which state borders shall be crossed, unless otherwise provided in an international agreement.'

Article 3, Paragraph 2 of the Convention

- **Penal Code** – Article 279, stipulating that whoever enters or exits through the state border without permission from the respective authorities or, though with permission, but in places other than those designated for that purpose, shall be liable to imprisonment and fining;
- **Foreign Nationals Act** – Articles 48-53, which envisage administrative penalties (fines) for unauthorised border crossing and staying in the Republic of Bulgaria.

Article 5, Paragraph 1(a) and (b) of the Convention

- **Foreign Nationals Act** – Article 8, Paragraph 1, and Article 9, Paragraph 4

The provisions indicated above impose the possession of a valid travel document and visa (if required) as a compulsory condition for foreign nationals to enter and be admitted in the country.

Article 5, Paragraph 1(c) of the Convention

- **Foreign Nationals Act** – Article 19

This provision lists in detail the additional conditions which have to be met by a foreign national in order to be admitted in the country, including possession of sufficient means of support for the period of visit and to leave the country.

Article 5, Paragraph 1(d) and (e) of the Convention

- **Foreign Nationals Act** – Articles 10 and 11

According to the provisions indicated above, foreign nationals who threaten the national security, public order, and public health or are unwelcome visitors shall not be admitted in the country.

Article 5, Paragraph 2 of the Convention

- **Foreign Nationals Act** – Article 9, Paragraph 6

The provisions mentioned above stipulate that, **by exception**, when it is posed by national interest, exceptional circumstances or humanitarian reasons, as well as in urgent cases or when provided in

an international treaty enforced in Bulgaria, single visas may be issued at the state border for: 1) airport transfer; 2) transit; or 3) short stay within 10 days.³

Article 6, Paragraph 1 of the Convention

- **Ministry of the Interior Act** – Article 94;

‘Article 94. The National Border Police Service shall be specialised security and operative service of the Ministry of the Interior responsible for the security of the state borders and monitoring the observance of the border regime. The National Border Police Service shall operate in the border and border checkpoint areas, at international airports and ports, in the internal sea waters, the maritime territory, the adjacent zone, the continental shelf, the Bulgarian portion of the River Danube and the rest of the border rivers and water basins.’

- **Regulation on Border Checkpoints** (adopted on 20.05.2002) – Article 16.

‘Article 16. The border control bodies of the Ministry of the Interior shall have the following goals:

‘1. To implement passport and visa controls of persons and vehicles that cross the borders of the Republic of Bulgaria;

‘2. To tackle, investigate and prevent crimes and offences against the security of the state border and the passport and visa regime on the territory of border checkpoints;

‘3. To issue visas at the border under the conditions of Article 9, Paragraph 6 of the Foreign Nationals Act;

‘4. To uncover and combat organised human smuggling networks, contraband and trafficking in human beings;

‘5. To detect and detain border violators, wanted persons and vehicles on the territory of border checkpoints;

³ Further information on that issue is to be found under the Visa Policy section of this Supplementary Information.

- '6. To check persons and transport vehicles, when crossing the state borders, for explosives, firearms and other dangers.
- '7. To carry out compulsory administrative measures whenever provided by law.
- '8. To perform implement other goals stipulated by law or an international agreement.'

Article 6, Paragraphs 2-5 of the Convention

- **Ministry of the Interior Act** – Articles 95-97

'Article 95. (1) In implementation of its goals, the Border Police shall:

'1. Secure the state borders and other areas and sites listed in Article 94;

'2. Detect and detain border violators and wanted persons and transport vehicles delivering them to the competent authorities, thwart the passage through border checkpoints of persons who are banned from entering or leaving the country;

'3. Individually or jointly with other state authorities, implement the border regime and control the persons and transport vehicles that cross the border, including in the areas and sites listed in Article 94;

'4. Individually or in collaboration with other state authorities, prevent, tackle and take part in the investigation of crimes and other offences committed in the areas and sites listed in Article 94, when provided by law;

'5. Check persons and transport vehicles, when crossing the state borders and in respect of civil aviation flights, for explosives, firearms and other dangers;

'6. Collect, process, retrieve, store and transfer information to the other competent state authorities on violations at the state border and of the border regime, which is associated with the national security;

'7. Study and analyse the reasons for occurrence of violations at the state border and propose counter measures;

'8. Place and maintain the border signs, designate the line of the state border and suppress its damage or shifting whatsoever or any other action affecting the territorial integrity of the Republic of Bulgaria;

'9. Individually or jointly with other state authorities, implement the international agreements and treaties signed by the Republic of Bulgaria and resolve the offences and accidents that occur at the state border;

'10. Monitor whether Bulgarian or foreign ships or other vessels comply with the regulations on navigation and staying in the maritime territory of the country, the internal sea waters and the Bulgarian portion of the River Danube;

'11. Jointly with other state authorities, secure public order, defend the rights and freedoms of the citizens, protect their property in the border area, border checkpoint areas, at the international airports and ports;

'12. In aggravated circumstances in the border area, inform local administrations on intended measures and co-ordinate joint action in the interest of state border security;

'13. Individually and jointly with the Bulgarian army, combat armed or other provocation at the state border;

'14. Render assistance to competent authorities in the areas and sites listed in Article 94 in the implementation of legal instruments regulating the protection of the environment, the lives and health of the population;

'15. In the process of carrying out its goals, seek co-operation from border security authorities of other countries.

'(2) Public and municipal administrative authorities must assist and aid the Border Police in the process of implementation of its goals under Paragraph 1 above.

'Article 96. (1) The bodies of the Border Police shall be the officers and sergeants, the military conscripts and part-time employees.

'(2) The powers of military conscripts and part-time employees shall be determined by the Minister of the Interior.

'Article 97. (1) In implementation of their goals under Section I, Border Police bodies shall be empowered to:

'1. Deploy forces and utilities, build, use and remove technical equipment and other border security outfit;

'2. Use intelligence techniques and means under terms and conditions determined by the Minister of the Interior;

'3. Implement passport and visa controls of the persons and check the goods and the transport vehicles, that cross the border checkpoints;

'4. Halt, detain and check Bulgarian and foreign ships and other vessels which violated the regulations on stopping and staying in the maritime territory, the internal sea waters, the adjacent zone, the continental shelf and the Bulgarian portion of the River Danube;

'5. In co-operation with the specialised units, halt, detain and check Bulgarian and foreign aircraft when they have established that border regime is violated and flight security is endangered;

'6. Jointly with other Ministry of the Interior authorities, pursue border violators beyond the border area;

'7. Detain smugglers, illegally smuggled goods and transport vehicles that crossed the border at places other than those officially designated and conduct checks jointly with the customs authorities;

'8. Temporarily restrict or prohibit the movement of persons and transport vehicles in the areas and sites listed in Article 94 when launching an operation targeted at persons or transport vehicles and if the health and lives of the public are in danger;

'9. Accept, convoy and deliver border violators from and to the border authorities of the neighbour countries and other countries, in compliance with the law and the international agreements signed by the Republic of Bulgaria.

' (2) In implementation of their goals under Paragraph 1 above, Border Police officers must respect individual dignity and human rights.'

The draft Border Security Act is described in detail below with a focus in the compliance of its provisions with the Schengen Convention, including Articles 3, 5 and 6.

- *the plans on extending the Automated Information System in order to align with the relevant provisions of the Schengen acquis;*

The Operation of the Schengen Information System Section of the National Schengen Action Plan (NSAP) includes the main goals for technical development of national information systems that have direct bearing to the practical implementation of the Schengen acquis. The development of national police information systems supporting the Under Surveillance Central Register, is in particular focus. That Register contains data on various categories of wanted persons or items, which currently, as the NSAP indicates, are to a large extent in compliance with those defined in Articles 95-100 of the Convention Implementing the Schengen Agreement. According to the NSAP, all data concerning persons and items subject to Article 95-100 of the Convention will be processed by the end of 2005, and it will become possible for all competent authorities under Article 101 of the Convention to have access to that Register. That goal is supported by a PHARE 1999 twinning project – BG99/IB/JH/03 – which is implemented in partnership with Spain and France and will be completed in the last quarter of 2002. The project provides for the establishment of a new stolen vehicle information system compatible with Schengen acquis requirements. The Planning and System Development stage of the project is

finished and it includes not only stolen vehicles by all other item categories laid down in Articles 95-199 of the Convention. The process of adapting and

developing the individual systems interfacing with the rest of the item categories under Articles 95-199 of the Convention will be supported by a PHARE 2002 project on 'Implementation of the National Action Plan for Adoption of the Schengen Acquis: Building a National Information System in Line with Schengen Requirements'.

The existing Bulgarian visa system endures visa consultation and issuance of new Bulgarian visas in the Bulgarian consular missions abroad. There is a central database of issued visas and rejected visa applications (Visa Register). As of the beginning of the year 2002, the database is fashioned to store colour photographs of all visa applicants. The Visa Register is accessible to all border checkpoints and Regional Directorates of the Interior. The development of the visa issuing system will be completed by the end of 2004. Specifically, by that time additional technical equipment will have been supplied and new software components to the central visa system operating at the MFA Visa Centre (under the Consular Relations Directorate) will have been developed. The new software will be designed to process and generate messages in the format compatible with the VISION Network (The structure and processing requirements for these messages have been provided to the candidate countries within the framework of the PHARE Horizontal Programme on "Visas, Migration and External Border Management", implemented in 2001-2002.) Bulgaria recognises that the actual connection to VISION will take place only after the country has been accepted in the EU and subsequently acceded to the Schengen Agreement, which is made clear by the deadlines indicated in the National Schengen Action Plan.

In April 2002, Bulgaria hosted a seminar on «The Schengen Information System », with the support of the European Commission's TAIEX Office. Experts from the Bulgarian Ministry of the Interior and Germany made comprehensive presentations for a broad audience of Bulgarian experts from the Ministry of the Interior, Ministry of Foreign Affairs and Customs Agency concerning the SIS equipment, the operation of SIRENE offices, the current developments within the EC regarding the creation of SIS-2, as well as the prospects for its evolution.

– *the plans to upgrade the equipment for border control and the distribution of equipment along Bulgaria's various borders;*

Securing funds from the national budget as well as financing from the PHARE Programme and other donor organisations, the Republic of Bulgaria is planning to ensure by the end of 2007 the delivery of the following technical equipment necessary of implementation of effective border controls and security:

- Three tactical communication systems TETRA (for Svilengrad, Burgas and all external borders)
- Twenty-one thermovisual cameras
- Three hundred night-vision goggles
- One hundred and twenty-six all-terrain vehicles
- Three 50-ton patrol boats
- Two patrol boats
- Six hard-bottom inflatable boats
- Two 20-ton river boats
- One floating maintenance base
- Twenty GPS systems
- Fifty pairs of severe-weather clothing
- Fifty life jackets

- Ten computer simulators (for training)
- One thousand five hundred radios

- Fifty PCs for the Black Sea Command and Co-ordination Centre
- One helicopter
- Fifty sets of information equipment.

The above list of equipment is subject to updating based on the available funds from the national budget, the PHARE Programme and other potential donors as well as in view of the specific border situation, requirements and needs at the state border of the Republic of Bulgaria. It will be designed for both “green” and “blue” border security, taking account of the specific technical requirements. Priority in the order of installation will be given to that part of the state border which will become external border of the EU. Particular information on the distribution of the future technical equipment could be provided after it has been supplied.

In respect of national budget funding, as it is regulated by law, the precise amount of finances allocated will be determined on an annual basis in the National Budget of the Republic of Bulgaria Act applying to the respective year.

Currently, international airports on the territory of the Republic of Bulgaria (5 altogether: in Sofia, Plovdiv, Varna, Burgas and Gorna Oryahovitza) are well provided with equipment for border control and the relevant checks securing civil aviation flights. At this stage, Bulgaria is not planning to bring in additional technical equipment at the airports. If necessary, individual devices or systems may be replaced or upgraded, for instance, when the existing ones have exhausted their resources. After the completion of the National Schengen Information System, priority will be given to its installation at international airports.

Delivered equipment funded by the PHARE Programme and the national budget:

Bulgaria takes specific steps to make sure that border security and controls are well provided from technical and financial viewpoints. A considerable part of the new modern border control equipment is supplied with the financial support of the PHARE Programme. All investment PHARE projects in this area are co-funded by 25 percent by Bulgaria.

Supported by the PHARE Programme, bilateral technical assistance programmes with EU countries, particularly with Germany, and co-funding by the national budget of the Republic of Bulgaria, the implementation of border controls and security has been appointed with the following equipment: thermovisual devices, all-terrain vehicles, devices for secondary checks of identity and travel documents, computers and software for the Training Centre, portable radios, expertise kits, gas analysers for detection of concealed migrants, binoculars and night-vision devices, maritime and river border technical and visual surveillance stations, Perimeter Alarm Protection System.

In a short-term perspective, within the currently implemented PHARE projects, the following border control equipment will be delivered:

1. **PHARE Project BG0005.02 – Modernising Border Police Equipment at the Turkish Border; total budget: €12 million (€9 million under the PHARE Programme and €3 million co-funding).**

The immediate goal of this project is to develop an integrated operational strategy for the Svilengrad area, which is one of the critical areas as regards transborder crime and a main transit point for illegal migration.

The following types of equipment will be supplied:

- surveillance equipment (10 thermovisual systems and 112 night-vision goggles);
- communication equipment (TETRA System);
- mobility equipment (31 all-terrain vehicles).

2. PHARE Project 0012.02 – Strengthening Control of the Bulgarian Black Sea Maritime Border; total budget €3 million (€6 million under the PHARE Programme and €2 co-funding)

The objective of this project is to strengthen the management of the maritime border, which is one of the critical areas as regards border infringements, illegal migration and trafficking in drugs and arms.

The following maritime equipment will be delivered within this Project:

- One large patrol boat; 6 hard-bottom inflatable boats; the total amount of that transaction is €7 million out of which €1 million is funded by the national budget.
- Floating base costing €600,000 funded by the national budget only.

The Project will finish in the fourth quarter of 2003.

3. PHARE Transborder Co-operation Project 2000 – Facilitating Border Crossing on the River Danube; total budget: €3.15 million (it is a mirror project for Romania and Bulgaria)

The aim of this Project is to harmonise the procedures and practices employed by Bulgarian and Romanian border management agencies in line with EU standards and practices, including enhancing the co-operation and exchange of information between the border and customs authorities of the two neighbour countries.

The Project has already performed an assessment of the current situation and the specific needs of equipment, which will include 4 boats, 23 optical readers, 2 radio relay stations as well as communication equipment.

A detailed list of the type and quantity of technical equipment used for border (green and blue) security can be found below.

- *training of the newly recruited border police officers to replace the military conscripts by the end of December 2002 in view of the current capacity of the Border Officer Training Centre;*

Only people with higher education (the Academy of the Ministry of the Interior, military colleges or civilian universities) can apply to become Border Police officers. All sergeants (NCOs) have completed at least secondary education. Both categories of employees will have completed a general or specialised degree of education.

As at September 2002, 2400 military conscript personnel serving at the National Border Police Service have been replaced by 1575 professional police persons, including 1500 sergeants and 75 officers, as provided in the Council of Ministers Programme.⁴ All newly recruited sergeants have passed initial training at the Border Police Training Centre in Pazarjik.

Initial professional training of Border Police officers is carried out on the basis of targeted programmes and includes the following stages:

1. Initial professional training
 - a) Initial border police training; length: 20 weeks
 - First training module – 8 weeks of general police and legal training at the Academy of the Ministry of the Interior;
 - Second training module – 12 weeks, out of which 4 weeks theoretical and practical training in the specialised areas at the regional border sectors, and 8 weeks at the relevant place of service.
 - b) Initial professional training of security operatives; the training lasts for 7 weeks and is carried out at the Academy of the Ministry of the Interior.
 - c) Initial professional training of criminal and economic police operatives; the training lasts for 5 weeks and is carried out at the Academy of the Ministry of the Interior.
2. The initial border police training of Border Police sergeants includes three training modules; the training programmes are developed in partnership with German Federal Border Guard experts:
 - a) First training module – the training lasts for 8 weeks (320 hours) and is carried out at the Border Police Training Centre.
 - b) Second training module – the training lasts for 8 (320 hours) weeks, of which 4 weeks at the regional border sectors and 4 weeks at the relevant place of service (practical).
 - c) Third training module – its length varies from 20 to 90 days depending on the speciality: junior expert criminologists, service dog handlers, service horse handlers, maritime and river border security.

Currently, recognising, on the one hand, the necessity to provide initial border police training for the whole new staff, and, on the other, the natural restrictions in respect of the capacity of the Training Centre in Pazarjik, Bulgaria has adapted the curriculum by shortening the training period (between 5 and 7 months for the individual specialities). By that temporary adaptation of the curriculum the Border Police Training Centre is able to provide compulsory initial training for the whole newly recruited personnel.

As laid down in the detailed curriculum developed in partnership with German experts within a PHARE twinning project, the full-time 12-month training course for newly appointed sergeants will start in 2003 after the process of replacing military conscript staff has been completed.

In order to enhance their qualifications, NBPS personnel are subject to compulsory additional specialised training differing in type and duration (on the job and/or at the BPTC

⁴ Currently the implementation of the Programme has entered its final stage of transforming and reorganising NBPS personnel. During the first two stages, implemented in 1999 and 2000, military conscripts were replaced by 1900 police persons, including 450 officers and 1450 sergeants.

or the Academy of the Ministry of the Interior). The same applies to newly recruited border police persons replacing military staff.

– *the distribution of staff along Bulgaria's various borders;*

The distribution of Border Police staff along the various segments of the state border is based on the border security threat analysis, including migration pressure, geographical conditions, infrastructure, relief, etc.

As at 1 June 2002, the National Border Police Service employs 8,000 people, including officers, sergeants, civil administration and military conscripts. The staff is distributed in the following way:

- Greek border (532.5 km) – 25 percent;
- Turkish border (268 km) – 22 percent;
- Yugoslav border (362.1 km) – 19 percent;
- Romanian border (610 km) – 12 percent;
- Black Sea border (411.6 km) – 11 percent;
- FYROM border (185.8 km) – 6 percent;
- International airports – 5 percent.

The distribution of all new recruits (officers and sergeants), including those who will be appointed by the end of 2002, in accordance with the Programme for gradual replacement of military conscript staff with professional border police at the NBPS (approved by Council of Ministers No. 127, SG No. 49/29.05.2001), will be as follows:

- Greek border – 32 percent;
- Turkish border – 26 percent;
- Yugoslav border – 13 percent;
- Romanian border – 12 percent;
- Black Sea border – 10 percent;
- FYROM border – 5 percent;
- International airports – 2 percent.

The guiding principle in the future plans for human resource deployment is to ensure sufficient security on the future EU external borders.

– *the specialised training programme for border guard officials;*

The Border Police has developed specialised training programmes for the staff directly involved in the implementation of border security. That has been called for by the dynamic forms and methods of border-related crimes and offences as well as the diversity of preventive techniques. The specialised training of that staff category includes: training of multipliers, foreign language training, improvement of information analysis qualifications, alpine and shooting training, technical and electronic devices and weapons, refugee law, etc.

– *how surveillance is carried out at “green” borders, and the availability of specific equipment at all “green” borders;*

The main security forces of the National Border Police Service are deployed in the border segments, subsegments, posts and mobile border police units of the Regional Border Sectors (RBS). These are the actual forces who secure the border tracts between border checkpoints or the so-called ‘green’ border.

The state border is guarded in the following stints: patrol, sentry, mobile border police unit, border checkpoint, operative unit, convoy unit, protection, secret, reserve, segment/subsegment/border post duty officer.

Surveillance is one of the key border security techniques. It can be carried out in specially designated stints (Surveillance Post Stint, Technical Surveillance and Security Post Stint) as well as in all other regular border security stints.

The Surveillance Post is assigned to perform monitoring and security of a border segment or individual sites targeted at detecting and detaining offenders as well as at uncovering arrangements for border infringement and gathering other available intelligence. Surveillance is performed from specially equipped covered or non-covered surveillance points as well as from the most convenient places in the area.

The vehicled Surveillance Post moves regularly from one place to another. In case of lack of specially equipped surveillance facilities, the unit performs surveillance with occasional brief stops or from well-situated places in the area.

The Technical Surveillance and Security Post is assigned for security using radio and projector stations as well as other stationary or mobile technical surveillance means.

In view of enhancing the effectiveness of border police stints, they use resort to surveillance by means of mobile televisual and thermovisual systems:

- Two Border Surveillance and Security Systems (SNOG);
- Six Mobile Universal Monitoring and Surveillance Systems (MUSON-01);
- One Mobile Thermovisual System (TERMA-01).

The mobile televisual systems (MUSON-01 and SNOG) are designed for surveillance of border areas by means of day and night observation TV channels. The systems mounted on all-terrain vehicles UAZ-452, which assures their mobility. Each system is operated by a crew of two: a driver and a duty operator.

The Mobile Thermovisual System (TERMA-01) is used for surveillance and security of either land or river or maritime segment of the Bulgarian borders. It has a 1000 ECS thermocamera – a serial parallel scanning camera –, which, together with its accessory devices, is mounted on a Land Rover. The crew consists of a driver and a duty operator. The Mobile Thermovisual System has been establishing as the most effective border surveillance and security system.

The day- and night-vision devices are an essential part of border police units' equipment. The visual surveillance during the day is conducted by designated border police stints in the course of patrolling and special surveillance towers using day-vision binoculars.

Night-vision devices (NVD) are designed for operation in an environment of natural night lighting. NVDs employed are provisionally divided in old-type (NVD-57E, BLIK-PN33B binoculars) and modern-type (LAYKA-BIG35 binoculars and LUNOS goggles).

The LAYKA-BIG35 binoculars and LUNOS night-vision goggles are relatively modern models in use since 2000. The new NVD have very good technical specifications and they ensure high effectiveness of border security.

Individual segments of the state border are secured and controlled also by means of Perimeter Alarm Protection Systems, as follows:

- Forty-nine S-100 and SKALA (coverage: 268.3 km);
- One LUCH (coverage: 2 km);
- Two RAYON.

Perimeter Alarm Protection Systems are designed to register and signal by flashes and sounds any attempts at surmounting the fence (perimeter) by knocking down, piercing, cutting, climbing or jumping over. In close proximity to the systems and along the borderline, there are Track Control Areas (TCA), which are either natural or artificially created patches of land designed to mark traces of border violators.

Principles of equipment allocation

The available technical equipment as well as that received under the PHARE Programme is distributed in accordance with priorities and the intensiveness of violations. The Republic of Bulgaria prioritises its green border with Turkey, which is also to become an external border of the

European Union. That fact determines the pervasion of technical equipment for surveillance and security along that border aiming to increase its safety effectiveness.

The available technical equipment as well as that received under the PHARE Programme is distributed along the border as follows:

1. At the Turkish border

- 1.1. One thermovisual system TERMA-01;
- 1.2. Five TV systems MUSON;
- 1.3. One TV system SNOG;
- 1.4. Twenty-one night-vision binoculars LAIKA BIG 35;
- 1.5. Nine night-vision goggles;
- 1.6. Twenty-two old-type night-vision devices;
- 1.7. Forty-one Perimeter Alarm Protection Systems S-100 and SKALA (coverage: 230 km);
- 1.8. One Perimeter Alarm Protection System RAYON;
- 1.9. One Perimeter Alarm Protection System LUCH (coverage: 2 km);
- 1.10. TCA along the State Border (coverage: 212 km);
- 1.11. Thirty-one surveillance towers;

2. At the Greek border

- 2.1 One TV system SNOG;
- 2.2 Fifteen night-vision binoculars LAIKA BIG 35;
- 2.3 Eight night-vision goggles;
- 2.4 Twenty-seven old-type night-vision devices;
- 2.5 Five Perimeter Alarm Protection Systems S-100 and SKALA (coverage: 32 km);
- 2.6 One Perimeter Alarm Protection System RAYON;
- 2.7 TCA along the State Border (coverage: 205 km);
- 2.8 Eighty surveillance towers;

3. At the FYROM border

- 3.1 Eight night-vision binoculars LAIKA BIG 35;
- 3.2 Two night-vision goggles;
- 3.3 Sixteen old-type night-vision devices;
- 3.4 One Perimeter Alarm Protection System SKALA (coverage: 3,5 km);
- 3.5 TCA along the State Border (coverage: 80 km);
- 3.6 Eight surveillance towers;

4. At the FRY border

- 4.1 Eight night-vision binoculars LAIKA BIG 35;
- 4.2 Four night-vision goggles;
- 4.3 Eight old-type night-vision devices;
- 4.4 Two Perimeter Alarm Protection System SKALA (coverage: 2,8 km);
- 4.5 TCA along the State Border (coverage: 105 km);
- 4.6 Fifteen surveillance towers;

5. At the Romanian border

- 5.1 Four night-vision binoculars LAIKA BIG 35;
- 5.2 Two night-vision goggles;
- 5.3 Nineteen old-type night-vision devices;
- 5.4 Seven radio stations – on the river banks;
- 5.5 Five radio stations – installed on river boats;
- 5.6 TCA along the state border (coverage: 137 km);
- 5.7 Four surveillance towers;
- 5.8 Eight Technical and Visual Surveillance Posts along the River Danube.

6. At the Black Sea border

- 6.1 Four night-vision binoculars LAIKA BIG 35;
- 6.2 Seventeen old-type night-vision devices;
- 6.3 Ten coastal radio stations;
- 6.4 Ten radio stations – installed on ships;
- 6.5 Ten Technical and Visual Surveillance Posts.

- *the establishment and implementation of a comprehensive strategy for a sea surveillance system, covering the sea area closest to the shore line as well as the internal harbour areas, including the Danube river;*

Bulgaria recognises that as a result of strengthening border controls at land borders, a significant number of illegal channels for migration, trafficking in human beings and smuggling will be redirected to the Black Sea border. Therefore, the Concept for Development of the National Border Police Service 2001-2004 (see attached) places a special emphasis on maritime border security and management. The approach is not limited to the time frames mentioned above and is subject to updating according to the developments in the situation. Bulgaria's Black Sea border control concept is implemented in the following three directions:

- Legislative measures – Border Security Act and a Regulation on maritime and river border security as a part of the secondary legislation to the Border Security Act. The Act and the Regulation will be drafted and adopted in accordance with the deadlines set out in the National Action Plan for the Adoption of the Schengen *Acquis*.
- Institutional measures – optimising the organisational structure of the National Border Police Service by establishing a single regional formation responsible for the entire Black Sea border as well as a Black Sea Command and Co-ordination Centre;
- Investment measures – in accordance with the PHARE projects outlined below.

The Bulgarian Border Police implements its powers in the maritime areas of the Republic of Bulgaria. The competencies of the Service include: guarding the maritime state border; exercising control over the navigation and stay regime in the maritime territory, the adjacent zone and the continental shelf; preventing, detecting and suppressing offences in the maritime area; locating and detaining offenders. One of the methods used for carrying out these responsibilities is to organise visual and technical surveillance from Technical and Visual Surveillance Posts set up especially for this purpose. In the period 2000-2002, 10 out of all 13 Technical and Visual Surveillance Posts set up along the Black Sea coast were provided with new coast radiolocation stations using funds from the state budget. The radiolocation surveillance system in place is not automated and, therefore, data is transmitted orally via the service communications system.

The radiolocation systems at Technical and Visual Surveillance Posts can locate targets at the following distances:

- small targets - 5 nautical miles;
- mid-sized targets - 12 nautical miles;

The area surveyed by the radiolocation systems is as follows: for small targets - 7% of the maritime territory; for mid-sized targets - 33 % of the maritime territory; coastal area under surveillance: 35% for small and 55% for mid-sized targets; in total - 90%.

Radio surveillance is not very effective in the adjacent zone when tracing small and mid-sized targets, which, however, tend to be the most likely potential offenders. Radio system operators, due to the technical capacity of coastal radiolocation systems and the nature of their work, are mainly able to establish manifest breeches of the navigation and border regime by unidentified maritime targets.

The establishment of a unified radio surveillance system is envisaged to start by the end of 2002 with assistance provided in the framework of a PHARE Project, as well as funds from the national budget. Some of the currently existing Bulgarian Technical and Visual Surveillance Posts will become elements of this system. The project will be managed by the Maritime Administration Executive Agency. The relevant legal framework stipulates that after the setting up of the system the National Border Police Service will have unlimited access to information from its management unit. The Maritime Administration Executive Agency will design, build and administer the system, which will be used by the Ministry of the Interior, the Ministry of Defence and the Ministry of Transport and Communications. Technical specifications for the radio surveillance system (an element of which is the National Border Police Service Communications Centre) have been drafted and approved in view of creating the communication environment.

Eighteen coastal radiolocation systems are employed for surveillance and security of the coastal maritime area and Bulgaria's portion of the River Danube. The technical parameters and performance quality of six of these systems are of a lower standard. The radiolocation systems are located at Technical and Visual Surveillance Posts. Visual surveillance from these posts is carried out using: binocular sea tubes (BMT-110), day-vision binoculars BI-8 and TV surveillance equipment.

The implementation of the Twinning Project BG 0203.11 (BG02/IB-JH-06) under the PHARE Programme envisages establishment of Command and Communications Centres for the Black Sea and the River Danube, respectively. The size, objective and goals of those centres will be regulated in by-laws (regulations), which will be prepared as part of the Project. The national component concerning the Black Sea Centre includes coordination, interaction and cooperation between all institutions responsible for the controls and surveillance of the Bulgarian Black Sea territory. On the international side, it is expected from the Centre to coordinate the cooperation between the border guard services of the Black Sea countries utilising the experience of the Baltic countries. Similarly, The Danube Centre will be responsible for the coordination and cooperation at a national level between all institutions involved in the control and surveillance of the Bulgarian portion of the River Danube. Internationally, the Centre will coordinate the cooperation between the competent authorities of Bulgaria and Romania. It is planned that the Centre, on the basis of an agreement concluded with the Romanian side, coordinate the movement of vessels passing along the Danube.

The agreement particularly will be drafted within the framework of the Project and subsequently offered to the Romanian side for negotiations and signature. Further information on the investment component is provided below.

Traffic control along the River Danube is performed through the system for radio surveillance and by patrol boats. The system is not automated and information is transferred to the command centre by the technical system operators at the Technical and Visual Surveillance Posts. It is planned to further develop the system in the segment between Kozlodui and Silistra through setting up new Technical and Visual Surveillance Posts and providing them with modern surveillance equipment.

As regards the river border with Romania, Bulgaria is aware of the special status of the River Danube as an international waterway, according to the 1948 Convention Regarding the Regime of Navigation on the Danube. Taking this into account and aiming to guarantee the necessary level of security, Bulgaria is taking steps to set up an adequate legal framework for implementing joint control and surveillance with the competent Romanian border control authorities, namely: drafting and signing an Agreement between the Government of the Republic for Bulgaria and the Government of Romania for co-operation between border security authorities in border regions (see **Appendix I.2**), as well as setting up contact units with Romania in accordance with the Concept for establishment of contact points for border police co-operation with neighbouring states (see **Appendix I.5**).

- *the twinning projects planned on sea border surveillance, including the upgrading of equipment and a timetable for implementation;*

1. PHARE TBC 2002 Project: Facilitation of Danube border crossing - total budget: 3.15 M EURO (Bulgaria and Romania projects are identical)

The aim of this Project is to harmonise the procedures and practices employed by Bulgarian and Romanian border management agencies in line with EU standards and practices, including enhancing the co-operation and exchange of information between the border and customs authorities of the two neighbour countries. The Bulgarian beneficiary is the Ministry of Finance Customs Agency and the Ministry of the Interior Border Police Service.

For the needs of the Bulgarian Border Police, the following equipment will be delivered within the framework of this Project:

- 4 boats, 23 optical readers,
- 2 radio relay stations;
- communication equipment.

The technical specifications for the first stage of the project - Assessment of the current situation and equipment needs - have been elaborated. An assessment of the offers made by the framework contractors has been made.

Project implementation will end in August 2003.

2. PHARE 0012.02 Project - Strengthening control of the Bulgarian black sea maritime border - total budget: €3 million

The objective of this project is to strengthen the management of the maritime border, which is one of the critical areas as regards border infringements, illegal migration and trafficking in drugs and arms.

The following maritime equipment will be delivered within this Project:

- Two large patrol boat and 6 hard-bottom inflatable boats with total value of €7 million out of which €1 million is funded by the national budget. The tender for the ships and boats was held on 10 September 2002. Supply is expected by the end of the third quarter of 2003.
- Floating base costing €600,000 funded by the national budget only. Technical specifications have been drafted (tendering will be carried out in accordance with Bulgarian legislation). The implementation of the deal is pending.

The Project will finish in the fourth quarter of 2003.

3. PHARE Project BG 0203.11 – Further Strengthening of border Control and Management of future EU External Borders (blue borders) total budget: €7.07 million.

The Project comprises a twinning (1 year) and investment components.

- The twinning component includes: 1) development of new secondary and tertiary legislation in the field of border control and of new agreements with Black Sea and neighbouring (Romania; see above) countries; 2) establishment of command, control and communications centres for the Black Sea and the River Danube areas; 3) further building of the new administrative structure of the Border Police; 4) further modernisation of training programmes in the context of Schengen requirements and standards; and 5) methodological assistance in the process of putting into operation the surveillance equipment.
- The investment component includes supply of: 1) a maritime patrol vessel (national co-financing); 2) two river patrol boats; 3) surveillance equipment; 4) mobility equipment (national co-financing); 5) standard communication equipment (national co-financing).

The Project will commence at the beginning of next year and will finish in 2005. PHARE financing amounts at €5.3 million, and the national co-financing contributes another €1.77 million.

- *the content of the planned border cooperation agreements with Greece and Romania, in particular the setting up of joint mobile units to carry out in-depth checks, as well as Bulgaria's plans in this respect with FYROM, FRY and Turkey;*

An Agreement between the Government of the Republic of Bulgaria and the Government of Romania on co-operation between the border security authorities in the border regions has been drafted in co-operation with experts from the German Federal Border Guard in the framework of a PHARE twinning project. The Draft Agreement regulates information exchange and other forms of border police co-operation, in accordance with Article 7 of the Convention Implementing the Schengen Agreement.

Section I of the Draft Agreement with Romania defines the areas of co-operation in combating: illegal migration, smuggling and trafficking in human beings, counterfeiting travel documents, smuggling of drugs, arms and radioactive materials, vehicle thefts, corruption (Article 1). This Section also specifies the competent authorities of the two countries (Article 2).

Section II regulates in detail the process of information exchange, communications, and the setting up of joint teams to provide consultation on specific issues.

Section III of the Draft Agreement regulates the protection of personal data and classified information in accordance with national and international legislation.

The Draft Agreement between the Government of the Republic for Bulgaria and the Government of Romania for co-operation between the border security authorities in border regions will be officially submitted to Romania in view of starting negotiations by the end of 2002. In this context, it should be pointed out that Romania is implementing an analogous twinning project with the same partner and the texts of the Bulgarian version of the Agreement have been unofficially co-ordinated with experts from the Romanian Border Police.

The same Draft Agreement will be submitted to Greece through diplomatic channels by the end of 2002.

The Framework Project of an Agreement for Co-operation between Border Security Authorities in Border Areas (see **Appendix I.3**) has also been drafted together with German experts in the framework of a twinning project and is used as a basis for negotiations with neighbouring countries. The Framework Project provides a much larger basis for border police and police co-operation, in accordance with Article 7 and Articles 39-47 of the Convention Implementing the Schengen Agreement.

The exchange of information and joint security analysis are regulated in Articles 3-5.

Article 6 of the above Framework Agreement regulates the communication and co-ordination measures, including the technical aspects in accordance with Article 44 of the Convention.

Article 9 of the Framework Agreement regulates the provision of information upon request by a Contracting Party in accordance with Article 39 of the Convention.

Article 10 regulates the provision of information without a prior request in specific cases in accordance with Article 46 of the Convention.

Article 11 provides the legal basis for establishing joint patrols and joint control groups to carry out checks in the border regions on the territory of the Contracting Parties.

Articles 12 and 13 give the possibility to provide assistance, including staff and technical equipment in cases of immediate threat or natural disasters and catastrophes.

Article 14 regulates cross-border surveillance in accordance with Article 40 of the Convention.

Article 15 regulates hot-pursuit in accordance with Article 41 of the Convention.

Article 16 provides the possibility to establish joint services for information exchange in border area.

Article 18 regulates secondment of liaison officers in accordance with Article 7 and Article 47 of the Convention.

Articles 19-22 regulate the status of officials working under this Agreement on the territory of another country in accordance with Articles 42 and 43 of the Convention.

Article 24 regulates the protection of personal data and classified information in accordance with the relevant national and international legislation.

In 2004, the Framework Agreement will be proposed as a basis for negotiation with Greece, which is the only EU Member State with which Bulgaria shares a border, and Romania, which is a Candidate Country.

A Concept for establishment of contact points for border police co-operation with neighbouring states and a Concept for exchange of liaison officers (see **Appendix I.6**) have been drafted jointly with German experts in view of optimising the practical co-operation with the border police services of neighbouring countries.

As regards the rest of the neighbour countries: Turkey⁵, FRY and FYROM, Bulgaria intends to use the Draft Agreement with Romania as a basis for negotiations. Currently, Bulgaria is not in a position to specify concrete dates for starting negotiations on agreements with the above-mentioned neighbour countries. Timing will depend entirely on the development of these countries, their border management concepts and, in particular, the fact whether they will adopt the Schengen model for external border control. In this context, it should be pointed out that the conclusion of such international agreements depends on the willingness of both contracting parties.

- *the separation of passenger flows for all airports and seaports, including a timetable and the financial implications;*

The actual separation of passenger flows in view of avoiding their mixing at Sofia Airport will be practically achieved in 2005. The construction of a new runway network and a new terminal at Sofia Airport will begin at the end of 2002, and it is planned to be completed within 2 years. The total value of the project, which is implemented by the Ministry of Transport and Communications, is €210 million, which will be provided from the national budget as well as by other donors. The design envisages separate tunnels (passageways) for EU/EEA citizens and non-EU/EEA citizens.

Four Bulgarian ports – two seaports (Varna and Burgas) and two river ports (Ruse and Lom) – will service international passenger flows. There is a real possibility of separating the passenger flows at the indicated ports.

Bulgaria will be prepared for complete separation of passenger flows at all international airports and ports at the projected moment of accession to the European Union.

- *clarification of Bulgaria's intentions as regards the creation of separate lanes for EU/EEA nationals and non-EU/EEA nationals at its airports and seaports;*

Bulgaria has already created separate lanes with the appropriate illuminated signs at Sofia Airport, which takes the main passenger traffic from and to Bulgaria.

- *the issue of visas for seamen in transit;*

Information on this issue is provided under the Visa Policy section of this Supplementary Information.

- *cross border police cooperation with neighbouring countries as regards hot pursuit and cross border surveillance.*

As it was indicated above, the a *Framework Project of an Agreement for Co-operation between Border Security Authorities in Border Areas* has been developed within a PHARE twinning project implemented in partnership with German experts. The Framework Project deals with various forms of border police and police co-operation in keeping with the provisions of Article 7 and Articles 39-47 of the Convention Implementing the Schengen Agreement.

⁵ In April 2002 an Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of Turkey on coast guard co-operation was concluded.

The EU underlines that it will closely monitor the implementation of the Schengen Action Plan.

APPENDIX:

- I.1. Draft Border Security Act (in German);
- I.2. Draft Agreement between the Governments of the Republic of Bulgaria and Romania for co-operation between border security authorities in border regions (in German);
- I.3. Framework Agreement for co-operation between border security authorities in the border areas (in German);
- I.4. Concept for the development of the national border police service for the period 2001-2004
- I.5. Concept for establishment of contact points for border police co-operation with neighbouring states
- I.6. Concept for bilateral exchange of liaison officers

II. REFORM OF THE JUDICIARY

The EU notes that the Council of Ministers adopted a National Reform Strategy for the Bulgarian Judicial System on 1 October 2001 and invites Bulgaria to provide detailed information on its plans for the implementation of the different aspects of this Strategy, including a timetable and the available budget.

The National Reform Strategy for the Bulgarian Judicial System was adopted by Council of Ministers Decision No. 672 of 1 October 2001, followed in December 2001 by the adoption of an Action Plan for its implementation. In a spirit of transparency and in view of obtaining professional appraisal, both documents were offered for discussion at all levels of the judicial system – courts, prosecutor's offices and investigative services. All feedback recommendations were analysed at the Ministry of Justice and, as a final drafting stage, in February 2002 was organised an international conference dedicated to judicial reform issues, which was attended by leading Bulgarian and foreign legal experts and representatives of various institutions such as the Parliament, the Presidency, law faculties, the Institute of Legal Sciences with the Bulgarian Academy of Science, prominent figures of the judiciary and NGOs. The ideas and recommendations tabled at the conference were incorporated in the Action Plan for Implementation of the National Reform Strategy for the Bulgarian Judicial System, which was adopted by the Council of Ministers on 20 March 2002. Its accomplishment is currently backed up by the preparation of by-laws, which will be adopted by the end of 2002.

The actual implementation of the short-term objectives and priorities laid down in the Action Plan is included in the amendments to the *Judicial System Act*, which were passed by the National Assembly on 31 July 2002 (SG No. 74/30.07.2002).

The new amendments address the following aims:

- To improve the system for selection of members of the Supreme Judicial Council (SJC) and their authority. The hypotheses concerning litigation of the legitimacy of the election of a member of the SJC are expanded; seven new duties are created, including *inter alia*: approval of the annual reports of the judicial units at all levels – court, investigation and prosecution; elaboration of a summary annual report by the Minister of Justice based on the information provided by the judiciary – following its approval by the SJC the Minister sends the report to the National Assembly (introduction of transparency and accountability in the judicial system); adoption of professional ethics rules for judges, prosecutors, investigators and judicial

personnel; publication of a monthly bulletin on the work and decisions of the SJC, etc.

- To define and set out in detail the powers of the Minister of Justice in his capacity of a Chairman of the Supreme Judicial Council and a representative of the executive branch. A new chapter is introduced which regulates the interaction between the Minister of Justice and the judicial authorities thus implementing one of the critical remarks of the European Commission concerning division of power and definition of authority.
- To introduce an attestation procedure for all judges, prosecutors and investigators prior to making them irreplaceable (Article 129 et seq.) as well as regular assessment of their performance (at all levels) in terms of promotion in rank or position. The aim is to eliminate subjective views and make each magistrate's career predictable. The amendments provide for a transparent attestation procedure and body and contestability of the decisions of the attestation committee, etc.
- To establish compulsory competitive procedure for the initial recruitment in the judicial system regardless of instance level – first, appellate or cassation.
- To introduce obligatory training for junior judges and junior prosecutors as well as to ensure the subsequent qualification of judges, prosecutors, investigators, executive judges, recording judges and judicial personnel. The amendments provide for the establishment of a National Institute of Justice as a legal person with a seat in the city of Sofia, which is charged with the implementation of the above training objectives. The Regulations governing the work of the Institute are currently being drafted and will be adopted in co-ordination with SJC. Funding will be provided from the national budget (the necessary expenses are planned in Budget 2003), international donor programmes and other projects as well as non-profit organisations. The curriculum will commence in 2003. A training course will last one year. During that time future magistrates will be paid 70 percent of the basic monthly salary of a lowest-ranking judge or prosecutor. Qualification improvement may also be provided by non-profit organisations (such as the current Magistrates Training Centre) financed by specific target-oriented programmes. The tendency is to integrate the Magistrates Training Centre with the National Institute of Justice at a later stage.
- To introduce a mandate and electivity for all judicial administrators – at district, regional and appellate levels. The mandate will be for five years and the choice will be made by a general assembly of all judges, prosecutors and investigators at the given level.
- To create new administrative positions (managers) in all units of the judicial system as well as a new rank system.
- To enhance the regulatory basis in terms of the status of administrative personnel employed in the judiciary and the administration of the Supreme Judicial Council (Articles 188, 188a and 188b).
- To reconstitute the National Investigative Service entrusting it with responsibilities for administrative and financial oversight of and methodological assistance to investigative services throughout the country (Article 122).
- To establish a specialized judicial security and assistance unit (Article 36e).
- To institute an entirely new procedure of judicial budgeting. The current procedure, which allows the Council of Ministers to put forward its own motivated proposals and objections, i.e. to influence the budgeting of the independent judiciary, will be repealed. Now the Supreme Judicial Council will draft the budget for the judiciary, which will be incorporated through the Council of Ministers into the draft law on the national budget for the respective year. There will be an imperative ban on the Council of Ministers to alter the parameters of the draft budget of the judiciary. The Council of Ministers will only be allowed to express an opinion on the judicial

budget. The National Assembly will adopt each judicial body's budget individually as a separate item of the national budget. Primary administrator of the judicial budget will be the Supreme Judicial Council, with secondary spending units being the presidents of the Supreme Court of Cassation and the Supreme Administrative Court, the Prosecutor General and the Director of the National Investigative Service.

As already indicated above, the implementation of the amendments to the *Judicial System Act* and the Judicial Reform Action Plan will be ensured by the by-laws currently prepared by the Ministry of Justice and the Supreme Judicial Council. The whole process must be concluded by the end of 2002.

Following up on the short-term priorities laid down in the remaining subobjectives of the Judicial Reform Action Plan, the European Commission has been offered in the framework of the PHARE Programme 2002 a project on the Implementation of the Judicial Reform Strategy worth €11,870,000. The project fiche has been granted approval and the project will start in 2003. It includes four subprojects:

1. Providing equal access to justice;
2. Improving the system for enforcement of judgements in view of ensuring effective and fast protection of individual rights and the rights of legal entities;
3. Computerization of court facilities;
4. Establishing a National Institute of Justice (the PHARE Programme will support the development of curricula and training of trainers).

What is the current situation in respect of access to (free) legal aid and what do envisaged changes contain?

Free of charge legal aid, according to Bulgarian law, covers both the criminal and civil tiers of procedure and includes:

1. Appointment of a lawyer to represent before the court certain categories of people in certain cases;
2. Relief of judicial expenses.

Definition.

A. Criminal procedure:

1. Article 70 of the *Penal Procedure Code* contains provisions on the *ex officio* appointment of defence counsel and lists the cases in which the latter's participation in the criminal proceedings is mandatory. This happens when the defendant is a minor or suffers from physical or mental disabilities which hamper their own defence abilities; when the case refers to crime for which the punishment provided is life imprisonment or deprivation of liberty for not less than ten years; when the defendant does not speak Bulgarian; when there is a conflict between the interests of the defendants and one of them has defence counsel; when the case is examined in the absence of the defendant as well as when the defendant is unable to pay the attorney's fee, wishes to have defence counsel, or the interests of justice so require. In those cases the attorney's fee is covered by the court budget or the budget of the pre-trial authorities (Article 37 of the Attorney Law – **Appendix 1**).
2. According to the *Stamp Duty Act* (**Appendix 2**), all documents and papers related to general criminal law cases are relieved of any stamp duties.

B. Civil law disputes:

1. The *Civil Procedure Code* (**Appendix 3**) deals with the cases when a person is appointed a counsel by the court and counsel's payment is covered by the court budget. They include the following hypotheses: when there is conflict of interests between the person and the counsel, or the person's residence is unknown and he/she does not appear in court even after a writ has been published in the State Gazette (Article 16, Paragraphs 5 and 6, Article 50, Paragraph 2 of the *Civil Procedure Code*).
2. Article 63 of the *Civil Procedure Code* mentions the cases when the payment of fees and costs of civil disputes may be avoided. Those are definite and comprehensively listed claims as well as hypotheses where the court has adjudicated that someone is not in the possession of sufficient funds to pay the fees and costs.

According to the *Stamp Duty Act*, all documents and papers related to alimony, custody and parentage cases are exempt from stamp duties (Article 5).

In such cases expenses are paid from the state budget allotments for free legal aid. If the claim is sustained, the consequent fees and paid expenses are transferred to the defeated side. The Attorney Law also contains provisions on the conditions for free legal defence, both in terms of civil and criminal matters: for those experiencing financial difficulties, for those who are entitled to financial maintenance as well as for relations of the counsel or another legal professional (Articles 35-36).

Free counsels and clients are determined by the Supreme Attorney Council (Article 62 of the Attorney Law). Another crucial factor for citizens to have access to justice is the size of judicial and bookkeeping costs. The rates of due fees are reasonable and legally determined. As already mentioned above, the law permits the court to exempt entirely or in part from stamp duties those who have financial difficulties.

Ensuring fast, accessible and fair justice, compliant with EU standards, as well as protection of the essential human rights and freedoms has always been among the main priorities of the Bulgarian Government. In that context, the Reform Strategy for the Bulgarian Judicial System provides the following tools in view of guaranteeing equal access to justice:

- In a short-term perspective: elaboration of legislative changes aimed at enhancing the free legal aid in criminal and civil matters;
- In a medium-term perspective: creation of a National Legal aid Office, which coordinates and offers legal aid throughout the country.
- In a long-term perspective: drafting new *Civil Procedure Code* and *Penal Procedure Code*.

In view of accomplishing the priorities laid down in the Strategy and taking into account the project fiche on Implementation of the Judicial Reform Strategy (under the PHARE Programme 2002), the Ministry of Justice has prepared Subproject 1 "Equal Access to Justice", which is aimed at:

- Reviewing legislative efficiency in terms of providing free legal aid in criminal and civil matters, and collating it with the current legislation in the EU Member States;

- Developing specific proposals about the necessary legislative changes, including a new law, searching to improve the mechanism for free legal aid.
- Establishing a National Legal aid Office, which co-ordinates and offers legal aid throughout the country.

Also, the Ministry of Justice is preparing programmes for development of new 'Legal Clinics' and improvement of the current ones. Those institutions are designed to provide free legal aid.

In a long-term perspective, the Ministry of Justice is preparing a project on the reform in the civil and criminal proceedings under the PHARE Programme 2003, whose objectives are aimed at improving the access to justice for all individuals, particularly the poor, accelerated defence procedure, etc.

The Ministry of Justice participates in a number of initiatives oriented to introduction of alternative dispute resolution. Mediators are currently trained in partnership with the interested NGOs and with the financial support of ABA-CEELI in view of posting one in every regional court. Ministry of Justice's involvement in that area covers participation in monthly briefings to discuss cases subject to mediation and current issues.

What practical steps have been taken?

On 30 May 2002 the Ministry of Justice, jointly with the British Embassy in Sofia, held a seminar on the alternative ways of dispute resolution with the participation of 35 judges, lawyers and MOJ experts.

In June 2002, jointly with the Partners-Bulgaria Foundation, was held a five-day seminar on: 'Basic Mediation Skills in Extra-Judicial Dispute Resolution' with the participation of 30 lawyers from across the country.

In July a task force headed by the Ministry of Justice and comprising judges and representatives of ABA-CEELI, Partners-Bulgaria Foundation, Centre for Extra-Judicial Dispute Resolution with the Bulgarian Bar Union, Mediator Association and the Supreme Attorney Council adopted *Mediator Professional Standards*, which is a groundbreaking document in that area.

During its upcoming meetings until the end of the year the task force will discuss the necessity and feasibility of making amendments to the *Civil Procedure Code* or elaborating a new law on mediation. Those issues will be reviewed in the light of the *Council of Europe Recommendations on mediation and the EU Green Paper on alternative dispute resolution in civil and commercial law (COM(2002) 196 final/19.04.2002)*.

The EU also notes that the Strategy does not address the position of investigators, or the high penal immunity of investigators, prosecutors and judges or the division of tasks and responsibilities between the Ministry of Justice and the Supreme Judicial Council. The EU invites Bulgaria to provide detailed information on these issues.

It should be noted that the legislative solutions laid down in the short-term priorities of the National Reform Strategy for the Bulgarian Judicial System and the Action Plan for its implementation have been sought in the context of the current Constitution of the Republic of Bulgaria.

According to the Constitution of the Republic of Bulgaria, the investigative bodies belong to the judiciary, which includes three independent units: court, prosecution and investigation.

At the moment investigators are employed in 28 investigative services, which are divided on a territorial basis according to the seats of regional courts. Regional investigative services are legal entities supported by the national budget and are authorized to investigate all criminal cases based on the provisions of the *Penal Procedure Code*. As already mentioned above, the proposed amendments to the *Judicial System Act* reconstitute the National Investigative Service, which will conduct organizational and administrative oversight, render methodological and practical assistance and investigate complex criminal cases. The aim pursued is to improve the co-ordination in the fight against crime, accelerate pre-trial proceedings, etc.

The Constitution of the Republic of Bulgaria gives investigators, prosecutors and judges immunity similar to MP immunity and this is a natural consequence of the preceding totalitarian historical period when the judicial system was used purposively by one political party for political purposes. The idea guiding the fathers of the 1991 Constitution was to protect the judiciary from such brutal interference lacking all legal logic, which crystallized in the current model. It grants and guarantees immunity that protects the MANDATE, not the person serving it, i.e. this immunity is not absolute. In order to lift a judge's, prosecutor's or investigator's immunity, the Prosecutor General or one-fifth of the members of the Supreme Judicial Council⁶ must make a motivated request to the Supreme Judicial Council, which, when there is sufficient evidence of a general crime, is authorized to make a decision of lifting a magistrate's immunity. According to Article 134 of the *Judicial System Act*, a magistrate shall be detained without due permission when caught in the commission of a serious crime. In that case, however, the Supreme Judicial Council or, if it is not sitting, the Minister of Justice should be informed immediately.

There is political will to amend the Constitution of the Republic of Bulgaria so that the changes which will be introduced in the chapter on the judicial system raise the Bulgarian judiciary to the standards of the European Union. This conclusion is based on largely discussed topics both among members of the legal profession and politicians such as:

- Immunity of judges, prosecutors and investigators;
- Principle of irreplaceability;
- Number of members, membership composition and powers of the Supreme Judicial Council;
- Election and terms of reference of the Supreme Judicial Council;
- Place and role of investigation and prosecution authorities in the state system;
- Relations between the minister of justice and the judicial authorities;
- Public accountability of the judiciary.

The dominating opinion is that constitutional changes should be approached after a careful and in-depth consideration of their effectiveness and on the basis of wide public involvement. The competent institutions work hard to that end in view of enhancing public consensus and consolidating the political will to accept the necessary changes in the Bulgarian Constitution.

An interagency task force, established by the Council of Ministers on the proposal of the Minister of Justice, made an analysis of the necessary amendments to the Bulgarian Constitution resulting from the country's preparation for full membership in the European Union. The final report produced by the task force was reviewed and approved in June

⁶ Provision of the newly amended Judicial System Act.

2002 by the European Integration Council. This opened the floor for a wide public discussion of the necessity to introduce changes in the fundamental law of the country.

A National Conference on the 1991 Constitution of the Republic of Bulgaria and European Standards was held as a natural continuation of that discussion in July 2002 under the auspices and with participation on behalf of the President of the Republic of Bulgaria. The second part of the Conference was entirely focused on the necessary changes in Chapter VI 'Judicial System'. The discussions covered issues related to the place and accountability of investigation and prosecution authorities, judicial immunities, membership, powers, election and terms of reference of the Supreme Judicial Council as well as the instances of court proceedings.

The dominating opinion of experts, researchers and members of the judiciary was that the investigative service should be placed under the executive branch. Another broadly shared opinion was that the immunity of judges, prosecutors and investigators should be brought to functional immunity, i.e. immunity in terms of the acts enacted by them. A strong emphasis was placed on the public accountability of the judiciary.

Another conference, entirely dedicated to the judicial reform and related changes in the Constitution of the Republic of Bulgaria, is planned for November.

Division of tasks and responsibilities between the Ministry of Justice and the Supreme Judicial Council

The new *Judicial System Act* makes a clear distinction between the powers of the two institutions.

The amendments to the *Judicial System Act* expand the powers of the Supreme Judicial Council; a new chapter has been introduced which makes a discrete outline of the powers of the minister of justice in his dealing with the judiciary; the part concerning judicial budgeting has been completely revised.

The Supreme Judicial Council is a high administrative body with strategic authority to manage the judiciary, determine its composition and maintain its organization. It consists of 25 legal professionals of high professional and moral qualities, elected for a 5-year period. The President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General are members of the Supreme Judicial Council as a matter of course.

According to the *Judicial System Act*, the Supreme Judicial Council is authorized to:

1. Propose to the President of the Republic of Bulgaria to appoint or remove the presidents of the Supreme Court of Cassation and the Supreme Administrative Court and the Prosecutor General.
2. Determine the number, judicial regions and seats of regional, district, military and appellate courts based on the proposal of the Minister of Justice.
3. Determine the number of judges, prosecutors, investigators, executive judges, recording judges and judicial personnel in all courts, prosecutor's offices and investigative services.
4. Appoint, promote or demote in office or move or remove from office judges, prosecutors and investigators;
5. Determine the payment rates for judges, prosecutors and investigators;
6. Decide on the lifting of immunity or temporary suspension of a judge, prosecutor or investigator in the cases stipulated by law, upon request of the Prosecutor General and at least one-fifth of the members of the Supreme Judicial Council.

7. Deliver judgements on disciplinary decisions against judges, prosecutors and investigators. (Disciplinary proceedings against magistrates may be opened by the Supreme Judicial Council on the recommendation of the entities mentioned in Article 171 of the *Judicial System Act*. The members of the Supreme Judicial Council draw lots in order to designate a panel of five members for hearing of a proposition for disciplinary action.)
8. Draft the annual budget of the judiciary and administer its expenditure.
9. Request and hear on an annual basis information from courts, prosecutor's offices and investigative services.

The new amendments to the *Judicial System Act* have expanded and improved considerably the powers of the Supreme Judicial Council. In addition to those mentioned above the SJC is the body which approves the rules for professional ethics adopted by the professional organisations of judges, prosecutors and investigators. It is authorised to select the director of the National Investigative Service. A positive development is the introduction of transparency in the work of the SJC by obliging it to publish an annual report on courts, prosecutor's offices and investigative services as well as the acts and decisions it has adopted (including in the Internet), which gives an opportunity for wide public access and control of the performance of this high judicial body. The presidents of appellate, regional, district and military courts, heads of appellate, regional, district and military prosecutor's offices, the director of the National Investigative Service and directors of regional investigative services will be elected on a democratic principle (it is only possible if they are nominated by the general assemblies of the respective judicial units).

It should be pointed out that the Ministry of Justice is a body of the executive power responsible for carrying out the government policy in the field of justice. In accordance with the *Judicial System Act*, the Minister of Justice chairs the meetings of the Supreme Judicial Council but is not entitled to vote. According to the provisions of the above Act, the Ministry of Justice - through the Inspectorate under Article 35b of the *Judicial System Act* - controls the organisation of the administrative work of the courts, collects information and makes summaries of judicial practices. The Minister of Justice can make suggestions for appointments in the judicial system.

The new amendments to the *Judicial System Act* stipulate the creation of structures supporting the co-ordination between the Minister of Justice and the Supreme Judicial Council and the judicial authorities in the following areas:

1. judicial activities;
2. professional training;
3. information technologies;
4. crime suppression and forensic research;
5. judicial buildings;
6. security.

Rules of Procedure of the Ministry of Justice

In view of the recent amendments to the *Judicial System Act*, the *Penal Code* and the *Execution of Punishment Act*, as well as in the context of speeding up the negotiations with the European Union, on 22 August 2002 the Bulgarian Council of Ministers approved new Rules of Procedure of the Ministry of Justice. They define the organisation, activity, functions and personnel of the Ministry, its organisational structures and administrative units. The new Rules will optimise the performance of the Ministry; it will comprise 4 general administration directorates and 6 specialised administration directorates (so far its administration was organised in one directorate general, 7 directorates and an inspectorate, in line with the *Administration Act*). The new Rules reflect the recommendations and suggestions made in the framework of twinning project BG 99/IB/JH/04 'Strengthening the independence of the judiciary and the institutional capacity of the Ministry of Justice to adopt and implement the EU *acquis communautaire*'.

In compliance with the amendments to the *Execution of Punishments Act*, DG General Administration of Penal Institutions has been transformed into DG Execution of Punishments as a secondary budget spending unit under the Minister of Justice.

In order to optimise the performance of the current Administrative Legal Services and Public Relations Directorate consisting of 37 experts, it has been separated into two directorates: Administrative Legal Services and Human Resources consisting of 32 experts and Public Relations and Protocol with a staff of 10.

Due to the increased volume of work related to harmonisation of the national legislation with the EU *acquis*, the staff of the Legal European Integration Directorate has been increased by two experts.

The lighter regulations for obtaining Bulgarian citizenship (by persons of Bulgarian origin), adopted in 2001, have led to a considerable increase in the work of the Bulgarian Citizenship and Adoptions Directorate. For that reason its staff has been increased by another two experts.

The new Rules of Procedure provided for the setting up of a Security Directorate as part of the specialised administration of the Ministry of Justice. It will provide security for all judicial buildings, judges and prosecutors and, if necessary, witnesses as well as convoy accused and indicted persons.

Information Services and Technologies Directorate has been established in connection with the building of an Integrated Crime Information System and developing a National Information Strategy of the Judicial System. It will consist of 12 experts engaged in studying and analysing the information needs of the judiciary offering program and technical solutions for computer hardware and software. Its duties also include development and maintenance of the asset register (in line with the *Cadastre and Real Estate Register Act*).

Within three months of the enactment of the amendments to the *Judicial System Act* the Bulgarian Council of Ministers must issue a decree on the financing of the Integrated Crime Information System. The necessary funds are included in Budget 2002 and Budget 2003. The Ministry of Justice is hoping to receive financing for the new directorate as well as expert assistance under the PHARE project on Implementation of the Reform in the

Judicial System. It is expected that nearly 1 million levs will come under the World Bank project on Cadastre and Real Estate Register (2002).

The EU reiterates its invitation to Bulgaria (CONF-BG 35/01) to provide detailed information on measures planned for the reduction of the duration of court proceedings and the adequate enforcement of judgments. The EU further invites Bulgaria to provide detailed information on the measures planned for upgrading the status of magistrates and strengthening the judicial review of decisions of the executive.

In view of improving the mechanism for enforcing judgements and reducing the duration of court proceedings, amendments to the two main procedural laws - the *Civil Procedure Code* and the *Penal Procedure Code* – have been drafted and submitted for consideration. The draft amendments to the *Civil Procedure Code* were adopted at a first reading by the National Assembly; the amendments to the *Penal Procedure Code* have been completed and is pending approval by the Council of Ministers (expecting that they will be passed by the National Assembly by the end of October 2002).

The proposed amendments to the *Civil Procedure Code* are aimed at further improving court proceedings in civil matters mainly in view of the need to guarantee procedural speed, economy, and discipline.

In order to fulfil the above objectives, the draft amendments envisage to:

- Rationalise summoning procedures;
- Bring more precision to the possibilities available for the parties to postpone a case and, as a result, reduce the duration of court proceedings;
- Introduce two instances of proceedings in labour disputes (except in cases of illegal disciplinary dismissal);
- Regulate quick proceedings in labour disputes or disputes concerning offences against trade marks, geographic marking, copyright or similar rights; or legal status of persons (Articles 74 and 75 of the *Family Code*);
- Increase the value of pecuniary claims that are non-contestable before the Supreme Court of Cassation will be (currently this sum is 1,000 levs; the amendment envisages 50,000 levs for property claims in commercial cases and 5,000 levs for other cases);
- Exclude claims under the *Ownership and Use of Agricultural Land Act* and the *Restoration of Ownership of Forests and Land of the Forestry Fund Act* from appeal at third instance (cassation);
- Introduce amendments to cassation proceedings in order to accelerate the ruling of disputes (reduce the possibilities for returning cases from the cassation instance to the appellate instance);
- Accelerate executive procedures by encouraging more active participation of the parties.

The proposed amendments are in compliance with the principles laid down in *Council of Europe Committee of Ministers Recommendation 9505/95 on introducing systems and procedures for appeal in civil and commercial cases and improving their functioning*.

The envisaged amendments to the *Penal Procedure Code* will solve the existing conflicts in the current law, which have lead to serious procedural delays. The amendments are aimed at achieving speedy and economical procedures. They are in compliance with the requirements of the *European Convention on the Protection of Human Rights and Fundamental Freedoms* to solve cases within reasonable time limits.

The major changes include:

- In order to achieve speedy and efficient procedures, it is envisaged that for some criminal offences of general nature - which do not present serious danger to the public and respectively are subject to less severe punishments - court proceedings will be initiated only if the victim decides to file a complaint with the Prosecutor's Office (this institute of mixed public and private nature has been traditionally recognised in the Bulgarian criminal procedure since the end of the 19th Century);
- The defendant can request the relevant court of first instance to hear his/her case within three years in the case of a serious crime and in two years - in all other cases;
- Restricting the possibilities to appeal against rulings of the appellate court concerning measures to secure appearance in pre-trial proceedings;
- Restoring the institute of plea bargaining;
- Improving police investigation proceedings;
- Further developing the provisions on legal assistance in criminal matters and bringing them in accordance with European standards;
- Ruling out the possibility to file a civil claim in pre-trial criminal proceedings (however, the right to request and sustain security of a future claim is preserved);

Increasingly wide application is found for alternative mechanisms for dispute resolution, especially in the field of family law. On one hand, the aim of developing mediation is to relieve the judiciary from cases of relatively low property interest, lack of interest on behalf of third parties or other interested parties. On the other hand, mediation will further improve socially disadvantaged persons' access to justice (mediation costs are significantly lower than costs for three-instance court proceedings).

An additional measure was provided in order to relieve judges and accelerate court proceedings - the positions 'judicial assistant' and 'court administrator' were introduced for the first time (amendments to the *Judicial System Act*). The former will be responsible for assisting judges in the process of preparation and progress of the cases, drafting court rulings, etc. The latter will be entirely responsible for the administrative work in the judiciary.

In order to improve the effectiveness of Bulgarian judicature, the Ministry of Justice has developed a draft project on reform of the civil and criminal proceedings under the PHARE Programme 2003.

The aim of the project is to reorganise the civil and criminal court proceedings by amending the two basic laws governing them: *Civil Procedure Code* and *Penal Procedure Code*.

The project will assist for the implementation of subobjective 13 'Legislative changes' of the Judicial Reform Strategy, which provides for:

- assessment and amendment of current procedural and material laws in view of defining the obstacles that hamper a fast, accessible and fair delivery of justice;
- development of strategy and priorities for the necessary legislative changes related to a fast, accessible and fair delivery of justice.

The EU will continue to closely monitor the implementation of the National Reform Strategy and the strengthening of judicial capacity in general.

There are several aspects to the process of upgrading the status of judges, prosecutors and investigators.

The new *Judicial System Act* introduces and regulates the status of court administrators as senior judicial officers (Article 188c). It specifies their managerial and organisational functions. Court administrators are responsible for planning, organising and managing judicial personnel, managing the administrative activities of the court and introducing program solutions for long-term planning, budget policies, finances, automation and delivery of equipment. It is explicitly mentioned that court administrators must be politically unbiased in carrying out their duties. The introduction of this new for the Bulgarian legal system figure seeks to improve the status of judicial managers, relieve them of unnatural duties and let them focus their efforts on the management of judicial cases and law enforcement.

The amendments to the *Judicial System Act* introduces another new figure in Bulgarian justice – that of the judicial assistance. Judicial assistants will relieve the work of judges in collecting certain evidence, analysing the practice of the Supreme Court of Cassations or the Supreme Administrative Court, drafting court decisions, etc.

The amendments to the *Judicial System Act* have changed the provision of Article 139c, according to which the mandatory social and health insurance of judges, prosecutors, investigators and judicial personnel will be financed from the budget of the judiciary. A new provision stipulates that if a judge, prosecutor or investigator with 10 year plus experience in that capacity is dismissed, they are entitled to compensation equal to the size of as many monthly salaries as the number of years they served in the judiciary, though not more than 20.

The mechanism for determining the salaries of magistrates has been further improved by linking it with the average monthly salary in the public sector.

New relations to the state budget have been established. The *State Budget 2002 Act* provides for the possibility incomes received from judicial taxes to be used to cover judiciary expenditures. Funds for structural reforms in the judiciary are allocated in accordance with the “Final provisions” of the *State Budget Act* - these include funds for strengthening the capacity of judicial administration.

Another measure provided in the amendments to the *Judicial System Act* and aimed at improving the status of magistrates in performing their official duties is the creation of a Specialised Judicial Security Unit with the Ministry of Justice. The Unit, whose creation is regulated in the new Rules of Procedure of the Ministry of Justice, will be responsible for organising and providing security of all court buildings and judiciary bodies; summoned persons; escorting defendants and accused, etc.

The judicial control over decisions of the executive authorities in Bulgaria is provided for and guaranteed at a constitutional level. In accordance with the current Constitution of the Republic of Bulgaria, appeals against decisions of the executive authorities can be lodged with the Supreme Administrative Court in accordance with the *Supreme Administrative Court Act* (the *Supreme Administrative Court Act* can be found in Bulgarian and English on the court’s web cite: www.sac.government.bg).

An overall evaluation of the administrative justice system in Bulgaria has started in view of rapidly improving the quality modernising and speeding up the administrative proceedings, enhancing the status of judges and prosecutors dealing with administrative matters, improving judicial control over the acts of the government (the main laws are dated 1976-78), with the financial assistance of the UNDP. The objective is to create a framework for establishing an up-to-date administrative system for administering justice through legislative codification (on the basis of a comparative legal study in the Member States) and setting up specialised administrative courts. This project is also supported and further developed by a PHARE project on Improving Administrative Justice in View of Combating Corruption. The aim is to ensure that by the end of 2003 the Republic of Bulgaria will have an up-to-date and effective administrative justice system and that specialised administrative courts will be set up by that deadline.

A task force has been created with the financial support of the UN Development Programme in view of improving the quality of court proceedings in commercial matters. It will analyse the volume and type of commercial disputes in the various judicial regions, the number of registered proceedings, specialisation and qualification of judges, etc. and propose legislative solutions in terms of improving the effectiveness and speed in that specific area. The task force must complete its function by the end of 2002. It will present the outcome and its recommendations to the relevant members of the judiciary at a national conference early in 2003. The conference is to decide on the necessity of establishing specialised commercial courts or consolidating the existing commercial sections of the regional courts.

APPENDIX:

- II.1. Judicial System Amending Act.
- II.2. Civil Procedure Code.
- II.3. Attorney Law.
- II.4. Stamp Duty Act.

III. DATA PROTECTION

The EU notes that the Bulgarian Parliament adopted the Personal Data Protection Act on 22 December 2001. The EU also notes that for the full implementation of this Act, amendments to existing legislation and secondary legislation is needed, and that Bulgaria intends to finalise this by 31 December 2002. The EU invites Bulgaria to provide detailed information on the content of the legislation foreseen and to keep the Conference informed on progress made, as well as on the date of entry into force of the Personal Data Protection Act.

The *Personal Data Protection Act*, adopted in December 2001, entered into force on 1 January 2002.

In addition, the Ministry of the Interior has prepared a draft amendment to the *Ministry of the Interior Act*, which was adopted at a first reading by the National Assembly on 1 August 2002. The *Law amending the Ministry of the Interior Act* will be finally adopted by the National Assembly by the end of October 2002. The changes envisaged by the draft are related to the information activity of the Ministry adjusting it to the EU standards of data retrieval and protection in the law enforcement area. The new provisions cover the basic principles of Council Convention 108 for the Protection of Individuals with Regard to

Automatic Processing of Personal Data as well as the requirements contained in Recommendation R 87(15) regulating the use of personal data in the field of the police work.

The concept of data processing used in the draft amendment to the *Ministry of the Interior Act*, which will replace the currently used terminology, is in line with Article 2(c) of Convention 108.

In line with the principles laid down in Article 5 of Convention 108, the draft amendment contains provisions regulating the grounds and aims in processing personal data in the framework of police registration. It also sets the terms for taking data off police registration, i.e. termination of processing ordered by the data administrator on the basis of the interested party's request.

According to the requirements set in Article 5(e) of the Convention, the draft amendment stipulates that personal data collected by the Ministry of the Interior bodies and transferred by other agencies shall be deleted unless there is a reason to be kept provided by law or implementing a court edict.

The provisions under consideration will introduce in the *Ministry of the Interior Act* the principles of legality of data processing and of use only for legitimate purposes. The new provisions will bring compliance with Article 5(a) and (b) of Convention 108 as well as Principle 2.1 of Recommendation R 87(15), which reads that the collection of personal data for police purposes should be limited to data necessary for the prevention of a real danger or the suppression of a specific criminal offence, and Principle 4 of the same Recommendation, directing that personal data collected by the police for police purposes should be used exclusively for those purposes.

As regards the special categories of data or the so-called sensitive data under Article 6 of Convention 108 and, respectively, Principle 2.4 of Recommendation R 87(15), the draft amendment's provisions are in full compliance with EU standards included in the above instruments.

In line with the first Principle of Recommendation R 87(15), obliging the countries to identify an independent supervisory authority outside the police sector responsible for ensuring respect for the Recommendation, the draft amendment delegates the control of the protection of individuals in respect of data processing and of the access to such data to the Personal Data Protection Commission.

The EU further takes note of Bulgaria's intention (CONF-BG 73/01) to ratify the above-mentioned Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data by 31 March 2002. The EU invites Bulgaria to inform the Conference as soon as this Convention has been ratified.

In June 2002, the National Assembly ratified Council Convention 108 for the Protection of Individuals with Regard to Automatic Processing of Personal Data (SG No. 56/07.06.2002). On 18 September 2002 Bulgaria officially submitted the Instrument of ratification to the Council of Europe.

The EU also invites Bulgaria to provide detailed information on the establishment of the Data Protection Commission including the appointment of the members of the Commission, as well as its independence, the legislation necessary for its establishment, its functioning, budget, staffing, training and equipment.

Based on the proposal of the Council of Ministers, on 23 May 2002 the National Assembly adopted a Decision selecting the chairman and members of the Personal Data Protection Commission (SG No. 54/31.05.2002).

In accordance with the *Personal Data Protection Act*, the Commission elaborated and adopted Rules for its operation and the activities of its administration, which were promulgated in State Gazette No 71/23.07.2002.

According to the *Personal Data Protection Act*, the Personal Data Protection Commission is an independent body responsible for the protection of individuals with regard to processing their personal data and access to such data as well as ensuring respect for the Act.

The basic functions of the Commission are to:

1. Analyse and exercise overall control on the compliance with the legislation in the field of personal data protection;
2. Keep a register of personal data administrators;
3. Inspect the administrators' activities in connection with its powers under Subparagraph 1;
4. Give opinions and permissions in the cases covered by this Act;
5. Issue obligatory instructions to administrators, related to the protection of personal data;
6. Upon advance notification impose temporary suspension on personal data processing that breaches the personal data protection rules;
7. Review complaints against administrators who have refused persons access to their personal data as well as other administrators' or third parties' complaints in relation with their rights under this Act;
8. Participate in the drafting of legislation containing provisions on personal data protection.

The Commission is a collegiate body consisting of a chairman and four members, who are approved by the National Assembly on the recommendation of the Council of Ministers for a 5-year mandate and may be re-elected for an additional mandate.

The members of the Commission must meet certain requirements such as to have Bulgarian nationality, hold a university degree in law or in information sciences or a master's degree in information technologies, have at least ten-year experience in their respective field and a clean criminal record.

Members of the Commission may not be persons who are sole traders, managers/procurators or members of managing or supervisory bodies of companies, co-operatives or non-profit organisations. Members of the Commission also may not occupy any other paid position except as researchers and teachers.

The eligible chairman of the Commission is a person who is a trained lawyer and meets the requirements above.

The Commission is a standing body supported by an administration of fifteen experts.

The Commission issues a Bulletin of information on its activity and decisions.

On an annual basis until 31 January, the Commission must draw a report on its annual activity, which is presented to the National Assembly and the Council of Ministers.

The 2002 national budget allots 200,000 levs for the Commission (salaries and support), which makes it possible to bring the Act into operation and take initial steps in terms of data protection. The funds necessary for building the information system of the Commission, creation of Register under Article 40 and publication of the Commission Bulletin in 2003 have been estimated at 1.7 million levs, and they are to be provided from the national budget and other sources. At the moment, the funds necessary to adjust the current registers to the new legal basis are in a process of evaluation and specification with a view to including them in the 2003 budgets of the public authorities and municipalities.

APPENDIX:

III.1. Personal Data Protection Act.

III.2. Rules of Procedure of the Personal Data Protection Commission and its Administration.

IV. VISA POLICY

The EU has invited Bulgaria to keep the Conference informed on progress made with regard to the harmonization of the EU visa lists (Regulation (EC) 539/2001, as amended by Regulation (EC) 2414/2001), in particular as regards the introduction of visas for nationals of FRY and FYROM, the implementation of the Decision as regards nationals of Tunisia and the revoking of visa obligation for 22, mostly Latin-American countries.

In compliance with the Schengen Action Plan⁷ a new *Regulation on the terms and procedures for issuing visas*⁸ has been elaborated, following the *acquis* and the respective provisions of the Schengen *acquis* and has been subsequently adopted by the Council of Ministers on 25 April 2002. In the Annex 1 and Annex 2 attached to the Regulation the lists of countries whose nationals are required to have visas and those whose nationals are exempt from that requirement have been defined. At present the Bulgarian visa policy is almost fully harmonised with the *Council Regulation (EC) No 539/2001, as amended by Council Regulation (EC) 2414/2001*. The FRY, FYROM and Tunisia are still visa free and the following countries which are on the EU positive list are still not visa free: Argentina, Bolivia, Brazil, Brunei, Costa Rica, Chile, Ecuador, Guatemala, Honduras, Latvia, Malaysia, Mexico, Nicaragua, Panama, Paraguay, Salvador, Singapore, Uruguay, Venezuela, SAR Hong Kong and SAR Macao.

Bulgaria reaffirms its commitment to introduce the visa obligation for nationals of FRY and FYROM by the date of accession⁹. The necessary technical equipment and training will be provided to enable the staff to issue visas in a uniform format to citizens of the countries listed on the EU negative list¹⁰, as from the date of its accession.

⁷ Adopted by the Council of Ministers with Decision No. 805/10.11.2001r.

⁸ Adopted by the Council of Ministers with Decree No. 97/11.05.2002r.

⁹ Negotiation Position of the Government of the Republic of Bulgaria on Chapter 24 "Justice and Home Affairs", CONF-BG 9/01, dated 20.02.2001

¹⁰ PHP "Migration, Visa, External Border Control Management", Visa Module, Recommendation for Bulgaria

Bulgaria reaffirms also its commitment to introduce the visa obligation for nationals of Tunisia. In December 2000 the Council of Ministers of the Republic of Bulgaria decided to introduce visas for nationals of Tunisia. Due to public policy and security reasons the initiation of the denunciation procedure for termination the visa-free agreement with Tunisia has been delayed. Bulgaria will initiate the denunciation procedure at the first appropriate moment and not later than by the end of the year 2003.

Bulgaria reaffirms its commitment to fully align its visa regime with the “positive” list of the EU by the date of accession¹¹ (In the SAP Bulgaria has stated that full alignment in this respect will be achieved by the end of 2003 and the reason for this change is that the schedule for harmonising the Bulgarian “positive” list with the *EU Visa Regulation (EC) No. 539/2001 of 15 March 2001* depends on the willingness of those countries to reciprocally lift the visa requirements for Bulgarian nationals). Bulgaria with a *Decision of the Council of Ministers from 05.09.2002* (in force from 13.09.2002) has lifted the visa requirement for nationals of Cyprus following the decision of the Cyprus authorities for lifting up the visa requirement for Bulgarian citizens. An agreement on a visa-free regime was signed between the government of the Republic of Bulgaria and the government of the Republic of Latvia on the 05.06.2002. Bulgaria has fulfilled all the necessary internal law procedures for the entry into force of the agreement, which will enter into force on 12.10.2002.

Bulgaria has submitted drafts on bilateral agreements for negotiations and implementation of the necessary procedures for mutual lifting of the visa requirements to the following countries:

- Argentina /the draft has been submitted to the Ministry of Foreign Affairs of Argentina by the Bulgarian Embassy in Buenos Aires on the 08.03.2002/,
- Bolivia /the draft has been submitted to the Embassy of Bolivia in Caracas by the Bulgarian Embassy in Caracas on the 16.09.2002/,
- Brazil /the draft has been submitted to the Ministry of Foreign Affairs of Brazil by the Bulgarian Embassy in Brazil on the 13.03.2002r./,
- Chile /the draft has been submitted to the Ministry of Foreign Affairs of Chile by the Bulgarian Embassy in Santiago on the 07.03.2002/,
- Costa Rica /the draft has been submitted to the Embassy of Costa Rica in Mexico city by the Bulgarian Embassy in Mexico city on the 06.03.2002/,
- Ecuador /the draft has been submitted to the Embassy of Ecuador in Caracas by the Bulgarian Embassy in Caracas on the 16.09.2002/,
- Guatemala /the draft has been submitted to the Embassy of Guatemala in Mexico city by the Bulgarian Embassy in Mexico city on the 06.03.2002/,
- Nicaragua /the draft has been submitted to the Embassy of Nicaragua in Mexico city by the Bulgarian Embassy in Mexico city on the 06.03.2002/,
- Panama /the draft has been submitted to the Embassy of Panama in Mexico city by the Bulgarian Embassy in Mexico city on the 06.03.2002/,
- Salvador /the draft has been submitted to the Embassy of Salvador in Mexico city by the Bulgarian Embassy in Mexico city on the 06.03.2002/,
- Mexico /the draft has been submitted to the Ministry of Foreign Affairs of Mexico on the 22.02.2002 within the framework of bilateral political consultations/,
- Paraguay /the draft has been submitted to the Embassy of Paraguay in Buenos Aires by the Bulgarian Embassy in Buenos Aires on the 14.03.2002/,

¹¹ Additional Information to the Negotiation Position on Chapter 24, CONF-BG 19/01, 27.04.2001

- Uruguay /the draft has been submitted to the Embassy of Paraguay in Buenos Aires by the Bulgarian Embassy in Buenos Aires on the 14.03.2002/,
- Venezuela /the draft has been submitted to the Ministry of Foreign Affairs of Venezuela on the 25.02.2002 within the framework of bilateral political consultations/.

Bulgaria does not maintain diplomatic relations with Honduras but is in the process of establishing them through the permanent representations of the two countries to the UN in New York. After completing the process of their establishment Bulgaria will submit a draft on a visa-free agreement to the Honduras authorities. In the case of Brunei, Singapore, Malaysia, SAR Hong Kong and SAR Macao Bulgaria intends to start negotiations for introducing a visa free regime on a reciprocal basis in the near future.

The EU has invited Bulgaria to keep the Conference informed about the progress made on the introduction of the new Bulgarian visa sticker, which in addition to the EU requirements contains a printed colour photograph, while drawing Bulgaria's attention to the fact that the Regulation (EC) 1683/1995 on the uniform format for visas has been amended by a new Regulation (EC) 334/2002, which has to be applied upon accession.

In principle, the new Bulgarian visa sticker possess all the security features and sections (with the exception of the further technical specifications) defined in the annex of Council Regulation 1683/1995 laying down a uniform format for visa, as amended by the new Council Regulation (EC) 334/2002 (see the picture below and the Annex on Bulgarian Visa Information Technologies). The new visa sticker complies fully with the ISO 7810 format and contains all the necessary data and protection elements in accordance with the EU standards.



The main security elements of Bulgarian visa sticker are:

- **Optically Variable Device (OVD) - Kinegram**, in the shape of a circle in which depending on the angle of view the Coat of Arms of the Republic of Bulgaria and the incorporated BGR design can be seen. Fan-shaped rays containing old-

Bulgarian letters come out of the circle over a metalled surface with an irregular form;

- Embossed text BGR, varies in colour depending on the angle of view;
- Embossed text Visa (in English and Bulgarian);
- Printed number of visa containing 8 digits overall;
- High-protected paper (65 gr. m2 weight) containing visible red and green microfibres, and invisible microfibres, fluorescing under UV light in red – 254 nm and green/yellow – 365 nm colours.

For ensuring a higher level of visa security the size of the Optically Variable Device (OVD) has been decreased and shifted up for ensuring a place for the holder's photograph with the following measures 20x24 mm. By including the colour photograph of the visa holder compliance with the Council Regulation (EC) 334/2002 has been ensured. The inkjet printing technology for personalization was chosen as it ensures the best security characteristics against forgeries. Special attention has been paid also to the printing inks and their compatibility with the paper of the visa sticker.

According to the evaluations of leading European experts the security features of the new Bulgarian visa sticker are more advanced than the EU document security standards and might be an example to be used by other Candidate Countries and the Member States¹².

A detailed timetable for installing and putting into operation of the technical equipment necessary for issuing the new Bulgarian visas in all 88 authorised diplomatic and consular representations by the end of 2003 has been approved by the Minister of Foreign Affairs. Three waves of technical installations for issuing the new visa are foreseen and the priority is put on the diplomatic and consular missions in Europe, as well as on the high-risk migration countries. The following Bulgarian missions are already issuing the new visa sticker with the integrated colour photograph: Berlin, Bonn and Munich (Germany), Paris (France), Tirana (Albania), Washington and New York (USA), Ottawa and Toronto (Canada), Hanoi (Vietnam), Budapest (Hungary), Brussels (Belgium), The Hague (Netherlands), Vienna (Austria), Bratislava (Slovakia), Prague (Czech Republic), Moscow and Saint Petersburg (Russia), Helsinki (Finland), Athens and Thessalonica (Greece), Nicosia (Cyprus), Kiev and Odessa (Ukraine), Minsk (Belarus), London (United Kingdom), Dublin (Ireland), Bucharest (Romania), Beirut (Lebanon), Damascus (Syria), Amman (Jordan), Dubai (United Arab Emirates), Kuwait (State of Kuwait), Madrid (Spain), Lisbon (Portugal), Warsaw (Poland). Bulgaria has ensured the necessary financial resources to introduce the new Bulgarian visa sticker by the end of the year 2002 in the following missions: Ankara, Istanbul and Edirne (Turkey), Zagreb (Croatia), Belgrade (Yugoslavia), Stockholm (Sweden), Oslo (Norway), Bern (Switzerland), Rome (Italy), Tel Aviv (Israel), Baghdad (Iraq), Teheran (Iran), New Delhi (India), Peking (China), Tokyo (Japan), Cairo (Egypt), Algeria (Algeria), Rabat (Morocco), Sarajevo (Bosnia and Herzegovina), Ljubljana (Slovenia), Skopje (Macedonia), Tripoli (Libya).

Bulgaria will continue to provide the necessary financial and technical resources in order to fully introduce the new visa sticker in the rest 27 missions according to the time plan¹³.

The EU has invited Bulgaria to clarify its position on the list of countries whose nationals must be in possession of an airport transit visa (ATV), as well as to inform the Conference whether the deadlines for adoption of such a list have been met.

¹² PHP "Migration, Visa, External Border Control Management", Visa Module, Recommendation for Bulgaria

¹³ PHP "Migration, Visa, External Border Control Management", Visa Module, Recommendation for Bulgaria

The new *Visa Regulation on the terms and procedures for issuing visas*, which was adopted on 25 April 2002, has introduced detailed provisions on issuing of airport transit visas that are in line with the *Joint Action of 4 March 1996 on Airport Transit Arrangements* and Annex 3 to the *CC Instructions for the Diplomatic Missions and Consular Posts*.

The list of countries whose citizens need an airport transit visa is attached in Annex 3 to the new Visa Regulation and includes the following countries: Angola, Afghanistan, Bangladesh, Ghana, Ethiopia, Eritrea, Iraq, Iran, Congo Democratic Republic, Liberia, Nigeria, Pakistan, Somalia, Sudan and Sri Lanka. There are two more countries in this list that are not included in Annex 3 to the *Schengen Consular Instructions* (Liberia and Sudan). Including more states in the list of third countries whose nationals are subject to airport transit visa requirements is in line with the Schengen acquis, especially if these countries are migration risk countries¹⁴.

With the entry into force of the new Visa Regulation the airport transit will be consecutively put into operation. Bulgaria will keep the Conference informed about the progress made in this field.

The EU has informed Bulgaria that the practice of issuing visas at the border for Turkish nationals having visas or residence permits issued by Member States is not to be considered as a breach of the existing acquis.

Bulgaria welcomes the position of the EU that the practice of issuing visas at the border for Turkish nationals having visas or residence permits issued by Member States is not to be considered as a breach of the existing acquis. The risk of illegal immigration being minimal, these visas can be issued at the border, if no consular facilities are available. However, visas should as a main rule be issued by consular offices. On the other hand the EU has stated that Regulation (EC) No. 539/2001, as amended by Regulation (EC) No. 2414/2001 does not prevent a Member State from unilaterally accepting visas issued by other Member States and that on this ground Bulgaria could accept the EU visa and residence permits as being equivalent to entry permits for Bulgaria. The current Bulgarian practice of allowing transit by issuing a sticker stating "tax stamp" at the border to Turkish nationals who hold a visa or a permanent residence permit for a EU Member State, under which the holder is authorized to transit the territory of Bulgaria, could be regarded as a kind of advance implementation of the Schengen visa concept (a Schengen visa is valid in all the Schengen States.)¹⁵. Bulgaria will ensure that the visa obligation for Turkish nationals not holding a visa or residence permit in a Member State is observed.

The EU has invited Bulgaria to inform the Conference about the adoption of secondary legislation in addition to the amendments to the Foreign National Act, in compliance with the Schengen acquis, on obtaining a visa at the border in exceptional cases (e.g.) humanitarian circumstances), as well as the number of visas issued on the basis of this legislation.

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¹⁴ PHP "Migration, Visa, External Border Control Management", Visa Module, Recommendation for Bulgaria

¹⁵ PHP "Migration, Visa, External Border Control Management", Visa Module, Recommendation for Bulgaria

Article 9, Paragraph 6 of the *Foreign Nationals Amending Act* of 27 April 2001 introduces the possibility for issuing of visas at the border in exceptional cases. The visa is issued for reasons related to state interests (reasons related to the national security, public order and health) or in extraordinary circumstances, or for humanitarian reasons, as well as in emergency cases or if so provided in international treaties ratified by Bulgaria. The provisions of all treaties signed by the Republic of Bulgaria are in full compliance with the Schengen rules on issuing visas at the border. According to the *Foreign Nationals Act* and the new *Visa Regulation* the categories of visas issued at the border are: airport transit visa; transit visa; single entry short-term visa for a stay up to 10 days.

The new *Visa Regulation*, which entered into force on the 14.05.2002 provides the necessary secondary legislation and defines in details the process of issuing visas at the border following the Schengen *acquis*. According to the Regulation the Minister of the Interior appoints the border control officials who are entitled to accept and examine an application for issuing a visa at the border. The data that has to be declared by the visa applicant and the procedures for making checks have been defined. All the visa applications for issuing visas at the border have to be consulted by the border control authorities with the Visa Centre at the Ministry of Foreign Affairs and a short-term visa for a stay up to 10 days has to be consulted also with the aliens control authorities. After issuing a visa at the border in exceptional cases the border control authorities are obliged to inform the Visa Centre and the foreign nationals control authorities. The 12 border checkpoints entitled to issue visas at the borders under the conditions and procedures stated above have been defined in Annex 4 to the *Visa Regulation*.

Although there were different proposals from different governmental and non-governmental institutions and commercial entities, especially from the tourist industry for developing a fast procedure for issuing under special conditions visas at the borders to foreign tourists, especially to those coming from Russia and Ukraine, there was no change of the rules of Article 9, Paragraph 6 of the *Foreign Nationals Act* and the new *Visa Regulation*. The principle that visas as a main rule shall be issued by the diplomatic and consular missions has been strictly observed - the statistics for the period 01.01.2002–15.09.2002 show that the Bulgarian missions in Moscow and Saint Petersburg have issued 93,347 visas to citizens of the Russian Federation and the diplomatic missions in Kiev and Odessa have issued 42,870 visas to citizens of Ukraine. On the other hand, as from 01.01.2002 to 15.09.2002 there were only 136 visas issued at the border under Article 9, Paragraph 6 of the *Foreign Nationals Act*, after being consulted with the Visa Centre at the Ministry of Foreign Affairs and the authorities for administrative control of foreign nationals.

The EU has invited Bulgaria to keep the Conference informed about the progress made in the field of visa information technologies and to provide detailed information on the implementation of the upgrading of its visa control system.

Visa Control Computer System – General Information

With the aim to support the visa practice of the consular offices abroad and of the Visa Centre in Ministry of Foreign Affairs, the Institute for Computer Technologies, which is a part of the Ministry of Interior, in the period 1996 – 1997 has developed the first version of the Bulgarian visa control computer system. The visa system implementation has begun in May 1997 and today it supports the practice of 66 consular offices abroad. A new version of the system has been developed in the period 2000 – 2001 /see the main features in the Annex on the Bulgarian Visa Information Technologies/. The new main characteristics that have been included are the picture acquisition, exchange and storing of pictures, as well as the personalization of the visa sticker with an integrated colour photograph of the visa holder by using ink-jet technology. Centralized database containing information about all issued visas with holders' photograph is maintained in the Visa Centre at the Ministry of Foreign Affairs, to which all the Border Check Points have access, as well as the office of the aliens' control authorities. Encryption of all the exchanged data within the system has been ensured.

At the moment 66 diplomatic and consular missions out of 88 are connected with the Visa Centre and the new version of the visa control computer system has been installed in the following 36 of them: Berlin, Bonn and Munich (Germany), Paris (France), Tirana (Albania), Washington and New York (USA), Ottawa and Toronto (Canada), Hanoi (Vietnam), Budapest (Hungary), Brussels (Belgium), The Hague (Netherlands), Vienna (Austria), Bratislava (Slovakia), Prague (Czech Republic), Moscow (Russia), Saint Petersburg (Russia), Helsinki (Finland), Athens and Thessalonica (Greece), Nicosia (Cyprus), Kiev and Odessa (Ukraine), Bucharest (Romania), Minsk (Belarus), Beirut (Lebanon), Damascus (Syria), Amman (Jordan), Dubai (United Arab Emirates), Kuwait (State of Kuwait), Dubai (United Arab Emirates), London (United Kingdom), Dublin (Ireland), Madrid (Spain), Lisbon (Portugal), Warsaw (Poland). Bulgaria has ensured the necessary financial resources for the installation of the new version of the visa control computer system by the end of the year 2002 in the following missions: Ankara, Istanbul and Edirne (Turkey), Zagreb (Croatia), Belgrade (Yugoslavia), Stockholm (Sweden), Oslo (Norway), Bern (Switzerland), Rome (Italy), Tel Aviv (Israel), Baghdad (Iraq), Teheran (Iran), New Delhi (India), Peking (China), Tokyo (Japan), Cairo (Egypt), Algeria (Algeria), Rabat (Morocco), Sarajevo (Bosnia and Herzegovina), Ljubljana (Slovenia), Skopje (Macedonia), Tripoli (Libya).

The process of installation of the new version of the visa control computer system in the rest 27 missions will be accomplished by the end of the year 2003 in accordance with the time plan¹⁶. In the three waves of technical installations that have been foreseen priority is put on the diplomatic and consular missions in Europe, as well as on the high-risk migration countries.

Bulgaria has changed the deadline for connecting all its diplomatic missions with the Visa Centre from the end of 2002 to 2003 for technical and financial reasons. Initially, it was not clear that the installation of the visa control computer system will be carried out together with the putting into operation of the new Bulgarian visa sticker and that a new version of the visa control computer system containing a pictorial database will also be put into use. This at a later moment led to additional system and technical requirements and financial resources. However, by carrying out these processes simultaneously Bulgaria will save additional efforts and resources and an earlier full introduction of the new Bulgarian visa information technologies will be achieved.

¹⁶ PHP "Migration, Visa, External Border Control Management", Visa Module, Recommendation for Bulgaria

Architecture

The system has been designed on two levels:

- Local systems in Bulgarian diplomatic and consular services abroad;
- Central system in the Visa Centre, on-line connected with the information systems of the Ministry of Interior, including the Border Check Points.

Main features

By developing the new version of the Bulgarian visa control computer system, additionally, other main activities of the consular offices have been automated. As a result the visa control computer system is able to carry out the following operations:

- Visa applications consulting and visa issuing.
- Temporary passports applications consulting and temporary passports issuing.
- Registration of other consular activities (translations, legalisations of documents etc.);
- Centralized blank documents control and evidence;
- Financial management;
- Queries on various parameters for persons, documents, stickers etc.;
- Reports and statistics;

Visa applications consulting and visa issuing

With the new Visa Regulation Bulgaria has introduced different application forms according to the types of visas. By the time of accession there will be one uniform application form fully harmonised with the Schengen visa application, as defined in *Council Decision 354/2002*.

The visa control computer system ensures registration and processing of all visa applications with the following pattern of data:

- Name, date and place of birth, citizenship, sex, passport type, number and date of expiry;
- Colour photograph of visa applicant;
- Permanent address, phone, job, profession, another citizenship;
- Data for the host person or organization which the candidate for visa will visit, address in Bulgaria, etc.;
- Spouse and children data;
- Guidelines for the border policy for mandatory requirements for control on the Border Check Point, which are printed into the visa sticker;

During the visa application examination the following steps are performed:

- Local check up visa applications with the list of unwanted foreign nationals which is updated daily via network;
- Local consultation of the visa application for compliance with the recent visa legislation;
- Binding of the information for all applications for a given person;
- Carrying out the consultation procedure in compliance with the new visa regulation;
- Automated price determination;
- Reading of Machine-readable ID Documents (ICAO Doc 9303);
- Fast and simple image acquisition from scanner or video camera.
- Printing Machine-readable Visa Stickers with a photograph;

IT Security measures

While developing the Bulgarian visa control computer system special attention has been paid to the security measures. The system has been designed in such a way that ensures protection against illegal access and inappropriate issuing, as well as against losing data and illegal modification. The system supports the following security operations:

- Different levels of personal access for work with the system. Every technological operation that has to be completed within the system is separated in different activities. User access rights can be granted for every type of activity that is to be performed. For example, the issuing of visas includes the following activities: application registration, consultation, decision taking over the application and visa printing. Access rights for each of these activities can be granted to different persons.
- Logging of all user activities;
- Automatic duplication of all information (including photographs) from local levels to the central level;
- Data encryption;
- Data distribution of the information for issued visas from Visa Centre to the information system of the Border police for the visa control at the Border Check Points (the so called “electronic visa”). The “electronic visa” approach is the strongest security mean against any kind of possible forgeries of a Bulgarian visa. The border control authorities at every Border Control Crossing Point are checking automatically the following parameters: the period of validity of the visa, the type of issued visa, the place and the date of issuing and also the personal data of the visa holder and if there are no data within the system about the visa holder the border control authorities will refuse the foreign national entry on the Bulgarian territory.
- Centralized blank documents control and evidence. The distribution of the empty visa forms to the Consular offices is reiterated in the central visa control computer system and is automatically send to every consular office by system’s operational means. The particular consular offices automatically confirm the activities for used and scraped forms. The whole control for distributed, used and scraped forms, is carried out through the central visa control computer system.
- Automatic database backup/restoration procedure prevents loss of data;
- Data restoration of local databases from the central database is also possible;
- Doubling of the main hardware components increase the reliability of the whole system;

A.

(i) **Infrastructure**

For the implementation of the visa control computer system the following unified hardware and software means are used:

- Hardware:
 - Intel based MS Windows NT/2000 Servers;
 - MS Windows 98/2000 workstations;
 - Scanners – HP ScanJet 6300C or HP ScanJet 5400C;
 - Printers - Canon BJC 8500, Canon S800, HP LaserJet 1100;
 - OCR Readers - Vicomp VPR 100 / VPR 600;

- Software:

- Sybase Enterprise Application Studio.
- RDBMS – Informix Dynamic Server v. 7.3 on the central level and Sybase Adaptive Server Anywhere v.7 on the local level;
- Two-tier client-server application;

The EU has invited Bulgaria to provide detailed information on its intentions and measures planned to equip the diplomatic and consular missions with devices to detect forged or falsified documents, the functioning, staffing and training of the Visa Centre, the progress made in the field of consular co-operation and training of consular staff at its missions abroad.

Nearly 30 percent of Bulgarian diplomatic and consular missions are equipped according to the lowest level as described in *Council Recommendations of 28 May 1998 and 29 April 1999*¹⁷, i.e. supplied with magnifiers and UV-lamps for detection of counterfeit money and documents (these are the missions in the high-risk migration countries and in the countries where the new visa control computer system and the new visa sticker have been installed). Consular officers have basic knowledge in identifying counterfeit money and documents. However, in the high-risk migration countries, the level of equipment is not adequate and Bulgaria will ensure the needed technical equipment in accordance with the above-mentioned recommendations by the date of accession.

There are different levels of training of personnel on visa-related issues. Employees of the Ministry of Foreign Affairs who are to take up the job in the consular offices get trained in legal acts, visa applications procedures and case studies. The training is carried out at the Visa Centre at the Ministry of Foreign Affairs where a Training Centre for consular employees has been established. It is open during all working hours. Everyone who is going to work in the consular office has to attend the course on visa related issues and finally pass the exam conducted by the head of the Visa Centre at the Ministry of Foreign Affairs.

In the spring of the year 2002 a special intensive course on the visa issues was organized for those who were interested in going to work during the summer in the visa sections of the Bulgarian diplomatic missions in the Russian Federation and Ukraine. The course ended with an exam conducted by a commission, which chose 30 employees who were subsequently sent to support the work of the visa sections in those countries. During the process of installation of the new version of the visa control computer system and the Bulgarian new visa sticker with an integrated colour photograph, the staff of the respective consular office abroad undergoes special training at local level on all subjects connected with visa application processing and visa issuing as well.

There is also a regular course on all consular issues, which is intended to everybody who is interested in taking a position within a consular office abroad. The course is held once a week under adopted curriculum, which includes:

- Introductory – professional requirements for the consular officials – 1 hour;
- Consular activities – legal basis, bilateral consular relations, the Vienna conventions, etc. - 3 hours;
- The visa regime and the visa policy of the Republic of Bulgaria – 3 hours;

¹⁷ PHP “Migration, Visa, External Border Control Management”, Visa Module, Recommendation for Bulgaria

- The visa control computer system - main characteristics and functions – 3 hours;
- Practical work with the visa control computer system – 3 hours of demonstration and practice within groups;
- Making an interview of the visa applicant – peculiarities - 2 hours;

- Tourists travellers under visa obligation – legal basis, necessary documents, tourist and travel companies, etc. – 3 hours;
- Certifications and legalizations – 1 hour;
- Bulgarian citizenship and adoptions – 2 hours;
- The Law for Bulgarians living abroad – 1 hour;
- Bulgarian identity documents and documents issued to aliens – 3 hours;
- Immigration and illegal immigration. Countermeasures against illegal immigration – 3 hours;
- Border control and the regime for entry and stay of aliens on the territory of the Republic of Bulgaria. Methods for checking up the authenticity of foreign travel documents – 3 hours;
- The visa regime for foreigners travelling with a business purpose – legal basis, necessary documents, etc. – 2 hours;
- Asylum – legal basis and current issues – 3 hours;

Experts from Member States also participate in the training seminars by giving lectures on the EU visa policy and the local consular cooperation, as well as on the visa legislation and practice of some Member States. At the moment the Ministry of Foreign Affairs is preparing a program for delivering comprehensive training on all consular activities, including the implementation of the respective provisions of the Schengen acquis, in particular the modified version of the Common Consular Instructions for the Candidate Countries. In the following months the modified version of the Common Consular Instructions will be disseminated in all Bulgarian consular offices together with instructions for its implementation in accordance with the current Bulgarian visa legislation and for the purpose of effective participation in the local consular cooperation.

Bulgaria considers the participation in local consular cooperation as an important tool for getting practical experience from the Schengen operative members in their day-to-day work in processing visa applications¹⁸. On the other hand, the exchange of information on illegal networks and channels, tourist and transportation companies, etc. is essential for prevention and countering illegal migration. For the moment Bulgaria implements local consular cooperation in about 10 host countries, including high-risk migration countries (Istanbul, Yerevan, Thailand, etc). Bulgaria has started to present its new visa information technologies in the framework of the local consular cooperation (special meetings were organized in Helsinki, Bucharest, etc.) thus aiming to enhance its participation in it.

As part of the process of enhancing the administrative capacity between December 2001 and March 2002 the staff of the Visa Centre was increased to 21 officers. The newly appointed officers undergo intensive initial training on the subjects being part of their everyday work. The Visa Centre has also been enhanced with additional technical equipment.

¹⁸ PHP “Migration, Visa, External Border Control Management”, Visa Module, Recommendation for Bulgaria

The new *Visa Regulation* provides for decentralization of the competence to take the final decision through a step-by-step process, while the applications subject to national consultations would still be centrally handled. According to Article 9, Paragraph 5 of the *Foreign Nationals Act* and Article 30, Paragraph 1 of the new *Visa Regulation*, only the diplomatic and consular representations of the Republic of Bulgaria are authorised to issue visas. The consular officer has to forward every visa application to the Visa Centre within the Ministry of Foreign Affairs. The principle is that the diplomatic and consular representations may issue a visa after the Visa Centre has granted permission. The Visa Centre is the only authority allowed to give or refuse permission for the granting of the visa. The Minister of Foreign Affairs may authorise upon a proposal by the Consular Relations Directorate of the Ministry of Foreign Affairs certain consular officers to take decisions by themselves for granting or refusing the following categories of visas: airport transit visa (category A), transit visa (category B) and short-term visa (category C). In these cases the consular officer is supposed to check whether the visa applicant is on the list of unwanted persons, which is communicated daily from the centre to local levels. If the visa applicant is not included in the list, the consular officer carries out checks in the substance of the information stated in the visa application and the documents attached thereto, takes the final decision and the information is sent to the Visa Centre and all the border checkpoints. In exceptional cases (in emergency humanitarian situations caused not by the visa applicant – i.e. health problems, death of a relative – or if so required by the State interest) the consular officer may issue an airport transit visa, a transit visa, or a visa for a short-stay (up to 10 days) without following the consultation procedure of Article 30, Paragraph 2 of the *Visa Regulation*. In these cases the consular officer issues the visa after a written permission has been given by the head of the diplomatic/consular representation. Further on, the consular officer has to inform the Visa Centre and the State border control authorities about the category of the issued visa, the number of the visa sticker, the personal data of the visa holder, the purpose of the travel and especially about the reasons for not following the consultation procedure.

The new Visa Regulation provides for different types of visa application forms depending on the type of visa requested, and there are different forms for a “tourist visa” and a “short-term entry visa”. These types of visa application forms do not follow the harmonized form for a Schengen visa application, as provided by *Council Decision 354 of 25 April 2002*. This is due to the fact that at the time of elaboration and adoption of the new *Visa Regulation Council Decision 354/2002* had not yet entered into force. The visa application form for a “tourist visa” differs from the visa form for a “short-term entry visa” in order to facilitate those who travel for tourist purposes to prepare the necessary documents and obtain a short-term entry visa. This problem has been specially addressed due to the fact that the tourist industry is among the fastest growing and important ones for Bulgaria and that tourists from the Russian Federation and Ukraine, whose number is significant, were for the first time under visa obligation and a huge reduction of the visitor from these countries would have caused serious losses to the Bulgarian economy. By the date of accession Bulgaria will align its visa application forms with the harmonized application for the Schengen visa, as defined in *Council Decision 354/2002*.

In the period April 2001 - April 2002 a project under the PHARE Horizontal Programme "Border Control, Visa and Migration" took place aimed to establish the level of harmonisation of Bulgarian practice and legislation in the area of visa policy with that of the European and the Schengen *acquis*. A special report on Bulgaria has been drafted in this context containing specific recommendations on the measures to be taken by Bulgaria till accession to the EU and the subsequent measures that need to be implemented for the

Schengen membership. Bulgaria will keep the Conference informed about the progress made in the implementation of PHP recommendations in the field of visa policy.

With regard to the Schengen Action Plan the EU has invited Bulgaria to provide additional information as regards issuing visas for seamen in transit.

Article 6 of the Closing Provisions of the new Visa Regulation on the terms and procedures for issuing visas provides the legal basis for developing rules in line with Decision of the Executive Committee of 19 December 1996 on issuing visas at borders to seamen in transit. According to the Regulation the terms and procedures for issuing single transit visas or single short-stay visas for a stay up to 10 days to foreign nationals holding a seamen book, who have been listed in the ship's crew and present themselves at the border in order to sign up on a vessel, leave their service or join another vessel, will be regulated in a separate instruction adopted in coordination by the Minister of Foreign Affairs, Minister of the Interior and the Minister of Transport and Communications. The preparation of this instruction is underway but Bulgaria is also following the developments at EU level with regard to this matter and will adopt it by the end of the year 2003.

For the time being the seamen in transit follow the regular visa procedure, i.e. they should be granted a transit visa by a diplomatic or consular mission of the Republic of Bulgaria. In case that they present themselves at the border without visa they are subject to an entry authorization by the Visa Centre within the Ministry of Foreign Affairs after producing the necessary documents (a list of crew members and a shipping letter of guarantee issued by the shipping agency). Then they are directed to the vessel or to the airport and measures are taken to ensure that every seaman in transit had left the country in due time.

APPENDIX:

- IV.1. Regulation on the conditions and the procedures for the issue of visas
- IV.2. Application form for an Airport Transit Visa
- IV.3. Application form for a Tourist Visa
- IV.4. Application form for a short-term visa
- IV.5. Application form for a Transit Visa
- IV.6. Presentation of Bulgarian Visa Information Technologies

V. EXTERNAL BORDERS

The EU notes the information provided by Bulgaria on the simplified border crossing regime between Bulgaria and FRY. The EU invites Bulgaria to provide further detailed information on the content of the agreement, its date of conclusion, the documents required to cross the border, and on how checks on persons crossing this border are carried out.

The Agreement between Bulgaria and Yugoslavia arranging the movement of border population in the border area, signed on 28 February 1972, regulates the possibility for nationals of the two countries whose permanent residence is within the 20-km area on both sides of the common border (Article 1 in connection with Article 2, Paragraph 1 of the Agreement) to cross at border checkpoints holding special documents without visas (Article 3, Paragraph 1).

The border-crossing document is issued by the competent authorities of the contracting parties in accordance with their national legislation (Article 3, Paragraph 2), and gives permission for 12 travels within a one-year period (Article 3, Paragraph 3). The holder of the document may stay on the territory of the other country up to 4 days (Article 4, Paragraph 1). With good reason, the period may be extended up to 10 days. Border crossing is done through border checkpoints for international public transport and border checkpoints for movement in the border area (Article 7, Paragraph 1). The Agreement does not exempt the nationals of the two countries from the performance of border control in accordance with the national legislation of the Republic of Bulgaria and the Federal Republic of Yugoslavia.

As a result of the substantial social and economic changes that took place in Bulgaria and Yugoslavia since 1991, the implementation of the 1972 Agreement **has in practice been suspended** although it has not been denounced via diplomatic channels.

There are different reasons for this:

- Bulgaria and Yugoslavia have a visa free regime based on a bilateral agreement according to which nationals of each of the contracting parties can stay in the territory of the other contracting party country for a period of up to 30 days, which is substantially longer than the period provided under the 1972 Agreement.
- In accordance with Bulgaria's commitments to fully align its national legislation with the *Schengen acquis*, the State border can be crossed only by persons holding a passport or another substituting document within the meaning of the *Bulgarian Identity Document Act*, and only across official border checkpoints /there are 5 border checkpoints between Bulgaria and Yugoslavia/. All persons crossing the State border - including those who live in the border area - are subject to full border control.

The EU also invites Bulgaria to inform the Conference whether similar agreements have been concluded with other neighbouring countries, in particular FYROM and Turkey.

The Government of the Republic of Bulgaria and the Government of Romania have signed an Agreement /on 11 March 1971 / to facilitate the travels of their nationals who reside on a permanent basis in the border areas of the two countries.

According to this Agreement Bulgarian and Romanian nationals living in districts situated within a 20-km area from the border can visit the border area of the other country once a month and stay there for a period of up to 6 days per visit (Article 1, Paragraph 4). According to the Agreement the border can be crossed at the official border checkpoints or at specially designated border area points (Article 5). The documents required for border crossing and the concrete border area points are further specified in annexes.

The implementation of the 1971 Agreement with Romania **has in practice been suspended**. The reasons for this are the same as those outlined above in connection with the Agreement with Yugoslavia. The State border can be crossed only by persons holding a passport or another substituting document within the meaning of the *Bulgarian Identity Document Act*, and only across official border checkpoints /which are 9 between Bulgaria and Romania/. All persons crossing the State border - including those who live in the border area - are subject to full border control.

In 1999 Bulgaria and Greece exchanged texts of a draft Agreement establishing a free movement zone for residents on both sides of the border between the two countries, which is pending signature.

Bulgaria does not have arrangements of that kind with FYROM and Turkey and, at this stage, does not intend to start negotiations on concluding any.

The EU further underlines that co-operation between all national authorities working in the field of border security (including police, customs and the prosecution service) is essential for an effective border security system. The EU underlines that an accountable, reliable and effective method of organisation is essential for adequate implementation of the national border security strategy. The EU will closely monitor Bulgaria's practical implementation capacity in these respects and invites Bulgaria to keep the Conference informed of further developments.

Bulgaria recognises the importance of national border security co-operation and collaboration between all national services of the Ministry of the Interior as well as between them and the customs and judicial authorities. The following legislative and institutional measures are taken to that end:

- The draft *Border Security Act* provides for a flexible co-operation and collaboration mechanism;

'Article 72. The co-operation and co-ordination between the National Border Security Service and the other services of the Ministry of the Interior shall be implemented on the basis of annual MOUs signed by the service directors and approved by the Minister of the Interior, in keeping with the principles of functional competency of each service.

'Article 73. (1) The National Border Security Service shall enter in co-operation and collaboration with the Customs Administration and the other border control agencies by means of exchanging information, performing joint checks, etc.

'(2) The National Border Security Service shall enter in co-operation and collaboration with asylum, refugees and alien agencies in view of implementing effective migration controls.

'(3) Collaboration under the above Paragraphs shall be rendered on the basis of annual bilateral and multilateral MOUs signed by the heads of the services and agencies and approved by the respective Ministers.'

- Chapter Four *Collaboration* of the new Regulation on Border Checkpoints, effective since 31.05.2002, provides regulation of the modern forms of collaboration between border control services at national and regional levels as well as the exchange of information between them. Collaboration is based on the approach to sign annual interagency MOUs, which will allow flexibility in adjusting the priorities and modes of co-operation.

Here are some relevant texts from the Regulation on Border Checkpoints:

'Article 22 (1) Border control services shall co-operate and collaborate among one another in the course of carrying out their activities.

'(2) The competent border services responsible for commodity control shall co-ordinate their activities with customs control border authorities in keeping with the International Convention on the Harmonisation of Frontier Controls of Goods.

'(3) Co-operation at a national level shall be implemented via an Interagency Council on Border Checkpoints as well as on the basis of annual bilateral or

multilateral MOUs signed by the heads of the services and agencies and approved by the respective Ministers.

(4) Border control authorities shall co-operate and collaborate with one another by means of exchanging information, performing joint checks, etc.’

- A new Instruction aimed at facilitating the order and conditions for interaction between the customs authorities and the Ministry of the Interior bodies in preventing and detecting customs and currency offences was adopted on 26 August 2002. This Instruction replaced the 2001 Instruction, which had the same title. In addition to the issues that were regulated in the previous document, the scope of the newly adopted one includes also regulations on the mobile customs groups and specifies the terms and conditions for stopping motor vehicles²⁰.
- The National Human Trafficking Intelligence and Operative Centre was established on 4 January 2002. It is located under the Ministry of the Interior, at the National Service for Combating Organised Crime²¹.

The EU reiterates its invitation (CONF-BG 35/01) to Bulgaria to provide information on its readiness to accept the contents of the Joint Action of 8 December 1998 to create a European archiving system (FADO).

Bulgaria confirms that it is ready to start working on the development of a National Travel Document Archiving System (FADO) as soon as it has been provided with detailed technical specifications.

VI. MIGRATION

The EU takes note of Bulgaria’s commitment to draft an Immigration Act, which will be adopted by the end of March 2003 and that the Foreign Nationals Act will be amended by the end of September 2002 (CONF-BG 73/01). In order to make a proper assessment of Bulgaria’s alignment with the acquis, the EU invites Bulgaria to provide a detailed description of the content of the above-mentioned legislation with regard to its alignment with the acquis on:

- *family reunification;*
- *admission of third-country nationals for employment;*
- *admission for the purpose of pursuing activities as self-employed persons;*
- *admission for study purposes;*
- *the status of third-country nationals residing on a long-term basis;*
- *the uniform residence permit.*

The Republic of Bulgaria takes consistent measures for full harmonisation of its legislation on migration with the EU acquis. The amendments made to the *Foreign Nationals Act* (SG No. 42/27.04.2001, effective from the same date) achieve alignment in the following areas:

²⁰ More detailed information on national level co-operation is provided in the Sections *Police Co-operation* and *Customs Co-operation* of this Supplementary Information

²¹ More detailed information is provided in the *Police Co-operation* Section of this Supplementary Information

– *family reunification*

In compliance with Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 24 of the *Foreign Nationals Act* stipulates:

‘Article 24. (1) Permission for long-term residence shall be only granted to foreign nationals who:

‘13. are members of the family of a foreign national who has been granted permission for long-term residence;

‘Article 25. Permission for permanent residence shall be granted to foreign nationals who:

‘3. are minor or underage children of a Bulgarian national, or of a legal permanent resident alien in this country, and who have not entered into the married state.’

It should be taken into account that, within the meaning of Bulgarian law, members of the family shall be considered the spouses and underage (18 years) children if they have not entered into marriage.

– *marriages of convenience*

The *Foreign Nationals Act* provides for special measures against marriages of convenience, in line with Council Resolution of 04.12.1997 on measures to be adopted on the combating of marriages of convenience.

‘Article 26. (3) A foreign national shall be denied permission for long-term residence and the permission for long-term residence shall be withdrawn from a foreign national who entered into marriage with a foreign national who has been permitted long-term residence if there is data that the said marriage was entered into only with the mind of circumventing the provisions of the law on foreign nationals in the Republic of Bulgaria and obtaining residence permission.

‘(4) The judgement whether permission subject to Paragraph 3 above should be denied or withdrawn shall be made by the services for administrative control of foreign nationals on the basis of data that allow them to arrive at the motivated conclusion that the marriage was entered into only with the mind of circumventing the provisions of the law on foreign nationals in the Republic of Bulgaria and obtaining residence permission. Such data may be:

‘1. the circumstance that spouses do not live together;

‘2. the lack of contribution to the obligations of marriage;

‘3. the circumstance that spouses did not know each other prior to entering into their marriage;

‘4. the provision of ambiguous personal information on the other spouse’s personal details such as name, address, nationality, occupation, the circumstances of their first meeting or another important piece of personal information;

‘5. the circumstance that the spouses do not share a common language;

‘6. the payment of an amount of money for the marriage beyond the usual dowry;

‘7. the presence of prior marriages concluded with a view to circumventing the legal provisions applicable to foreign nationals.

‘(5) The data under Paragraph 4 above may be judged about on the basis of statements made by the interested parties or third parties, documents or enquiries made by the competent authorities. The services for administrative control of foreign nationals shall be obliged to hear the interested parties.’

Acting under the adopted regulations in that area, the services for administrative control of foreign nationals are implementing a set of practical measures including field inspections seeking to establish whether spouses reside at the indicated address or their marriage continues unbroken, as well as other circumstances regarding their living together. In the process of reviewing applications for residence permissions, spouses are required to produce written proof of the circumstances under Article 26, Paragraph 4 of the *Foreign Nationals Act*.

The *Ministry of the Interior Act* and its Implementing Regulations designate the competent bodies that shall implement the mechanism for administrative control of foreign nationals: the National Police Service Identity Documents and Foreign nationals Division at a national level and at a regional level the relevant sectors at the regional directorates of the interior.

– *admission of third-country nationals for employment*

The admission of foreign nationals for employment and for self-employment is treated **separately**.

The admission of foreign nationals in the Republic of Bulgaria is regulated in the following legal instruments:

- *Foreign Nationals Act*;
- *Employment Promotion Act* – Chapter Eight;
- Regulation on the terms and procedures for issuance, denial and suspension of foreign nationals' work permits in the Republic of Bulgaria (SG No. 39/16.04.2002, in force from 17.06.2002) (see **Appendix VI.2**)

A new *Employment Promotion Act* has been adopted; it has been in force since 01.01.2002.

According to the new *Employment Promotion Act*, the Employment Agency is established under the Minister of Labour and Social Policy for the purposes of implementing the government's policies for employment promotion, labour market protection, job brokerage for job information and hiring, vocational information and consultation, vocational and motivational training of unemployed and employed persons. The Employment Agency is an executive agency, which is a second-level spending budgetary unit under the Minister of Labour and Social Policy, and is a legal person with an official seat in Sofia.

The *Employment Promotion Act* stipulates that foreign nationals may work on the basis of labour contracts or secondment within the framework of the provision of services in the territory of the Republic of Bulgaria upon receiving a work permit in line with the requirements of the Regulation on the terms and procedures for issuance, denial and suspension of foreign nationals' work permits in the Republic of Bulgaria.

Work permits are issued by the Employment Agency by request of a local employer. Work permits are issued to foreign nationals in accordance with the situation and development of and implied public interest in, the national labour market, and in case that the total number of foreign nationals working for the local employer does not exceed 10 percent of the number of payroll employees who for the last 12 months have been Bulgarian citizens or foreign nationals granted asylum or recognised refugees.

The *Employment Promotion Act* regulates that the Employment Agency shall maintain co-operative relations with the public employment services of other countries, responsible for the recruitment of alien workers, through exchange of information on the national labour legislation and the laws relevant to the recruitment of alien workers; Bulgarian nationals employed in the territory of the corresponding country and nationals of that respective country employed in the Republic of Bulgaria; the ascertained violations of the terms and conditions for employment; the ascertained cases of illegal work of Bulgarian nationals within the territory of the respective country as well as the respective country's nationals in the Republic of Bulgaria.

The Ministry of Labour and Social Policy and the Employment Agency are the administrative structures whose competences include the application of the current legislation governing the employment of foreign nationals.

The Minister of Labour and Social Policy exercises the overall inspection on the observance of the *Employment Promotion Act*, as well as the other statutory regulations in the field of employment and unemployment. Specialized inspection is carried out by the General Labour Inspectorate Executive Agency under the Minister of Labour and Social Policy.

Having established cases of violation, the state inspection bodies draw up statements against the offenders. The establishment of violations, and the issuance, appeal and enforcement of penalty orders must comply with the provisions of the *Administrative Offences and Penalties Act*.

Any employer who hires a foreign national without a work permit on the basis of a labour contract or a foreign national working without a work permit, shall be imposed a fine or property sanction respectively in the amount under Article 48 of the *Foreign Nationals Act*.

Administrative liability in cases of legal violations:

- A fine of 500 to 5,000 leva is imposed on natural persons - employers who hire foreign workers **without a work permit**; the fine may rise to 1,000 to 10,000 leva in cases of repeat violations (Article 48 of the *Foreign Nationals Act*).
- The penalty for legal persons who employ foreign workers **without a work permit** is a 20,000 leva fine; the fine may be increased to 40,000 leva in cases of repeat violations (Article 48 of the *Foreign Nationals Act*).
- A foreign national working without an employment permit must pay a fine of 500 to 5,000 leva, and in cases of repeat violations it may rise to 1,000 to 10,000 leva (Article 48 of the *Foreign Nationals Act*).

The Regulation on the terms and conditions for issuance, denial and suspension of foreign nationals' work permits in the Republic of Bulgaria adopted by the Council of Ministers in April 2002 repeals the Regulation on the Terms and Procedures for Work Permit Issuance to Foreign nationals in the Republic of Bulgaria (adopted by Council of Ministers Decree No 267/1992, SG No. 4/1993; amended SG No's 56/1994, 43/1996, 64 and 120/1997).

The new Regulation is in conformity with the *acquis*, in particular with Council Resolution of 20 June 1994 on limitations on admission of third-country nationals to the territory of the Member States for employment.

The Regulation sets out the terms and procedures for issuance, denial and suspension of foreign nationals' work permits in the Republic of Bulgaria, the cases of exemption from work permit issuance of foreign nationals in the Republic of Bulgaria and the total duration of employment permissible. A work permit may be issued to a person hired under an employment contract by an employer as defined in the Labour Code or to a person seconded on the basis of provision of services in the Republic of Bulgaria. The work permit is valid only for a particular employer - legal or natural person - and in a location, position, type and period of employment specified in the permit.

A work permit for hiring a foreign national under an employment contract may be issued in accordance with the situation and development of and implied public interest in, the labour market in the following cases:

- The local employer has presented proof of having actively sought for a period no shorter than one month a suitable applicant on the labour market, including at the Labour Office Directorate of the Employment Agency and by advertising the job in the national and local mass media;
- The foreign national has special secondary or a higher degree of education and/or specific professional skills or experience relevant to the objective requirements for the respective position/job and the activities carried out;
- There are no Bulgarian nationals or foreign nationals permanently residing in the Republic of Bulgaria or enjoying equal rights as laid down in Article 70, Paragraph 3 of the Employment Promotion Act who possess the required profession, specialty and/or skills and there is no opportunity for timely training of the necessary staff, which has been found out as a result of a due labour market research matching the objective requirements and specific features of the job.

Refusal to grant a work permit is based on a number of conditions, including:

- The foreign national has been penalized for illegal employment in the preceding 5-year period, or, according to the documents submitted, he/she has worked illegally in the Republic of Bulgaria during a previous stay and/or at the moment of application;
- The employer/person hiring a commissioned foreign national has been penalized during the preceding 2-year period for employing alien labour without a work permit;
- Over the past 3 months, the employer, on his own initiative, has made redundant Bulgarian nationals, foreign nationals permanently residing in the Republic of Bulgaria or enjoying equal rights under Article 70, Paragraph 3 of the *Employment Promotion Act*, who could have been hired for the job applied for by a foreign national;
- There are other reasons pursuant to Articles 10, 11 and 21a of the *Foreign Nationals Act* (visa and entry denial; the person is listed in the information database of foreign nationals unwanted in the country).

The work permit serves as grounds for receiving of residence permission for the length of the employment. Foreign nationals shall reside outside the territory of the country until they are granted a work permit. Foreign nationals who entered the country on certain grounds cannot extend their stay in the country for a different reason, except in urgent cases and those married to Bulgarian citizens.

Good coordination is ensured in procedures of visa issuing, residence permit issuing and work permit issuing.

Foreign citizens residing permanently in the country are not required a work permit, nor are foreign nationals with granted asylum or refugee status. Exceptions to the work permit obligation may be provided for in an international agreement acceded to by the Republic of Bulgaria

Detailed information on the conditions for issuance, denial and suspension of foreign nationals' work permits in the Republic of Bulgaria can be found in the Regulation itself, which is attached hereto (**Appendix VI.2**).

– *admission for the purpose of pursuing activities as self-employed persons*

As indicated above, the admission of foreign nationals for the purpose of employment and for self-employment is treated **separately**.

The following legal instruments regulate the self-employment of foreign nationals in the territory of the Republic of Bulgaria:

- *Foreign Nationals Act*;
- Regulation of the Ministry of Labour and Social Policy on the terms and conditions for issuance of permissions to foreign nationals for purposes of pursuing self-employment activities in the Republic of Bulgaria (Regulation No. 2, SG No. 90/10.09.2002, enactment 3 months after promulgation) (**Appendix VI.3**).

The 2001 amendments to the *Foreign Nationals Act* regulate in principle the possibility to admit persons for the purpose of pursuing activities of self-employment.

'Article 24. (1) Permission for long-term residence shall be only grantable to foreign nationals who:

'15. wish to pursue activities as self-employed persons following a permission from Ministry of Labour and Social Policy authorities and in compliance with Article 24a;

'Article 24a. (1) A foreign national who wishes to reside in the territory of the Republic of Bulgaria on a long-term basis in view of pursuing activities as a self-employed person may be granted a visa or permission for long-term residence if they meet the legal entry and sojourn requirements established in the country and produce to the diplomatic or consular missions, respectively the services for administrative control of foreign nationals, the following papers:

'1. Application form;

'2. Permission for pursuing activities as a self-employed person;

'(2) Permissions for self-employment activities shall be issued by the Ministry of Labour and Social Policy authorities.

'(3) The terms and conditions regulating the issuance, denial and suspension of permissions for pursuing self-employment activities by foreign nationals shall be set out by Regulation ordered by the Minister of Labour and Social Policy in co-ordination with Minister of the Interior and the Minister of Finance.

'(4) No long-term visas for the purposes of pursuing self-employment activities shall be issued to foreign nationals in the cases subject to Article 24, Paragraph 1, Subparagraphs 1-13 and 16.

'(5) Foreign nationals who meet the legal self-employment requirements shall be exempt from the permission requirement when this is provided for in an international treaty signed by the Republic of Bulgaria.'

This Regulation is in conformity with the *acquis*, in particular with Council Resolution of 30 November 1994 related to the limitations on the admission of third-country nationals to the territory of the Member States for the purpose of pursuing activities as self-employed persons.

This Regulation lays down the terms and procedures for issuance, denial and suspension of permits for pursuing self-employment activity by foreign nationals in the Republic of Bulgaria.

A permit for pursuing self-employment activity or the extension of its validity will be issued by the Executive Director of the Employment Agency for a term of up to 1 year. The term of the permit will start expiring from the date of the permission for long-term residence based on Article 24, Paragraph 1(15) of the *Foreign Nationals Act*.

The applying foreign national must prove the economic and/or public effect through a business plan. Additionally, the applicant submits:

- Certificate of education and/or qualification, recognized in the Republic of Bulgaria, enabling the applicant to perform the respective self-employment activity;
- Document certifying that the person is not banned from performing the respective activity, which is issued by the country where the applicant last practiced that activity;
- Document certifying the availability of financial resources for performing the self-employment activity in compliance with the presented business plan;
- Medical certificate;
- Other documents required by virtue of legal instruments regulating the respective self-employment activity.

Denial to grant permission for self-employment activity is based on a number of conditions, including the following:

- The business plan presented and/or the report on its implementation are not well grounded or do not justify their economic and/or public effect;
- The documents submitted show that the applicant intends to perform activity under a labour contract;
- The applicant has submitted documents before the expiry of 12 months from the date of suspension of preceding self-employment activity permit;
- The applicant has not met his/her obligations under the Compulsory Social Security Code or his/her tax obligations.

The foreign national has to declare any changes in his/her personal data or the conditions stated in the application for pursuing self-employment activity and accompanying documents, which occurred after commencement of the activity. Any foreign national who suffers temporary difficulties or inability to perform the self-employment activity is obliged to notify the Employment Agency thereof within 7 days. He also has to notify the latter within 7 days of removal of the reasons for temporary difficulties or inability to perform the activity.

Bulgarian competent authorities maintain good co-ordination in implementing the procedures of issuing visas, residence permits and permissions for self-employment activity.

Detailed information on the conditions for issuance, denial and suspension of foreign nationals' permissions to pursue activities as self-employed persons in the Republic of Bulgaria is contained in the Regulation itself, which is attached hereto (**Appendix VI.3**).

– admission for study purposes;

The 2001 amendments to the *Foreign Nationals Act* have introduced the possibility in principle to issue long-term residence permissions to foreign nationals who have been admitted as full-time students in the country.

‘Article 24. (1) Permission for long-term residence shall be only grantable to foreign nationals who:

‘3. have been admitted for full-time training in duly licensed educational establishments.’

According to the *Foreign Nationals Act*, every foreign national must produce an insurance certificate if that is required by virtue of a legal regulation and prove availability of sufficient financial support during their stay in the country. The Act stipulates that foreign nationals admitted at a licensed Bulgarian educational establishment shall be granted long-term stay permission (up to one year). The regulatory basis regarding foreign nationals admitted to licensed Bulgarian educational institutes will be further developed with the amendments to the *Foreign Nationals Act*, approved by the Council of Ministers on 26 September 2002.

– the status of third-country nationals residing on a long-term (permanent) basis;

The *Foreign Nationals Act* defines the categories of persons – third country nationals – who are entitled to permission for permanent residence.

‘Article 25. Permission for permanent residence shall be grantable to foreign nationals:

‘1. who are of Bulgarian nationality;

‘2. two (2) years following their entry into marriage with a Bulgarian citizen or a legal permanent resident foreign national in this country;

‘3. who are minor or underage children of a Bulgarian citizen, or of a legal permanent resident foreign national in this country, and who have not entered into the married state;

‘4. who are parents of Bulgarian citizens;

‘5. who have lawfully sojourned in this country’s territory over the last five (5) years without interruption, whereas the duration of stay authorised on the grounds of Article 24, Paragraph 1, Subparagraph 3 shall not be taken into consideration;

‘6. who have invested in this country two hundred and fifty thousand US dollars (\$ 250,000) plus, in compliance with the legally established terms and procedures.

‘7. who are not of Bulgarian nationality, but were born in Bulgaria, have lost their Bulgarian citizenship by virtue of expatriation treaties or by their own desire and wish to settle in the territory of this country on a permanent basis.’

– the uniform residence permit

The amendments to the *Foreign Nationals Act* will regulate the legal possibility to introduce a uniform residence permit for foreign nationals staying in the Republic of Bulgaria, in line with the *Joint Action of 16.12.1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, concerning a uniform format for residence permits*. The implementation of the provision in question will only become possible after Bulgaria’s accession to the EU.

The EU reiterates its invitation to Bulgaria (CONF-BG 35/01) to provide detailed information on the content of its legislation and on measures planned to ensure full alignment with the acquis as regards combating illegal employment and illegal immigration.

1.

Information on the content of the national legislation in the field of preventing illegal employment and illegal migration has been provided above.

2.

Planned further legislative measures in that area include amending the *Foreign Nationals Act* and adopting a *Migration Act*.

In implementation of the measures laid down in the National Schengen Action Plan (NSAP), a Task Force has drafted amendments to the *Foreign Nationals Act* approved on 26 September 2002 by the Council of Ministers. The amendments include the following new elements:

- Regulation of the obligation of carriers to ensure that foreign nationals who have been denied entry in the Republic of Bulgaria are returned back, in line with Article 26 of the Convention Implementing the Schengen Agreement; introduction of sanctions for carriers in cases of failure to comply with the abovementioned obligation.
- Creation at the National Police Service of special facilities for temporary accommodation of foreign nationals who have been ordered for compulsory removal from the country or expulsion.
- Creation and utilisation of a National Register of foreign nationals staying in the territory of the Republic of Bulgaria (new Chapter 6 "Information activities of services for administrative control of foreign nationals in the Republic of Bulgaria").

The adoption of the amendments to the *Foreign Nationals Act* is expected by the end of 2002.

Migration Act

Bulgaria recognises the need to institutionalise a special body with nationwide competence, which will control migration processes and co-ordinate, at a national level, the national policy in that area. The establishment of that body would significantly enhance the administrative capacity for implementation of harmonised legal instruments on migration. In that respect, the Republic of Bulgaria has undertaken in the Migration Section of the NSAP to adopt the necessary legislation and structure a National Migration Service within the Ministry of the Interior.

The above legal instrument will set out structural and functional elements. It is primarily aiming to establish a specialised state body with independent functions and objectives responsible for the policies of the government in that area. The *Migration Act* will be drafted in view of further introducing EU standards and requirements in the field of migration.

Currently the Bulgarian legislation does not provide special statutes delegating definite functions and objectives to competent authorities to deal with migration. The *Migration Act* will define the coordination among individual institutions and bodies dealing with foreign nationals' stay in the Republic of Bulgaria. Among the responsibilities of the future specialised body is to perform administrative control over the identification and sojourn of foreign nationals in the Republic of Bulgaria. Furthermore, the Act will introduce regulation in the information in terms of collecting, storing and transferring foreign nationals' data,

issuing identity documents to foreign nationals as well as recording any imposed administrative sanctions.

The future migration service will adopt a mirror approach on the basis of the legal grounds for visiting of foreign nationals.

In view of the above, an expert Task Force is working on the draft law, which should be ready within the time limit fixed in the NSAP (by 31 March 2003). The structural building of the service will be completed by the end of 2003. The latter will be composed of central headquarters and regional units.

From a legal viewpoint the abovementioned changes will be carried out by adopting an instrument, which, essentially, will supplement the *Ministry of the Interior Act. Migration Act* and *Migration Service Act* are only working titles of the draft and are subject to changes, which, however, will not affect the substance and content of the instrument.

The EU notes the information provided by Bulgaria on alignment with accompanying measures, as provided for in Title II, chapter 6 of the Convention implementing the Schengen Agreement and that future amendments to the Foreign Nationals Act will provide for full alignment. The EU invites Bulgaria to provide detailed information on the content of these future amendments and the timetable for their adoption and implementation. The EU further invites Bulgaria to provide a copy of the existing legislative provisions on this issue.

The amendments to the *Foreign Nationals Act*, approved on 26 September 2002, achieves harmonisation with Article 26 of the *Convention Implementing the Schengen Agreement* as well as with *Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention*.

Under the draft amendments carriers are obliged by request of border control authorities to cover the transfer costs of foreign nationals who have been denied admission to the Republic of Bulgaria to the country which issued their travel documents or to a third country which will admit them. Furthermore, carriers are obliged to return on their own expenses also foreign nationals who are transiting Bulgaria if the subsequent carrier refuses to transfer them to the country of destination, as well as transit passengers readmitted in Bulgaria. In line with the requirements set out in Article 3 of *Directive 2001/51/EC of 28 June 2001*, the draft amendments stipulate that when the return of an foreign national cannot be effected immediately the costs for his/her stay shall be covered by the carrier.

The EU notes the progress made by Bulgaria in the field of concluding readmission agreements and invites Bulgaria to keep the Conference informed of further progress.

Seeking to regulate migration flows, the Republic of Bulgaria has signed readmission agreements with all EU Member States with the exception of the United Kingdom; the readmission agreement with the UK is pending signature by the end of this year. Bulgaria has also signed similar agreements with Norway, Switzerland, FR Yugoslavia (25 January 2001), FYROM, Ukraine, Georgia (27 March 1992), Albania (11 June 2002), Croatia (4 July 2002), Latvia (5 July 2002) and Lebanon (5 August 2002). The readmission agreements with Estonia has been initialled. Implementing Council of Ministers Decree No. 35 of 1999, Bulgaria has submitted readmission drafts to Russia and Tunisia. Bulgaria is currently negotiating on a readmission agreement with Turkey.

*The EU notes the information provided by Bulgaria on the organisation of judicial control on detention before expulsion. The EU invites Bulgaria to provide a detailed description of the content of the different provisions in its legislation, including the provisions aligning with the *acquis* on expulsion. This information should cover the suspensive effect of an*

appeal against an expulsion order and the duration of the detention under the Ministry of the Interior Act, the Penal Procedure Code and the Foreign National Act.

The coercive administrative measures applied with regard to foreign nationals who violate the legal regulations on entry and stay on the territory of Bulgaria are stipulated in Chapter Five of the *Foreign Nationals Act*.

According to Article 39 of the *Foreign Nationals Act*, the administrative measures are:

1. suspension of the right to remain in Bulgaria;
2. deportation;
3. expulsion;
4. prohibition to enter the country;
5. prohibition to leave the country;

Imposing the above restrictions is in accordance with Article 5, Paragraph 1(f) of the *Convention for Protection of Human Rights and Fundamental Freedoms*.

The Additional Provisions of the *Foreign Nationals Act* define 'expulsion' as compulsorily removal of a foreign national from the country within a short time because of committed offence(s) or for lack of sufficient grounds to remain in the country. The legal basis for expulsion is stipulated in Article 42 of the *Foreign Nationals Act*: **when the presence of a foreign national in this country poses a serious threat to the national security or public order**. The imposition of this measure leads to suspension of the foreign national's right to stay in the Republic of Bulgaria and a prohibition to enter the country.

Measures under Article 39a of the *Foreign Nationals Act* are imposed on the basis of individual administrative acts such as Orders of Ministry of the Interior competent bodies. According to Article 46 of the *Foreign Nationals Act*, those orders are subject to:

- administrative control by the Minister of the Interior, in accordance with Articles 19-32 of the *Administrative Procedure Act*,
'Article 19. Administrative acts shall be appealed against before a superior administrative body in accordance with the established administrative procedure.'
- judicial control by Regional Courts, in accordance with Articles 33-45 of the *Administrative Procedure Act*.
'Article 33. (1) Administrative acts can be appealed against before the court on the basis of their legitimacy.'

All orders for imposing coercive administrative measures in respect of foreign nationals are subject to administrative control by the Minister of the Interior. Orders under Article 39a, Subparagraphs 1, 2, 4 and 5 are subject to judicial control.

Insofar as the grounds for *expulsion* imposed under Article 39a, Subparagraph 3 are, in principle, related to the protection of national security, they are exempt from judicial control.

The implementation of orders imposing coercive administrative measures as individual administrative acts is regulated in Article 44, Paragraph 3 of the *Foreign Nationals Act* in connection with Article 23 of the *Administrative Procedure Act*.

Foreign Nationals Act

'Article 44. (3) Orders imposing coercive administrative measures shall be implemented by the services for administrative control of foreign nationals, respectively by the border passport control authorities after the order has entered into force, except in cases when the issuing authority has allowed their precursory implementation.'

Administrative Procedure Act

'Article 23. (1) Administrative acts shall not be implemented until the term for appeal has expired, unless the interested party explicitly state in writing that they do not intend to appeal.

'(2) Should an appeal or protest be submitted in due time, the implementation of the administrative act shall be suspended.

'(3) The rules in the above paragraphs shall not be applied in cases when the administrative act is subject to immediate implementation as prescribed by a legal instrument or when precursory implementation of the decision has been allowed by the administrative body.'

To ensure the implementation of imposed coercive administrative measures, Ministry of the Interior bodies can perform the following activities in accordance with Article 44, Paragraph 5 and 6 of the *Foreign Nationals Act*.

'(5) When there are obstacles preventing a foreign national from immediately leaving this country or entering another country, the foreign nationals shall be obliged by virtue of an order issued by the authority that ordered the coercive administrative measure to appear on a daily basis at his/her local police station under terms and conditions laid down in the Implementing Regulations of this Act until these obstacles have become irrelevant.

'(6) The authority ordering deportation or expulsion may at its own discretion decide to intern the foreign national in a specialised facility until the obstacles to implementing the coercive administrative measure have become irrelevant.'

Interning in specialised facilities does not overlap with detaining, although the two measures share a number of similarities. Interning in specialised facilities is monitored within the overall process of administrative and judicial control of orders imposing coercive administrative measures.

Bulgarian legislation provides for two types of detention:

- administrative, under the *Ministry of the Interior Act*.

'Article 70. (1) Police authorities may detain any individual:

'1. who commits a criminal offence;

'2. who, having received due warning, deliberately obstructs the police authorities in carrying out their official duties;

'3. who shows serious mental deviations and whose behaviour is in violation of public order or puts his/her life in evident danger;

'4. who is a juvenile delinquent who left their home, guardian, custodian or public facility where they were accommodated;

'5. whose identity cannot be established as provided for in Article 68;

'6. who evade the imposed sanction of imprisonment or escape detention as accused by virtue of a police administrative measure or a judicial order.

'7. in the cases provided by law.'

'(2) In the cases under Paragraph 1, persons may be placed in specialised premises and measures ensuring their personal security may be taken should it be required by their behaviour or by the purpose of detention.

'(3) Detainees have the right to appeal against the legitimacy of their detention in court. The Court must decide on the appeal immediately.

'(4) Detainees are entitled to access to a legal counsel as of the time of detention.

'Article 71. Persons detained under the conditions of Article 70, Paragraph 1, Subparagraphs 1-5 may not be subject to any other restrictions except a restriction of the right to free movement. The detention period in these cases may not exceed 24 hours.

'Article 72. (1) Police authorities shall issue written orders for taking detained persons to the facilities specially designated for that purpose.

'(2) The police authorities must immediately release the detainee if the grounds for detention have ceased to exist.'

- detention measures in the framework of criminal proceedings initiated under Chapter Ten of the Penal Procedure Code (Articles 152-152 b):

'Detention in custody

'Article 152 (1) The "detention in custody" measure to secure appearance shall apply in cases of crimes which are punishable by deprivation of liberty or another heavier punishment, where the data of the case point out that there is real danger for the accused to abscond or to commit a crime.

'(2) If the contrary is not established on the grounds of the evidence of the case, in case of initial taking of the measure to secure appearance "detention in custody" there is a danger under paragraph (1), where:

'1. the charge is of a crime constituting dangerous recidivism or of a repeated crime;

'2. the charge is for a grave deliberate crime of general nature, while the accused has been convicted for another grave deliberate crime of general nature to no less than one year deprivation of liberty sentence or another heavier punishment whose serving is not postponed on the grounds of Article 66 of the Penal Code;

'3. the charge is for a grave deliberate crime of general nature committed after the accused was already charged for another grave deliberate crime of general nature;

'4. the charge is of crime punishable by not less than ten years of "deprivation of liberty" sentence or another heavier punishment.

'(3) Where there is no more danger for the accused to abscond or to commit another crime, the "detention in custody" measure to secure appearance shall be replaced with less severe measure.

'(4) Detention in custody as a measure to secure appearance in pre-trial proceedings may last not longer than one year if the charge is for a grave deliberate crime, and not longer than two years if the charge is for a crime punishable by not less than fifteen years deprivation of liberty or life imprisonment. In all other cases detention in custody in pre-trial proceedings may not last longer than two months.

'(5) After the expiry of the time limits under paragraph (4), the detained shall be released forthwith by order of the prosecutor.

'(6) If the children of the detained have no relatives to take care of them, they shall be accommodated through the respective municipality or mayor's office in child nursery, kindergarten or boarding school.'

‘Taking the measure to secure appearance “detention in custody” in pre-trial proceedings

‘Article 152a. (1) Detention in custody as a measure to secure appearance in pre-trial proceedings shall be taken by the respective first instance court upon request of the prosecutor.

‘(2) Where the prosecutor fails to grant the motion of the respective investigating body to file a request under paragraph (1), the investigating body itself may make the request before the court.

‘(3) The appearance of the accused before the court shall be ensured forthwith by the body of pre-trial proceedings which has made the request. Where necessary, the respective body may issue a warrant for the detention of the accused until he is brought before the court. This detention may last no longer than 72 hours, if it has been issued by the prosecutor, and no longer than 24 hours, if it has been issued by the investigating body.

‘(4) Where it has issued a warrant for detention under paragraph (3), the investigating body shall notify forthwith the prosecutor thereof.

‘(5) The court shall consider forthwith the case in single-judge panel in an open sitting participated by the prosecutor, the accused and his defence counsel. In the cases under paragraph (2), the court may hear out the investigating body, if it appears in the court sitting.

‘(6) The court shall order detention in custody as a measure to secure appearance, where, on the basis of the data in the case, a justified supposition can be made that the accused has committed a crime and the grounds pursuant to article 152 are at hand.

‘(7) Where the grounds under paragraph (6) are not at hand, the court shall order a lighter measure to secure appearance.

‘(8) The court shall issue in single-judge panel a ruling that shall be announced to the parties in the court sitting and shall be executed forthwith. Along with the announcement of the ruling, the court shall fix the hearing of the case before the intermediate appellate review instance court within a time limit no longer than seven days in case of appeal or protest.

‘(9) The ruling shall be subject to appeal and protest before the respective intermediate appellate review instance court within a time limit of three days.

‘(10) The intermediate appellate review instance court shall consider the case in three-judge panel in an open sitting participated by the prosecutor, the accused and his defence counsel. The failure of the accused to appear without valid reasons shall not be an obstacle to the examination of the case.

‘(11) The intermediate appellate review instance court shall issue a ruling to be announced to the parties in the court sitting. The ruling shall not be subject to appeal and protest.

‘(12) Where the ruling entered into force has ordered a bail, as a measure to secure appearance, the accused shall be detained until its deposition.’

‘Judicial control over the detention in custody in pre-trial proceedings

‘Article 152b (1) The accused or his defence counsel may request amending of the taken measure to secure appearance “detention in custody”.

‘(2) A request under paragraph (1) may be filed as well by the prosecutor or the investigating body for amending the measure to secure appearance.

‘(3) The request of the accused or of his defence counsel shall be filed through the respective body of pre-trial proceedings which shall be obliged to notify forthwith the prosecutor and to forward the case file to the court.

‘(4) The hearing of the case shall be fixed within three days after its receipt at the court

and shall be examined in an open sitting participated by the prosecutor, the accused and his defence counsel. The case shall be heard in the absence of the accused, if the accused declares that he or she does not wish to appear or where it is impossible to bring him before the court for health reasons.

'(5)The court shall consider all circumstances related to the lawfulness of the detention and shall make pronouncement by a ruling which is to be announced to the parties in the court sitting. Along with the announcement of the ruling, the court shall fix a new hearing of the case before the intermediate appellate review instance court within a time limit no longer than seven days in case of appeal or protest.

'(6)The ruling shall be executed forthwith after the expiry of the time limits for appeal, unless protest has been filed which is not in the interest of the accused.

'(7)Where the request has been made by the accused or his defence counsel and the ruling under paragraph (5) confirms the measure to secure appearance, the court may set a time limit within which a new request from the same persons shall not be allowed. This time limit may not be longer than two months after the ruling comes into force, and shall not be applied where the request is based on sudden deterioration of the health status of the accused.

'(8)The ruling shall be subject to appeal and protest before the respective intermediate appellate review instance court within three days.

'(9)The intermediate appellate review instance court shall consider the case in three-judge panel in an open sitting participated by the prosecutor, the accused and his defence counsel. The case shall be considered in the absence of the accused, where the accused declares that he or she does not wish to appear or where it is impossible to bring him before the court for health reasons.

'(10) The intermediate appellate review instance court shall make pronouncement by a ruling that is to be announced to the parties in the court sitting. The ruling shall not be subject to appeal and protest.

'(11) Where the ruling entered into force ordered a bail as a measure to secure appearance, the accused shall be detained until its deposition.

'(12) The preceding paragraphs shall apply respectively as well in the cases where the accused is detained due to failure to deposit the bail set by the court.

APPENDIX:

VI.1. Employment Promotion Act;

VI.2. Regulation on the terms and conditions for issuance, denial and suspension of work permits of foreign nationals in the Republic of Bulgaria;

VI.3. Regulation on the terms and conditions for issuance of permissions to foreign nationals for purposes of pursuing self-employment activities in the Republic of Bulgaria.

VI.4. Foreign Nationals Act

VII. ASYLUM

The EU notes the steps taken by Bulgaria for further alignment with the acquis and in particular the draft amendments on inter alia the distinction between exclusion and cessation clauses, the role of the Public Agency for Refugees, the role of the Border Police in the accelerated procedure, the time limits for lodging an application, the lists of countries of origin and of safe third countries and the appeal procedure, which are to be adopted in the first half of 2002. The EU invites Bulgaria to provide a detailed description of the content of the above-mentioned amendments and to keep the Conference informed of progress made.

On 16 May 2002 by the National Assembly of the Republic of Bulgaria adopted an *Asylum and Refugees Act*, which will enter into effect six months after its promulgation. It will replace the current *Refugees Act* 1999. The main purpose of the new Act is to provide comprehensive arrangement of foreign national protection in the Republic of Bulgaria. The *Asylum and Refugees Act* preserves all positive elements of the present Act, which is harmonised to a great extent with EU *acquis* on asylum, and improves the Refugee Status Determination Procedure (RSDP). The *Asylum and Refugees Act* is in compliance with the *1951 UN Geneva Convention relating to the status of refugees*, the *1967 New York Protocol*, as well as with the EU *acquis* on asylum adopted to the present moment. The basic principles of the Proposals for *Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status - COM52000PC0578*; *Council Directive laying down minimum standards on the reception of applicants for asylum in Member States - COM52000PC0181* and *Council Directive on minimum standards for the qualification and status of the third country nationals and stateless persons as refugees or as persons who otherwise need international protection - COM 52001PC0510*, have also been taken into consideration in the process of drafting the Act. The new main characteristics of the *Asylum and Refugees Act* are as follows:

- The constitutional competence of the President of the Republic of Bulgaria to grant asylum is legislatively arranged;
- The scope of the grounds for granting humanitarian protection (subsidiary protection) is broadened and its term is not fixed. The President of the State Agency for Refugees (SAR) grants humanitarian status on a temporary basis, until the need for such protection has ceased to exist;
- There are provisions for granting temporary protection which correspond to *Council Directive 2001/55/EC of 20 July 2001 on minimum standards for granting temporary protection in the event of mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof*;
- The grounds for refusal, termination and withdrawal of protection and for termination of the procedure are regulated in Chapter 3 of the new Act, which sets clear distinctions. The derogation clauses are incorporated in Article 12 and are in full compliance with Article 1(D), (E) and (F) of the *1951 Geneva Convention*. The grounds for termination of the procedure and the status are regulated in Article 15 and 16;
- SAR with the Council of Ministers is the only competent administrative body responsible for the implementation of the *1951 Geneva Convention* in Bulgaria. The two types of procedure (accelerated and general) are conducted by interviewing authorities (SAR officials) designated by the President of the Agency. The Border Police has no authority to take part in the Refugee Status Determination Procedure. Its obligation, as that of any other state authority, is only to forward asylum applications directly to SAR, in case they are submitted to them.
- The accelerated procedure is regulated in details by the Act. It is carried out in transition or registration and reception centres by an interviewing authority, specially appointed for that purpose by the President of SAR. The decision must be made within a short (3-day) period, with an option for automatic entering in the general procedure. The types of decisions, which can be pronounced by the interviewing authority, are strictly defined. The obligatory requirements with regard to the content of the decision are also fixed. The asylum seeker can appeal against the decision within 7 days before an independent instance such as the district court having jurisdiction on his/her permanent residence. In order to achieve a more effective and speedy procedure and at the same time guarantee the right of asylum seekers to protection, the following regulations are incorporated in the law: appeals must be sent immediately to court; the

court must convene within 3 days of its receipt; the court must pronounce its decision within 1 month of commencing the procedure. The accelerated procedure does not apply to unaccompanied minors or minors seeking asylum.

- The period for appeal against a decision of the SAR President is changed. Decisions can be appealed before the Supreme Administrative Court within 14 days of their presentation. The appeal has a suspending effect. Decisions of the court can be appealed before a cassation instance.
- A new mechanism for adoption and amendment of the lists of safe countries of origin and safe third countries is introduced – every year by 31 March the President of SAR, in co-ordination with the Minister of Foreign Affairs, proposes to the Council of Ministers lists of safe countries of origin and safe third countries with regard to protection seekers.

The EU further notes the information provided by Bulgaria on its preparation for effective implementation of the Dublin Convention. In this context, the EU draws the attention of Bulgaria to Regulation (EC) 2725/2000 concerning the establishment of “Eurodac” for the comparison of fingerprints for the effective application of the Dublin Convention. The EU invites Bulgaria to provide a detailed description of the content of the above-mentioned amendments and to keep the Conference informed of progress made, including the measures taken for implementing the 1990 Dublin Convention.

Like the current *Refugees Act* 1999, the *Asylum and Refugees Act* also introduces the main criteria of the *1990 Dublin Convention* insofar as possible for a country not party to this instrument – Article 16(1) (2) (4) (5) and (11). Conditions are created for the implementation of some of the requirements of the *Dublin Convention*:

- Article 60, Paragraph 2 of the *Asylum and Refugees Act* authorises the Agency for Refugees, in co-operation with Ministry of the Interior authorities, to take fingerprints and other identification characteristics of foreign nationals seeking protection under the conditions provided by law and in full recognition of individual dignity. The terms and conditions for identification, including the taking of fingerprints, are regulated in Article 69 of the *Ministry of the Interior Act*. In view of achieving alignment between the two Acts, the *draft amendments to the Ministry of the Interior Act* (approved at first reading on 1 August 2002 and expected to be finally approved by the end of October 2002) authorise specifically police bodies to make identifications of the following three types of foreign nationals: foreign nationals seeking protection under the *Asylum and Refugees Act*; foreign nationals who have illegally entered the country; and foreign nationals staying illegally on the territory of Bulgaria. Both the *Asylum and Refugees Act* and the *draft amendments to the Ministry of the Interior Act* provide that the identification process, when it is required, is left to the discretion of the competent authorities.
- The Agency for Refugees plans to create its own databases, following the directions of its President and in observation of data protection legislation – Article 63, Paragraph 4. All documents and data related to the identity of asylum seekers, which have become known during the Status Determination Procedure or during their stay in the territory of the Republic of Bulgaria after receiving refugee status, shall be a professional secret. They are kept in the personal files and the register of SAR and are used only for the purposes of the relevant procedure or international co-operation with the states parties to the *1951 Geneva Convention*.

With regard to the preparation of Bulgaria for the application of EURODAC, an interagency working group chaired by SAR was established in the beginning of 2002. The main task of the group is to develop and implement a plan for Bulgaria’s accession to EURODAC.

In May 2002 the Ministry of the Interior and the Agency for Refugees signed a Memorandum of Understanding and Exchange of Information, which provides the necessary legal framework for joint action. By virtue of the Memorandum, Ministry of the Interior experts will render assistance in the development of an Automated Information System on Asylum Seekers, which will also include fingerprints. Furthermore, Ministry of the Interior experts will participate in the abovementioned working group. The Memorandum also contains special provisions according to which information will be exchanged in compliance with the rules of the *Personal Data Protection Act* and will be restricted to internal use only. The Memorandum is effective until the end of 2002, but it can be extended for a time necessary to meet its objectives.

The EU notes the discrepancy between Bulgaria's legislation and its practice regarding applicants who have failed to present their asylum applications within the required time. The EU invites Bulgaria to clarify this issue and to provide detailed information on the existing legislation and future measures in this field.

Like the current *Refugees Act*, adopted in 1999, the *Asylum and Refugees Act* does not provide for a limited time period for the filing of an asylum application, which, if failed to be observed, could be a reason for refusal to enter the procedure. The examination of each asylum-seeking request in the Republic of Bulgaria is guaranteed. There are only two time-related hypotheses in the Act, which, however, do not deprive foreign nationals of the right to have their asylum applications examined by a qualified official.

Based on the reasons in Article 16, the decision-making body is authorised to evaluate the circumstances of each particular case on their own merit and deny refugee or humanitarian status. Article 16(7) refers to a specific category of foreign nationals who enter the country and reside on a temporary basis legally. The aim of this provision is to distinguish the foreign nationals in real need of protection from those who have abused the right of asylum. It obeys the principle that every foreign national, regardless of how he/she entered the country, has the right at any time to declare a wish to receive protection in the Republic of Bulgaria. The time limit of 72 hours to file an application has been introduced, because it is presumed, that even if having entered the country legally, foreign nationals in real need of protection would try to apply at the first opportunity. Non-observance of this time limit is only one of the many circumstances subject to assessment in the process of examining the application, though it could not be the sole reason to deny protection. Article 16(7) incorporates additional safeguards in favour of asylum seekers: the 72-hour period is not considered to have expired when the delay is due to reasons beyond the foreign national's control or when during their stay in the territory of Bulgaria certain circumstances have occurred giving them grounds to fear persecution within the meaning of Article 8 in their country of origin or, if they are stateless, in the country of their permanent residence.

The hypothesis in Article 16(8) of the Act relates to foreign nationals who do not enter the country legally and fail to declare in due time before the competent authorities their wish to receive protection. The abovementioned considerations are valid also in this case. It should be noted that in any particular case with regard to all circumstances the decision making authority has the right to assess whether the asylum application has been filed "in due time" or not. This provision incorporates by analogy an exception from the rule: even if there is a long delay, this is not taken into account if it is for good reason.

The EU also invites Bulgaria to provided detailed information on the implementation of the legal provisions on the integration of recognised asylum seekers and the measures taken to cover the financial consequences of these provisions, as well as to provide detailed

information on family reunification.

In 2002, the Agency for Refugees, in co-ordination with the UNHCR Office in Bulgaria and NGO's such as the Refugee and Migration Service of the Bulgarian Red Cross, the Bulgarian Helsinki Committee, Caritas-Bulgaria and others working with refugees, continued its activity for creating the necessary conditions for integration of refugees in the Republic of Bulgaria.

The existing legal framework safeguarding the social, economic and cultural rights of refugees is harmonised with the international standards and the relevant EU acquis and provides recognised refugees with rights equal to those of Bulgarian citizens.

Rights of recognised refugees

Article 28, Paragraph 1 of the *Refugees Act* (Article 32, Paragraph 1 of the *Asylum and Refugees Act*) stipulates: "A refugee who has been granted a refugee status shall be entitled to the rights and obligations of a Bulgarian national, except for:

1. the right to vote and to be elected;
2. the right to take positions in the public administration, for which Bulgarian citizenship is required by law;
3. the right to join the Bulgarian army ;
4. other restrictions established by law."

The Agency for Refugees pays particular attention to solving the most urgent problems related to the integration of refugees in Bulgaria – the provision of housing and employment.

The practical measures for integration of foreign nationals in the first months after they are granted refugee status are implemented in the framework of the Social Assistance and Integration Program developed by the Agency for Refugees in co-operation with the UNHCR Office in Sofia and the Refugee and Migration Service of the Bulgarian Red Cross. The Program is implemented by the Refugee and Migration Service of the Bulgarian Red Cross, with the financial support of the UNHCR Office in Bulgaria, and comprises the following stages:

I. The first stage includes providing financial assistance for the initial one-month integration period. The package includes the amount of money necessary to cover the expenses for issuance identity documents, housing and food during the first month.

II. The second stage of the Program refers only to recognised refugees who meet the following requirements:

- They are registered as unemployed at the respective Employment Bureau, except in the cases when this is not required by Bulgarian legislation (for mothers with children up to 3 years of age, disabled, retired persons);
- They are not in possession of their own housing or any other property or real estate;
- They have already filed an application for social assistance with the respective municipal authority of their residence;
- They do not have their own registered company;
- Children of refugees aged 2.5-18 regularly attend kindergarten or school, respectively;
- They take an active part in the offered measures for integration, according to the individual integration plan - language training in Bulgarian, vocational training, etc.

Support during the second stage includes:

- monthly integration allowance calculated under the *Regulations Implementing the Social Welfare Act*;
- provision of textbooks and classroom aids to children of refugees who attend Bulgarian municipal and public schools;
- covering kindergarten fees;
- partial reimbursement of medical supply costs;
- provision of child and baby food for children aged up to 3 years;
- language training in Bulgarian and vocational training;
- psychological assistance provided by the Agency for Refugees;
- social consultation and assistance before the social assistance authorities and employment bureaus provided by the social workers of the Agency for Refugees and the Refugee and Migration Service of the Bulgarian Red Cross;
- Legal advice provided by Bulgarian Helsinki Committee lawyers;

The assistance is aimed at providing a maximum level of support for integration of refugees in the first 9 months after they receive refugee status.

Housing of recognised refugees in Bulgaria

There are no specific provisions concerning the right of recognised refugees to housing. According to Article 28, Paragraph 2 of the *Refugees Act* (Article 32, Paragraph 3 of the *Asylum and Refugees Act*), recognised refugees are entitled to acquire real estate in the territory of Bulgaria under the terms and conditions applicable to foreign nationals who have permanent residence status. According to Article 32, Paragraph 2 of the *Asylum and Refugees Act* "A refugee who has been granted refugee status or humanitarian status may be provided with financial support for a period of 6 months after the decision to grant status has entered into force, under terms and conditions set by the President of State Agency for Refugees and in co-ordination with the Minister of Finance."

In view of the fact that the housing accommodation of recognised refugees is a priority issue, the Agency for Refugees has proposed to the Government of Bulgaria a Project for Housing of Recognised Refugees, which is to be implemented in the framework of the National PHARE Program and developed in co-operation with Sofia Municipality. The Project is planned to be included in the PHARE 2003 Program.

Employment and vocational training

Recognised refugees in the Republic of Bulgaria are entitled to work on equal terms with Bulgarian nationals without obtaining any special permit to that effect (Article 70, Paragraph 1 of the *Employment Encouragement Act*, SG No.112/2001, in force as of 1 January 2002). Refugees have the right to register at the Employment Bureaus and enjoy equal access with Bulgarian nationals to the services offered by them.

Moreover, refugees have the same rights as Bulgarian nationals upon entering into contracts of employment or taking up their own businesses. Their employment status is regulated by the labour legislation of Bulgaria. In the market economy environment recognised refugees should find employment unassisted, as do Bulgarian nationals.

In view of assisting and encouraging recognised refugees, the Agency for Refugees is running a number of special programs for employment and social integration.

In order to enable refugees to improve their professional skills, a Refugee Integration Centre was set up in 2001 as a territorial unit of the Agency for Refugees (Council of Ministers Decree No. 123 of 14 May 2001). The Integration Centre offers training to both recognised refugees and asylum seekers who wish to learn Bulgarian and be trained for certain professions. There is a children's social club at the Centre, which offers pre-school classes to children aged 4 to 7.

The Agency for Refugees holds regular meetings with representatives of the Sofia Regional Employment Service, the 9 Employment Bureaus in Sofia, the UNHCR Office in Bulgaria and NGO's to discuss the employment opportunities for recognised refugees in Bulgaria.

Due to the low unemployment rate in Sofia (4,2% in 2000) most of the recognised refugees have settled there. It has been decided to include refugees in micro projects targeting groups disadvantaged at the labour market.

The efforts of the Agency for Refugees in the field of social integration of refugees are supported by NGO's through a number of projects for social assistance, vocational training and employment of refugees. The Refugee and Migration Service of the Bulgarian Red Cross assists financially the recognised refugees, organises language courses in Bulgarian and implements projects for employment of recognised refugees.

In 2001, Caritas–Bulgaria, in co-operation with the Agency for Refugees, organised a training course in computer literacy (two 3-month levels) for refugees in procedure, recognised refugees and persons granted humanitarian protection. 108 refugees passed the final exam and received a computer literacy certificate.

In view of the above-mentioned problems related to the employment of recognised refugees, in 2002 the Agency for Refugees extended its co-operation with the Ministry of Labour and Social Policy, proposing the development and implementation of a micro project for employment of refugees. The project entitled Bulgarian Language Training, Vocational Training and Employment of Refugees is to be implemented in co-operation with the Sofia Regional Employment Service.

Family reunification. Rights of members of refugee families.

According to Article 32 of the *Refugees Act* (Article 34 of the *Asylum and Refugees Act*), recognised refugees are entitled to permission from the President of the Agency for Refugees to reunite with their families in the territory of Bulgaria.

Like the current *Refugees Act* 1999, the *Asylum and Refugees Act* contains a definition of 'family member', according to which 'family members are the husband, wife and unmarried underage children.' Rights as family members are provided also to 'the parents of either spouse who are unable to look after themselves due to old age or serious illness or injury and therefore need to live in the same household as their children.'

Pursuant to Article 19 of the *Refugees Act* 'Family members accompanying the refugee, in respect of whom a refugee status determination procedure has been instituted or who has been granted refugee status, enjoy the same rights and obligations as the respective refugee.'

The *Asylum and Refugees Act* introduces the right to appeal against a decision to refuse family reunification before the Supreme Administrative Court of the Republic of Bulgaria.

Refugee family reunification

The data for the period 1997 - 2002 is as follows:

- 1997 – one Iraqi family (+ wife + 4 children);
- 1998 – one Afghani family (+ wife);
- 1999 – five families, one from Ethiopia (+ fiancée) and four from Afghanistan (respectively, + refugee's mother, + wife, + wife, + wife + 6 children);
- 2000 – five families from Afghanistan (respectively, + wife + 3 children + refugee's sister, + wife, + ill mother and father, + 3 unmarried children, + both old parents);
- 2001 – twelve families, including 7 from Afghanistan (respectively, + wife + 3 children, + wife, + wife + 5 children, + wife + 9 children, + wife + 6 children, + wife + 4 children, + wife + 3 children), 1 stateless person (+ son), 3 from Iraq (respectively, + son, + husband, + husband) and 1 from Syria (+ wife + 3 children);
- 2002 – three families, including 1 from Afghanistan (+ wife) and 2 from Iraq (respectively, + husband, + wife + 5 children).

Between 11 November 1997 and 25 April 2002 the Agency for Refugees granted permission for reunification to 27 families which stated their wish to reunite in the territory of the Republic of Bulgaria. The total number of persons reunited with recognised refugees is 83.

- Afghanistan - 18 families; reunited family members: 62
- Iraq - 6 families; reunited family members: 15
- Ethiopia - 1 family; reunited family members: 1
- Syria - 1 family; reunited family members: 4
- Stateless - 1 family; reunited family members: 1

Social assistance to recognised refugees in the Republic of Bulgaria

The right of recognised refugees in Bulgaria to social assistance is regulated in Article 28, Paragraph 1 of the *Refugees Act* and Article 2, Paragraph 4 of the *Social Welfare Act*.

Social assistance to recognised refugees in Bulgaria is provided by the Municipal Social Welfare Service of their permanent residence under the terms and conditions applicable to Bulgarian nationals.

Bulgarian nationals must be registered with an Employment Bureau at least 6 months before filing an application for social assistance. This time requirement does not however apply to recognised refugees who registered with an Employment Bureau within one month of receiving the refugee recognition decision (Article 10, Paragraph 4 of the *Regulations Implementing the Social Welfare Act*).

Disabled refugees are entitled to the social benefits available for Bulgarian nationals, including disability auxiliaries such as wheelchairs, crutches, hearing aids, etc., and services, including disability pensions.

Health insurance of recognised refugees is subject to the same terms and conditions as those applicable to Bulgarian nationals.

Psychological services

The Agency for Refugees offers also individual consultations and motivation training schemes to recognised refugees to help their mobilisation for work, choice of profession and labour integration.

Right of recognised refugees to education

It should be noted that in respect of education recognised refugees enjoy the same rights as Bulgarian nationals.

Recognised refugees are entitled to continue their education in order to graduate from secondary state or municipal schools in Bulgaria under a procedure laid down by the Ministry of Education and the Agency for Refugees (Article 28, Paragraph 1 of the *Refugees Act, Regulation No. 3 of 27 July 2000*).

Recognised refugees can also sit for admission exams and continue their education at Bulgarian higher-learning institutes under the same conditions and procedures as Bulgarian nationals (Article 11, Paragraph 3(2) of the *Regulation on State Requirements for Admission of Students to Higher Education Institutes in the Republic of Bulgaria*).

Furthermore, refugees are entitled to recognition of their higher education degrees and any completed period of studies at foreign higher learning institutes (Article 2 of the *Regulation on State Requirements for Recognition of Higher Education Degrees and Completed Periods of Training at Foreign Higher Institutes*).

Recognised refugees can apply for Ph.D. studies under the same terms and conditions as those applicable to Bulgarian nationals wishing to be admitted to Bulgarian research and development institutes (Article 17, Paragraph 2(2) of the *Regulation on State Requirements for Admission and Training of Ph.D. Students*).

Acquisition of Bulgarian citizenship

Pursuant to Article 13 of the *Bulgarian Citizenship Act*, recognised refugees have the right to apply for Bulgarian citizenship if at the date of applying for naturalisation three years have passed since the date on which refugee status was granted.

The EU further invites Bulgaria to provide detailed information on its plans to extend the reception capacity, on the functioning of existing and future reception centres including a detailed description of the conditions under which persons are hosted in the reception centres, as well as on the functioning, staffing, training and equipment of the Public Agency for Refugees.

The administrative structure of the Agency for Refugees is established in compliance with the requirements of the *Administration Act* and the *Civil Servants Act*. Its structure, staffing and functions are regulated in the Rules of Procedure of the Agency for Refugees, adopted by *Council of Ministers Decree No. 78 of 9 May 2000* (amended SG No. 48 of 22 May 2001, No. 87 of 9 October 2001, in force as of 15 October 2001).

The Agency consists of a central office and the following transit, registration, reception and integration centres:

- Registration and Reception Centre for Refugees in Banya, municipality of Nova Zagora, established by *Council of Ministers Decree No. 99/09.05.1997*;

- Registration Centre for Refugees in Sofia, established by *Council of Ministers Decree No. 123/17.05.2001*;
- Integration Centre for Refugees in Sofia, established by *Council of Ministers Decree No. 123/17.05.2001*.

The number of employees of the Agency is 141, of which 94 work in the central office; 16 in the Registration and Reception Centre in Banya; 22 in the Registration Centre in Sofia and 9 in the Integration Centre in Sofia.

The central office of the Agency has six directorates. Four of these are specialised administration directorates: Procedures and Decisions; Refugee Centres, Accommodation and Administrative Control; Health and Social Protection, Adaptation and Integration of Refugees; and International Co-operation and European Integration. There are also two general administration directorates - Administrative, Legal and Information Services and Financial and Economic Activities and Property Management.

The training of the employees of the Agency is carried out in the following directions:

- in co-operation with UNHCR and IOM;
- in the framework of international co-operation through exchange of expertise, practical courses and seminars;
- at the Institute for Public Administration and European Integration - in implementation of the Administration Training Strategy, adopted by *Council of Ministers Decision No. 85/14.02.2002*.

The twinning project on 'Strengthening the institutional capacity of the Bulgarian Agency for Refugees', financed under the National PHARE 2001 Program, which started officially on 28 May 2002, envisages the establishment of a Training Centre at the Agency for Refugees.

The Agency for Refugees is equipped with 84 computers, 2 servers, 18 UPS, 4 scanners, 4 modems, 49 printers, 2 Notebook Compaq Centura 486's; 1 Notebook Compaq Armada Pentium 166; and 2 Omnibook 6000's.

The efforts of the Agency for Refugees are focused on providing the necessary conditions for implementation of the *Asylum and Refugees Act* and strengthening the administrative capacity of the Agency. In this regard, two transit centres for refugees will be constructed by the end of 2005:

- In Sofia, near the Sofia Airport border checkpoint, with capacity for 300 people;
- In Pastrogor, municipality of Svilengrad, near Kapitan Andreevo border checkpoint - with the same capacity.

One of the components of the PHARE 2001 twinning project 'Strengthening the institutional capacity of the Bulgarian Agency for Refugees' includes a preliminary feasibility study. The 18-month project started officially on 28 May 2002 and will be completed by the end of 2003. The Agency for Refugees is partnered by a consortium between the German Federal Office for Recognition of Foreign Refugees (Bundesamt fuer die Anerkennung auslaendischer Fluechtlinge) and the Swedish Migration Board. The precondition set by the European Commission for starting the project - that the Agency for Refugees must acquire ownership of the area necessary for the construction of the two centres - has already been met. The Council of Ministers, by *Decision No. 125/05.03.2002*, has transferred to the Agency for Refugees the ownership of an area of 31,884 m² near the Sofia Airport. Furthermore, by *Order No. DS -11-05 of 13 February 2002* the Governor of Haskovo transferred to the Agency for Refugees the ownership of an area of 10,000 m² near Kapitan Andreevo border checkpoint. This makes it possible to start the technical and economic feasibility study of the project which will be used as a basis for the proposal to the European Commission to finance the construction of the centres through the PHARE programme and the Council of Europe Social Development Bank .

At the moment there are two centres where refugees in procedure are accommodated:

- Registration Centre for Refugees in Sofia, capacity - 500 persons, staff - 22;
- Registration and Reception Centre for Refugees in Banya, municipality of Nova Zagora, capacity - 80 persons, staff - 16.

Their structure is established in accordance with the *Administration Act* and the *Civil Servants Act*. The centres have rooms for accommodation of refugees with 5 and 6 beds; sanitary and auxiliary premises; premises for the staff and medical assistance of refugees; canteen; premises for the guards and others.

Each accommodated person in the centres receives twice a month an individual package of hygienic materials. In the Registration Centre for Refugees in Sofia every newly registered asylum seeker receives initially one food package for one month, after that once a month they receive financial assistance for food and other needs. In the Registration and Reception Centre for Refugees in Banya the refugees have meals in the canteen and do not receive additional financial assistance. Registration centres also provide medical care for the refugees. Furthermore, asylum seekers also receive assistance (food, clothing, etc.) from various NGO's.

VIII. POLICE CO-OPERATION

The EU underlines the important principle of having an accountable, reliable and fully coordinated police organisation. The EU recalls that this police organisation needs to be operational in order to be able to fully and properly implement the acquis by the date of accession at the latest. This is essential in particular for the fight against organised crime (inter alia trafficking in human beings, especially women, trafficking in drugs and illegal transfer of motor vehicles) and new types of crime (financial crime, money laundering and "high-tech" crime). This presupposes practical cooperation and flow of information between institutions working in this field, the availability of a computer-assisted search facility, basic and further training tailored to the fight against specific types of crime, as well as national statistical instruments for measuring the crime rate and clearing up rate.

The EU underlines that cooperation and coordination between the police, the prosecuting and judicial bodies as well as other competent agencies is also essential. This also applies to their internal division of competences and tasks, as well as to police cooperation at an international level. In this context, the EU notes the information provided by Bulgaria and invites Bulgaria to further continue its efforts in this area.

The EU notes the steps taken by Bulgaria to amend its legislation and invites Bulgaria to provide a detailed description of the content of the amendments to the Ministry of Interior Act as regards the establishment of the National Contact Point and the planned measures for its functioning, staffing and training.

An institutional model of National Contact Point (NCP) based on the one-stop shop principle has been developed within the framework of element 1.1 of the institutional component of Phare Project on 'Managing Criminal Information Systems according to European Standards', implemented in partnership with Spain. The model was approved by the Minister of the Interior on 28 May 2002. It regulates the status and management of the NCP, its goals and objectives, the powers of its officers as well as the obligation of all policing services (their officers) to implement international information exchange with foreign police services or organisation (Interpol, Europol, etc.) only through the NCP.

The National Contact Point will be established as a unit reporting directly to the Minister of the Interior. It will include duty teams maintaining 24-hour connection, 365 days a year with the National Contact Points or their equivalent bodies in the EU Member States, the Interpol Secretariat General and all law enforcement authorities in Bulgaria. A separate Secretariat will be established to manage paperwork and control the implementation of information exchange and data storage. The co-ordination of between the NCP and the policing services will be carried out by their seconded representatives. Interdepartmental co-operation will be implemented by means of a direct line with especially designated representatives of the competent judicial authorities.

The currently established NCP will be prepared to upgrade on the information exchange side and incorporate the national Europol and SIRENE bureaus. In the time period up to Bulgaria's accession to the EU, the NCP will include a separate Europol unit whose organisation and structure based on the requirements set in the co-operation agreement between Bulgaria and Europol, which should be signed by the end of this year. In that regard, Europol has drawn a Data Protection Report on Bulgaria, which was discussed beforehand with the Bulgarian authorities. The Report has been submitted to the Council of the European Union for consideration with a proposal to give Europol a mandate to start negotiations on a co-operation agreement with Bulgaria.

The legal framework for establishment of the NCP is contained in the draft amendments to the *Ministry of the Interior Act*, adopted at a first reading on 1 August 2002. According to the National Schengen Action Plan (NSAP), the draft amendments to the *Ministry of the Interior Act* should be adopted by the end of October 2002. The draft provides for amendments to Article 9 reading: 'A National Contact Point for international police co-operation and co-ordination of foreign police representatives' operation in Bulgaria, when this is provided in an international agreement, shall be established at the Ministry of the Interior. The draft Rules of the NCP are pending endorsement by the Minister of the Interior by the end of December 2002.

During its first stage of operation, until the amendments providing for the establishment of an integrated structure have entered into force, the NCP will be attached to the NCB Interpol with the Ministry of the Interior and will be managed by the Director of Interpol.

The full text of the institutional model of NCP, approved by the Minister of the Interior, is included in **Appendix VIII.2**.

The officers who will be seconded to the NCP from the national services of the Ministry of the Interior – NPS, NSCOC, NBPS and NGS – are trained in the framework of the PHARE Project. The first two courses were held in July and August 2002. The third and last course is scheduled for October 2002.

Furthermore, the EU invites Bulgaria to provide detailed information on the legislative amendments to the Penal Code as well as on the new legislation on the operation of the services in the area of public order, including the improvement of training and education of the police in international human rights law.

On 13 September 2002 the National Assembly adopted passed amendments to the *Penal Code* (SG No. 92/27.09.2002 – **Appendix VIII.1**). In the area of corruption, the amendments envisage: criminalisation of bribery in the private sector, trade in influence, passive bribery of foreign public officials, bribery of arbiters and, in particular cases, defence counsellors and attorneys; extension of the meaning of the term ‘foreign public official’; limitation of the scope of protection providing for acquittal in some cases of active bribery; introduction of fines, too, as penalty for bribery; more severe punishments for passive and active bribery of judges, jury members, prosecutors and investigators (examining magistrates) and inclusion of non-material benefit/advantage in the subject of bribery. Those changes are compliant with the standards laid down in the *Council of Europe Criminal Law Convention on Corruption*, the *OECD Convention on combating bribery of foreign officials in international business transactions*, the *Convention on the Fight against Corruption Involving Officials of the European Communities or Officials of EU Member States*, the *Protocol to the Convention on the Protection of Community Financial Interests* and the *Joint Action on Corruption in the Private Sector*.

In the area of combating organised crime, changes are aimed at providing a legal definition of ‘organised criminal group’, adequate regulation of the punitive repression in terms of setting up, running and participating in an organised criminal group, as well as criminalizing the conspiracy to be involved in organised criminal activities. The proposed amendments take into account the *Joint Action of 21 December 1998 on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union* and the *UN Convention against Transnational Organised Crime*.

Moreover, in line with the requirements of the European Union, the adopted amendments criminalize the possession of child pornography (in accordance with *Joint Action of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children*). In order to implement the standards of the above 1997 Joint Action as well as to align the penal system with the requirements of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime*, the *Penal Code* has incorporated a separate section containing provisions on penalisation of the trafficking in human beings with aim of using them for debauchery, forced labour, body organs or keeping them in forcible subjection.

The new amendments to the *Penal Code* provide for the creation of a new Chapter on Cyber Crime, which contains penal provisions concerning offences against the security, privacy and proper functioning of computer systems and computer data (compliant with the *European Convention on Cyber-Crime*, which was signed by Bulgaria in 2001).

The amendments also envisage special penal provisions on terrorism, the financing of terrorism, the creation and managing of and participation in, a terrorist group, the preparation to a terrorist act, the manifest incitement to terrorist activity and the threat to commit acts of terrorism.

The legislative changes with regard to the punishment of terrorism, corruption, organised crime, trade in human beings and computer crimes are very important for the effective countering of the criminal activities in question and will have a strong preventative effect. They will increase substantially the capacity of law-enforcement bodies to fight against these crimes and reduce their rates putting them under control. The penal provisions will expand considerably the opportunities for police and judicial co-operation (legal assistance and extradition) with the EU Member States in view of detecting, prosecuting and punishing those crimes.

Operations

In respect of new legislation concerning the operative work of the services responsible for the maintenance of public order, on 1 August 2002 the National Assembly passed at a first reading amendments to the *Ministry of the Interior Act*. Second reading adoption is expected by the end of October 2002.

The basic amendments proposed in the draft go as follows:

- The information activity of the Ministry of the Interior is adjusted to the requirements of the *Personal Data Protection Act* and the *Classified Information Protection Act*. Data processing in the framework of information databases is possible under the legally established terms and conditions.
- Introduction of strict rules for police registration, the conditions that may cause its removal and the bodies responsible for that removal.
- Establishment of a National Contact Point for police co-operation and co-ordination of foreign police representatives' operation in Bulgaria.
- In view of enhancing the capacity to combat organised criminality, NSCOC's powers under Article 92 of the *Ministry of the Interior Act* are extended. Thus NSCOC officers will be able to go undercover and take part in undercover operations. For the first time, the draft amendments to the *Ministry of the Interior Act* provide regulation for control deliveries (in Article 162, Paragraph 1, Subparagraph 16).
- Introduction of provisions on the securing of fire and emergency safety on the basis of contracts. There will be a legal option for establishment of voluntary formations supporting the National Fire and Emergency Safety Service in the prevention and extinguishing of fires, disasters, emergencies and catastrophes.
- Prohibition of unauthorised use of police insignia, which is subject to large-sized fines.

The planned legislative amendments concerning operational activity in terms of combating organised crime are in compliance with Principle 6 of the Pre-Accession Pact on Organised Crime, which highlights the relation and effectiveness of the electronic means of surveillance and stresses on the readiness of the countries to facilitate international co-operation in that area.

The current *Ministry of the Interior Act* provides regulation for all operational techniques, including undercover operation, based on bilateral or multilateral agreements that are effective for the Republic of Bulgaria.

Human rights training

Recognition of human rights and fundamental freedoms is one of the main commitments of the Ministry of the Interior. Work in that area is focused on three aspects:

- Management organisation;
- Personnel training;
- General oversight and examination of concrete complaints filed by citizens and alerts raised by the mass media and NGOs.

Police and human rights is an issue which is largely incorporated into the overall training programme provided by the Ministry of the Interior for both cadets and experts, which is in keeping with the philosophy of building a new image of the police as a service closer to the community. The curricula taught at the Academy and the sergeant schools of the Ministry of the Interior have been developed with a view to achieving greater effectiveness in the training in terms of EU and other international criteria and standards regulating citizen rights and police behaviour towards the community in the course of delivering their professional duties.

HUMAN RIGHTS TRAINING AT THE ACADEMY OF THE MINISTRY OF THE INTERIOR

Training in human rights is provided by the Academy's Police Faculty.

I. Full-time and extramural courses for a Bachelor's degree in Combating Crime and Public Order Maintenance

Academy cadets study the international and national legal framework on human rights in the following compulsory subjects:

1. Public International Law - 60 academic hours;
2. European Law - 45 academic hours;
3. Police Law - 90 academic hours;
4. Police Tactics - 100 academic hours.

The first two courses provide training on the international instruments in the field of human rights.

Police Law is a discipline providing training on the international and national legal framework regulating police powers in relation to human rights. The issues covered by this subject include the grounds and legal rules for using coercion by police authorities.

Police Tactics is a practice-orientated course and prepares the future police officers for implementation of the legal framework on human rights. This subject focuses on the use by the police of ancillary equipment, force and firearms. Attention is also paid to the actions of police officials in situations where it is likely to use force or other actions provided by national law, which affect the human rights guaranteed by the Constitution of the Republic of Bulgaria.

II. Initial professional training courses for officers with a degree

Human rights policing is taught in the following compulsory subjects:

1. Police Law - 40 academic hours;
2. Police and Human Rights Module - 10 academic hours on international law regulations on human rights;
3. Police Ethics Module - 10 hours on ethical aspects of human rights protection;

4. Social Policing Module - 10 hours on the issue of community policing and police work in a multiethnic environment;
5. Police Tactics - 40 academic hours.

III. Initial professional training courses in the three police schools in Sofia, Kazanlak and Varna

1. Police Eurointegration Module - 6 hours on European integration in police matters and international instruments in the field of human rights;
2. Police Law - 30 hours;
3. Police Tactics - 40 hours.

IV. Specialised and retraining courses for officers

Training on individual issues or in specialised courses on human rights with duration from 1 to 3 days.

All the officers from the Border Police and the Gendarmerie, as well as a large number of National Police Service officers, have already received such training.

IV. Management training courses

Specialised courses on human rights and asylum with duration from 1 to 2 days.

V. Teaching materials on human rights

A number of textbooks on police law and police tactics and more than five monographs and learning aids on human rights have been drawn up in the last three years. Police personnel have been provided with reading materials on the subject, including a human rights manual published in 2002.

VI. Master's degree in Combating Crime and Public Order Maintenance

1. Police and Human Rights - 28 hours distance learning;
2. Social Policing - 28 hours

VII. New elements in the human rights training of police officials

Community policing is aimed at preventing antisocial behaviour and crime as well as increasing police officials' general knowledge and legal stock. Taking this into account the Academy of the Ministry of the Interior has adopted a broader approach to the issue, which includes:

- Human rights case studies;
- International standards in the field of human rights and policing;
- Acting international conventions and the experience of counterpart services in European countries;
- Social policing;
- Interaction with different social groups;
- Police participation in peace keeping missions;
- Police and foreign nationals.

Human rights training programs for police officials organised in co-operation with international institutions, government and non-governmental organisations (EU, UNHCR, Council of Europe, ODYSSEUS Programme, PHARE Programme, Open Society Foundation, Constitutional and Legal Policy Institute, British Know-How Fund, International Red Cross, Assistance Centre for Torture Survivors, Nadya Centre, etc.):

- General Theory of Human Rights

This program is part of the legal training of all trainees and is included in the curricula on international humanitarian law, civil control of police activities, European integration etc.

- Police Training in Application of International Human Rights Standards. Professional Ethics

This Programme is aimed at providing the largest possible number of police officials with information on international human rights standards and laying down foundations for professional ethics in the implementation of their official duties.

- Police and Youth

The Programme aims at developing future police officers' knowledge and skills to work with children and adolescents. It is also aimed at presenting young people with a new image of the work of the Ministry of the Interior authorities. A project entitled Child Safety Academy is being carried out in co-operation with the UNHCR.

- Police and Ethnic Minorities

The objective of the Programme is to familiarise police officials with international legal standards for conduct of law enforcement officials working in the specific environment of ethnic communities and forming a professional philosophy to that effect.

In the framework of this Programme the Academy of the Ministry of the Interior is involved in the Access to Education Sub-Project in the framework of PHARE Project BG 9907.01, implemented by the Council of Ministers, on Roma Integration in Society.

- Police and Foreign nationals

Mol Academy/UNHCR/EU Project entitled Human Rights and Asylum Law under the EU ODYSSEUS 98 Programme

- Peace Keeping and Humanitarian Missions
 - Training of candidates for police monitors in UN peace keeping missions;
 - Training of officials to provide humanitarian aid and rescue people in emergencies.
- Training under ENFOPOL Modules:
 - Police Ethics. The Moral Code as an Instrument in Police Work
 - Policing in a Multiethnic Society - PHARE Project BG99/IB/JH/03, Sub-Project II, Element 2.3

The Academy of the Ministry of the Interior will work in co-operation with the Nadya Centres. This will include holding seminars on the subject of police violence and sending cadets on internship to the Centres for the prevention of domestic violence and work with victims of domestic violence.

HUMAN RIGHTS TRAINING AND WORK AT THE NATIONAL POLICE SERVICE

A specialised Human Rights Committee was set up at the National Police Service in August 2000. Its basic functions are:

- *To bring internal police regulations in line with the international and domestic law;*
- To analyse the findings of the reports presented by the Committee for Prevention of Torture and the NGOs that monitor police behaviour, and develop proposals for elimination of identified malpractice;
- To organise training of both managing and rank-and-file staff in the area of human rights and international law enforcement standards.

Each of the Regional Directorates of the Interior have appointed human right co-ordinators whose duty is to connect the Committee's work with local policing structures. All regional co-ordinators have passed two training courses on human rights, where they have learnt the theoretical aspects and practical dimensions of the human rights issue.

With the financial support of the Council of Europe's Intergovernmental Programme, the following practical sources have been issued and distributed among police structures throughout the country:

- *Human Rights and Police* – a practice-oriented training manual;
- *Human Rights in Police* – discussion techniques;
- *Visit of the Committee for Prevention of Torture: What is it about?;*
- *Police Practice and Human Rights: European Introduction;*
- *Police and Human Rights: Let's Be Cautious!* – a video.

In addition, human rights experts from the National Police Service have developed another two sourcebooks in that area, which have also been distributed among the police community:

- *Human Rights and Police Practice* – a training manual for police sergeants published by the Bulgarian Attorneys for Human Rights Foundation in the framework of the Police: a Community-Oriented Structure Project;
- *Police Manual on Human Rights*. The initiative and organisation for writing of this manual has been carried out by the Danish Human Rights Centre in Copenhagen and the Rule of Law Institute in Sofia. The manual is designed as a practical source in the process of planning the on-the job training programme for all units of the National Police Service and the rest of the policing services.

Since 1999, the National Police Service has held over 20 training events on human rights in the police practice delivered for nearly 2,000 police officers. The topics covered in the course of the training were lectured by representatives of the courts, prosecution and investigation as well as members of NGOs.

In April 2001 the Assistance Centre for Torture Survivors (ACET), the National Police Service and the educational facilities of the Ministry of the Interior started a joint one-year project, financially supported by the British Know How Fund. The project was based on the aim of avoiding isolated and hectic training of police officers by investing in the selection and training of trainers in human rights ensuring that they would provide on-the-job training for their colleagues.

The first stage of the project included workshops on human rights for police school trainers. The first workshop was held in Varna on 27-28 June 2001. The participants developed Bulgarian case studies aimed at adapting the Council of Europe Trainer's Human Rights Manual. The second main topic of discussion, additionally involving psychology trainers from the police schools, was a textbook called 'Police and Human Rights: Methods of Discussion'. Police school trainers discussed also at the two workshops the methods of human rights training at the police.

On a regional level, Each Regional Directorate of the Interior designated two policemen as human rights trainers. They passed through two training stages, each consisting of two workshops. The first two workshops were held on 2-3 July 2001 and 17-18 July 2001 in Sofia. The second phase was delivered in 2002 – on 13-15 March in Plovdiv for regional trainers from South Bulgaria and on 20-22 March in Veliko Turnovo for regional trainers from North Bulgaria.

During the first training stage the participants were presented with the basic European human rights standards: the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, etc. In the interim period between the two training stages, in addition to the set of Council of Europe training materials, trainers received a sourcebook called 'The Police Job and Human Rights', issued by the ACET, to assist them in the training process. The workshops were delivered by members of non-governmental law enforcement organisations. At the workshops held in March 2002, the trainers were able to receive peer feedback and discuss the problems and challenges of presenting in the area of human. The workshops gave the floor for discussion of the measures to provide greater protection of detainee rights recommended by the Director of National Police.

The project finished with a closing workshop in May 2002 dedicated to The Police Profession and Human Rights: Concern and Responsibility, organised by the ACET, the National Police and the Press Office of the Ministry of the Interior. Invited to the event were representatives of the national services of the Ministry of the Interior, other ministries, foreign missions in Bulgaria and non-governmental law enforcement organisations.

In July 2002, the National Police Service held a series of seminars on ethnic minority policing, supported by the British Conflict Prevention Fund, with representatives of policemen serving in regions with compact Roma population. A large-scale minority policing project will be implemented in 2003 in partnership with the National Council for Ethnic and Demographic Issues.

In September 2002 the Academy of the Ministry of the Interior and the police schools jointly organised a 'Police and Minorities' seminar supported by the participation of two French police experts on minority issues.

Further human rights training is planned for trainers and human rights co-ordinators from the regional directorates of internal affairs. Local training in human rights will be supported by the implementation in 2003 of a targeted project developed in co-operation with the ACET.

The Ministry of the Interior established in September 2002 a permanent working group on human rights which gathers representatives of the competent directorates and national services and is chaired by a Deputy Minister. The group is to review proposals and facilitate a complex solution of the problems indicated in the reports made by the European Committee for Prevention of Torture as well as other human rights issues that might occur in the future.

A task force consisting of representatives of the national services, the central administration and the Academy of the Ministry of the Interior has been established under the National Police Service with an object of elaborating by the end of 2002 a community policing strategy. The strategy will assist the National Police in implementing the concept of community policing in view of increasing its effectiveness and building partnerships with the civil society.

Within its Community Policing Programme Open Society Foundation will implement projects which will be carried out in partnership between non-governmental organisations and local police structures in the framework of two main priorities approved of by the National Police Service Directorate:

- popularising the community policing model and presenting police work to the general public;
- establishing effective mechanisms for accountability and civil control of the police.

The police has supported in the context of its successful co-operation with NGOs a project of the Bulgarian Helsinki Committee for independent monitoring of police work, which will be implemented in 2003.

The EU notes that Bulgaria had a National Strategy to combat organised crime during the period 1998-2001 and invites Bulgaria to provide further information on the results of its implementation and on its future plans in this regard.

The Bulgarian Government sent a report on the national security to the National assembly in April 2001 giving account of the overall implementation of the National Strategy to Combat Organised Crime. The report is provided under **Appendix VIII.6** to this section.

Recognising the new realities and trends in the development of organised criminality and taking adequate measures to combat that scourge, The Ministry of the Interior established a Task Force at the beginning of 2002 which developed the Strategy of the Ministry of the Interior to Combat Crime. The document, which sets the main objectives and goals to be pursued by the Ministry of the Interior between 2002 and 2005, outlines the priorities of the Ministry in the area of combating crime: developing and strengthening the administrative capacity of law enforcement authorities; countering corruption; tackling assault offences, larceny, economic, financial and hi-tech crime; suppressing organized criminal groups and improving co-ordination and co-operation with other public authorities, particularly public control and judicial authorities.

The national policy in the area of combating crime will be supported by a National Crime Strategy (currently under preparation), which will define the priorities in the work of law enforcement bodies. The Strategy will take into account the results of the implementation of the Unified National Strategy to Combat Crime of 1998, as well as respond to the need to supplement and expand the measures, priorities and actions for their accomplishment. It will be based on the current Strategy of the Ministry of the Interior.

To the accomplishment of the above end, the Council of Ministers (Decision No. 284 of 11 May 2002) established an interdepartmental working group, chaired by the Minister of the Interior, which is tasked to draft the National Crime Strategy and submit it to the Council of Ministers for approval.

The EU also invites Bulgaria to provide information on the functioning of the cooperation between the different police services, customs, investigation services, prosecutors and judges, as well as the cooperation between the different bodies at central, regional and local level, the division of responsibilities and how any potential overlap of responsibilities is remedied. The EU further invites Bulgaria to provide information on the cooperation between the relevant bodies (police, specialised units, investigators, and prosecutors) during the pre-trial phase. Furthermore, the EU invites Bulgaria to provide additional information as regards the cooperation between the different police forces and the different branches of the judiciary, in particular on the procedures applied.

- **Co-operation between police services in the fights against crime**

- *At a national level*

The legal framework for co-operation between the police services of the Ministry of the Interior is laid down in Chapter XX of the *Ministry of the Interior Act*.

The national services of the Ministry organise their co-operation and co-ordination in line with their legally defined functions under Article 59 (*Terms of reference of the National Police*); Articles 89 and 90 (*Terms of reference of the National Service for Combating Organised Crime*); Articles 94 and 95 (*Terms of reference of the Border Police*); Articles 104 and 105 (*Terms of reference of the National Gendarmerie*).

In order to ensure better precision in the mission of the National Service for Combating Organised Crime and effective co-ordination between police services in the suppression of organised crime, its terms of reference are provided in Articles 63-72 of the *Regulations Implementing the Ministry of the Interior Act*. This brings more clarity to what the functional competencies of the NSCOC are and regulates the conditions for accurate implementation of Article 92, Paragraph 2 of the *Ministry of the Interior Act*. 'Ministry of the Interior services shall provide organised crime information to the National Service for Combating Organised Crime.'

Practically, co-operation and co-ordination among the abovementioned services in their legally defined missions to fights against crime is based on:

1. Exchange of data and intelligence in the course of investigations aimed at: detecting, deterring and curbing crimes and other offences committed individually, in complicity or organised in criminal groups or organisations; identifying individuals who make preparations for, are committing or have committed criminal acts and collecting data substantiating probable cause within the meaning of the *Penal Procedure Code* in order to open preliminary (procedural) investigation; searching individuals evading preliminary proceedings authorities or the court as well as missing persons;
2. Access to and retrieval from the specialised information databases kept by the various services;
3. Operational and technical assistance in the process of using electronic interception and furnishing evidence for the criminal proceedings (preliminary and trial);

4. Development and implementation of joint plans in priority areas, projects or tasks, including formation of joint operational teams and integration of intelligence for analytical purposes.

To avoid wasteful use of resources and eliminate duplication in the course of conducting targeted investigations against particular individuals suspected of criminal involvement, the Ministry of the Interior operates a Unified National Index (the so-called operative account) established by order of the Minister of the Interior. The index is managed by a directorate of the specialised administration of the Ministry. It prevents the simultaneous occurrence of two or more operative inquiries about the same suspect made by different police services or officials. Every time there is interest in a registered person the central index will send an alert to the service or official in charge of the inquiry. The resolution of any possible disputes is within the competence of the following officials: Chief Secretary, National Service Director and Regional Director.

Pursuant to Article 27, in connection with Article 190 of the *Ministry of the Interior Act*, the Chief Secretary of the Ministry organises the co-operation between the police services and co-ordinate their activities. The Chief Secretary is authorised to issue orders administering the information flow with a view to exercising proper management of operative co-operation.

- *At a regional level*

The directors of territorial services (Regional Directorates of the Interior) organise and oversee the co-operation among the regional units of the respective national services (for instance, between the Regional Police Units and the Regional Units for Combating Organised Crime) taking into account their legally defined goals and objectives, which are similar to those of the national services. Regional Directors of the Interior manage and are responsible for the co-operation between the local police structures (district police stations) as well as between them and the regional units.

Co-ordination with regard to specific high-profile cases is based on operational plans approved by:

- The Chief Secretary, in undertakings involving co-operation between two or more national services, including their regional units;
- A National Service Director, in cases of co-operation involving two or more regional units of the respective National Service;
- Regional Director, in cases of collaboration between the regional units of the national services in the territory of the respective region.

In the priority areas of activity, representatives of all policing services form task forces. At a national level, they seek to compile all available information, assess the fluctuation in potential risks and threats on the basis of current situation analysis, assign specific tasks to regional task forces and take part in transborder investigations.

At a regional level, task forces are formed by representatives of the respective units of the national services within a Regional Directorate.

At the moment, there are specialised national and regional task forces operating in the following areas:

- traffic and delivery of illicit drugs;
- illegal migration, trafficking in women for the purposes of sexual exploitation;
- smuggling of excise and rapid turnover goods. Pursuant to Article 92, Paragraph 2 of the *Ministry of the Interior Act*, those task forces are co-ordinated by senior

managers – at a central level by the National Service for Combating Organised Crime Headquarters and at a regional level by the Regional Units for Combating Organised Crime

In view of improving and increasing police co-operation, the Ministry of the Interior has developed and is implementing a PHARE '99 project on Managing Criminal Information Systems according to EU Standards. More detailed information on the project is provided further below.

- Interagency law enforcement co-operation
 - Co-operation between police and customs

The terms and conditions for co-operation between police and customs authorities are defined in an Instruction on the terms and procedures for cooperation between the customs authorities and Ministry of the Interior services in deterring and detecting infringements of and crimes against the customs and currency regimes, adopted on 26.08.2002. This Instruction repeals the Instruction of 2001 bearing the same title. Apart from issues already regulated by the previous Instruction, the new instrument covers also the activity of the mobile customs teams as well as the terms and conditions under which road vehicles may be stopped inland.

The aim of co-operation as regulated in the Instruction is to prevent and uncover offences related to the customs and currency regimes by means of exchanging information, carrying out joint operations and undertaking other special actions based on their legitimate functions.

Information exchange includes:

- breaches of customs-related legislation, which are criminalised by the *Penal Code*, in particular Article 242 (smuggling) and Article 251 (currency offences);
- data on legal entities and/or individuals who are suspected with good reason of breaching the customs regime and the currency legislation;
- data on transport vehicles and goods involved in customs or currency offences;
- situation reports analysing the trends in the customs and currency offences and the possible risks (by type of goods, countries of origin, modus operandi, offenders).

Intelligence is exchanged between the Customs Agency Intelligence and Investigations Directorate and the specialised units of the national services with policing functions of the Ministry of the Interior (NSCOC Smuggling Division, NPS Economic Police Division, NBPS Operations and Search Division).

The Co-operation Instruction provides the customs authorities with an opportunity, on their own initiative, to request assistance from Ministry of the Interior authorities, and defines the scope of that assistance is defined in 10 points under Article 11 of the Instruction. It sets out the assistance engagement on behalf of customs authorities and the engagement of customs and police authorities to co-operate with each other with a view to conducting checkups related to assistance requests extended in the framework of international co-operation.

In addition, the Instruction provides that the police and the customs may set up joint teams to conduct operational and search activities aimed at identifying and deterring smuggling,

¹⁹ Development and delivery of a National Drugs Strategy. See more detailed information on the project in the Drugs section.

customs fraud and currency-related crimes.

Assistance obligations of customs authorities are regulated in Article 12 of the Instruction.

By virtue of Articles 11 and 12, customs and police authorities must help each other in the performance of checks related to official requests of assistance in the framework of international co-operation.

Article 13 defines the formation of joint teams of customs and police officers in order to detect and curb cases of smuggling, customs fraud and offences against currency legislation.

The current Common Instruction of the Minister of the Interior and the Minister of Finance setting the terms and conditions for co-operation between the Customs and the Ministry of the Interior in terms of preventing and deterring customs and currency-related offences creates conditions for implementation of the principles and objectives of the Resolution of 29.11.1996. The collaboration between customs and police authorities will be further developed by forthcoming amendments to the current instruction or creation of a new instrument.

According to the Instruction, the mobile customs teams are co-ordinated by a specialised department of the Customs Intelligence and Investigations Directorate at the Central Customs Administration as well as by a liaison officer designated by the Minister of the Interior following the proposal by the NSCOC Director.

The liaison officer facilitates the interaction between the customs and police authorities in terms of the mobile customs teams.

The mobile customs teams consist of two officers from the Customs Administration, designated by order of the Customs Agency Director, and one officer from the Ministry of the Interior, designated by order of the NSCOC Director.

The Instruction stipulates that road vehicles shall be stopped by an unequivocal sign given with a stop stick after stopping a vehicle, the members of a mobile customs team must introduce themselves producing a service ID or another service insignia. If the driver of the vehicle refuses to stop at the signal of the mobile customs team, the vehicle is to be chased and the team shall immediately inform the competent police authorities thereof seeking their assistance.

- **Co-operation at the pre-trial stage (between police, specialised services, investigators and prosecutors)**

The competencies and relations of the investigative authorities in the pre-trial phase are regulated in detail in the Bulgarian *Penal Procedure Code*, and particularly in Article 28, Paragraph 2 and Article 171.²⁰

²⁰ **Article 28** (1) (*Amended, SG No. 21/1998*) All penal cases shall fall under the jurisdiction of the district court, except those under the jurisdiction of the regional court.

(2) (*Amended, SG Nos. 28/1982, 89/1986, 107/1996, 64/1997, 70/1999*) Under the jurisdiction of the regional court as first instance shall be the cases for crimes under Articles 95—110, 115, 116, 118, 119, 123, 124, 131, paragraph (2), sub-paragraphs 1 and 2, 149, paragraph (5), 152, paragraph (4), 196a, 199, 203, 206, paragraph (4), 212, paragraph (4), 213a, paragraphs (3) and (4), 214, paragraph (2), 219, 224, 253, 283a, 287a, 301—303, 321, 321a, 330, paragraphs (2) and (3), 334, 340—342, 343, paragraph (1), sub-paragraph (c) and paragraph (2), sub-paragraph (b), 349, paragraphs (2) and (3), 350, paragraph (2), 354a, paragraphs (1) and (2), 354b, 356f—356i, 357—360 and 407—419 of the Penal Code.

Article 171 (1) Pre-trial proceedings shall by mandatory carried out:

1. For crimes of general nature which are under the jurisdiction of the regional court as first instance, as well as

The whole text of the Bulgarian *Penal Procedure Code* is included in **Appendix VIII.4**.

The pre-trial procedure is conducted in two modes depending on the degree of seriousness of the crime:

- Pre-trial proceedings carried out by investigators²¹ on serious cases (as a rule, under regional court jurisdiction as a first instance) – Article 171, Paragraph 1 of the *Penal Procedure Code*;
- Police proceedings carried out by police investigators²² on the rest of the crimes (as a rule, under district court jurisdiction as a first instance) – Article 171, Paragraph 3 of the *Penal Procedure Code*.

Regardless of the type of proceedings and the investigative body, at the pre-trial stage they are entirely prosecution-led (*dominus litis*). The prosecutor:

- may open pre-trial proceedings instead of police investigation when it is required by the complexity and seriousness of the case (Article 171, Paragraph 2);
- may transform the police investigation into pre-trial proceedings on the same merits (Article 409) or when the police investigation lasts longer than established by law;
- may impose compulsory instructions on the cases, including as regards collectible evidence and investigative procedures (see below Article 176 of the *Penal Procedure Code*). Only the investigator may object some of the prosecutor's instructions and only before a superior prosecutor, whose decision is final (Article 178 of the *Penal Procedure Code*);
- may conduct the investigation separately (Article 177 of the *Penal Procedure Code*);
- and only the prosecutor may authorise notification of data on a case (Article 179 of the *Penal Procedure Code*);
- may task police investigators, investigators, the Ministry of the Interior or other administrative bodies with the performance of a preliminary inquiry when there is insufficient data to open a criminal case.

Investigators and police investigators may open criminal cases separately while they are obliged to inform the prosecutor thereabout immediately (Articles 192 and 409 of the *Penal Procedure Code*). They may detain suspects for 24 hours and are obliged to inform the prosecutor thereabout immediately. The prosecutor may remove the arrest measure or extend it up to 72 hours (Articles 202-203 of the *Penal Procedure Code*).

Prosecutors, on behalf of Prosecutor's Offices, present indictments and conduct the prosecution and for that purpose oversee pre-trial procedures, which are carried out by investigators and the police.

for crimes under Articles 122, 134, 142, 142a, 143, 143a, 152, 162—167, 169, 201—205, 212, 212a, 220—223, 227b—227f, 240, 242, 242a, 282—285, 304—307, 320 and 339a of the Penal Code;

2. For crimes committed by underage persons, by persons with physical or mental disabilities, which impede them from defending themselves, and by foreign nationals, as well as for crimes committed abroad.

(2) In cases other than those specified in paragraph (1), subparagraph 1, the prosecutor may open pre-trial proceedings, when this is required by the factual and legal complexity of the case.

(3) In cases other than those specified in paragraph (1), police proceedings shall be carried out.

²¹ Investigators belong to the Specialised Investigative Service and the 28 Regional Investigative Services.

²² Police investigators are appointed by order of the Minister of the Interior and their names are presented to regional prosecutors as competent authorities to carry out proceedings under the Penal Procedure Code.

Guidance and supervision

Article 176. (Amended, SG No. 70/1999) In exercising guidance and supervision for lawfulness of the activities of the examining magistrates, the prosecutor may:

1. (Amended, SG No. 70/1999) give them instructions on the investigation;
2. (Amended, SG No. 70/1999) request, study and verify all materials collected by the examining magistrates in connection with the crime;
3. (Amended, SG No. 70/1999) demand the delivery of the case file;
4. (Amended, SG No. 70/1999) take part in the investigative actions;
5. (Amended, SG No. 70/1999) designate the examining magistrate or remove him from office should he commit a violation of the law or fail to secure proper conducting of the proceedings;
6. (Amended, SG No. 70/1999) take away the case from an examining magistrate and transfer it to another;
7. assign to the respective bodies of the Ministry of Interior the implementation of individual actions related to the discovery of the crime;
8. (Amended, SG No. 70/1999) revoke on his own initiative, or on the basis of complaint by the interested parties, the rulings of the examining magistrate, except for the ruling for institution of preliminary proceedings, the ruling for charging the accused and the final rulings; the ruling for institution of preliminary proceedings and the ruling for charging the accused may be revoked solely by the Prosecutor General of the Republic of Bulgaria or by an explicitly authorized by him prosecutor from the Supreme Prosecutor's Office of Cassation.

When the police collect enough evidence on a criminal case, which is investigated by an investigator, the available materials are submitted to the supervising prosecutor with proposition for pre-trial investigation. Cases received by a Prosecutor's Office that does not provide enough grounds for commencement of pre-trial investigation are tasked by the relevant prosecutor to the competent police service (either central or regional) for a preliminary enquiry under Article 191 of the *Penal Procedure Code*, which has to be completed within an indicated timeframe.

The *Customs Act* empowers customs authorities to detect and punish customs offences. Specialised customs authorities may investigate crimes (currently only currency offences) under the terms and conditions of the *Penal Procedure Code*. The crimes of illegal trafficking of arms, ammunitions, explosives, drugs and precursors detected by customs authorities are investigated by the investigative authorities, which are part of the judiciary.

Customs authorities may search individuals and vehicles and seize contraband goods and related documents but have no right to collect evidence for criminal procedure purposes or detain suspects. Customs authorities, in partnership with the Ministry of the Interior and the prosecution, may conduct controlled deliveries.

The EU notes the information provided by Bulgaria on the international police cooperation agreements concluded and its plans for future agreements. The EU invites Bulgaria to provide more detailed information on the content of these agreements as well as on progress made in particular on police and organised crime cooperation with neighbouring countries.

The main areas of police co-operation regulated in the police co-operation agreements signed by Bulgaria include:

1. organised crime;
2. illegal trafficking in narcotic drugs and psychotropic substances and their chemical precursors;
3. economic and financial crime, in particular money laundering;
4. terrorism;
5. trafficking in human beings;
6. illegal immigration and related crime;
7. counterfeiting and forgery of money and identity documents;
8. theft and illegal trafficking in arms, ammunitions, explosives and nuclear materials, chemical substances and bacteriological products as well as other dangerous substances and goods and technologies of possible dual use;
9. theft and illegal trafficking in motor vehicles;
10. trafficking in cultural values and stolen works of art;
11. aircraft, vessel and land transport vehicle security;
12. public order and convoying;
13. issuance and control of identity documents;
14. police research and development;
15. human resource management and training.

The provisions on information exchange and data protection are an important part of the police co-operation agreements. Following the enactment of the *Personal Data Protection Act* and the ratification of the *Council of Europe Convention No. 108/1981 for the Protection of Individuals with Regard to Automatic Processing of Personal Data*, the Ministry of the Interior started reviewing all currently signed agreements for compliance with the provisions in the above area. If it is confirmed that a certain agreement lacks or provides insufficient protection of the processing of personal data, the Ministry will initiate signature of an additional annex regulating that area.

The customary practice with police co-operation agreements, signed between 1992 and 1995, is to take steps, upon mutual consent from both interested parties, for negotiating and signing new intergovernmental agreements that take into account the *acquis communautaire* on police co-operation, border control and data protection.

Latest agreements signed

In February 2002 was signed an Agreement between the Government of the Republic of Bulgaria and the Government of FYROM for co-operation in the combat against terrorism, organised crime, illegal trafficking in drugs and precursors, illegal migration and other crimes. That instrument has replaced the Agreement signed between the Interior Ministries of the two countries in 1992 expanding the catalogue of crimes and the forms of co-operation in terms of joint actions, guaranteeing the formation of joint operational teams for co-ordinate police investigations into criminal groups and individuals involved in transborder crimes.

In April 2002 was signed an Agreement between the Government of the Republic of Bulgaria and the Government of the French Republic for co-operation in the field of internal security. The Agreement regulates the forms, terms and conditions for technical and operational co-operation in the prevention and detection of punishable acts related to the various forms of international crime.

On 18 April 2002 the Governments of the Republic of Bulgaria and the Republic of Turkey signed a Coastal Guard Co-operation Agreement.

On 20 May 2002 Bulgaria and Austria signed agreements for general police co-operation and for co-operation in the prevention and fight against illegal migration.

On 10 July 2002 the Governments of the Republic of Bulgaria and Romania signed an Agreement for co-operation in the fight against organised crime, illegal trafficking in narcotic drugs and psychotropic substances and precursors, terrorism and other serious crimes.

On 23 September 2002 the Government of the Republic of Bulgaria and the Federal Government of FR Yugoslavia signed an Agreement for co-operation in the prevention and fight against crime.

Based on a Ministry of the Interior initiative, the Republic of Bulgaria started reviewing its effective police co-operation agreements with Romania. The development of an intergovernmental Agreement for general police co-operation is at an advanced stage. It will replace the Agreement signed in 1992 between the Interior Ministries of the two countries. The new Agreement will guarantee effective collaboration in the prevention and detection of the crimes included on the catalogue of the *Convention Implementing the Schengen Agreement*. Provisions on transborder surveillance and hot pursuit will be included in the intergovernmental Agreement for border police co-operation, whose draft version is about to be finalised.

A list of the police co-operation agreements signed by the Republic of Bulgaria is presented in Attachment 2 to this section.

The EU also invites Bulgaria to provide more detailed information on the implementation of the twinning project on management of criminal information systems, including a timetable.

The Ministry of the Interior continues to implement the PHARE Project BG 9911.02 'Institutional Strengthening of the Bulgarian Police: Upgrading of Criminal Information Systems and Strengthening of Managerial Techniques'. The project commenced in October 2000 and will finish by the end of October 2002. Its main objective is to strengthen the institutional capacity of the Ministry of the Interior through developing structures in compliance with EU standards and alignment with the EU *acquis* in the field of Justice and Home Affairs. Furthermore, the project implementation will create the necessary conditions for future integration with the Schengen Information System (SIS) and will support the extension of police co-operation with the EU Member States.

A Covenant entitled "Acquis-oriented management of the criminal information systems" BG99/IB/JH/03 was signed under the twinning component of the project. The Covenant covers the design and exploitation of an information system on stolen vehicles and the elaboration of a criminal analysis system in compliance with EU standards and requirements; alignment of the Bulgarian Interior Ministry with the EU professional culture of policing and police management through increasing training capacity in information technologies and foreign languages and providing immediate access to key police management concepts.

The Covenant is implemented according to schedule.

The operational version of the software for the Automated Information System (AIS) has been developed. The database of the system has been built up. A trial version of the system has been developed and provided to the structural units of the Ministry of the Interior to be used for training purposes. The training of trainers has been completed - they will train users to work with the system in accordance with the distribution envisaged in the project. On-the-spot training of users was completed at the end of September 2002. It was delivered by a Users Support Group, set up by the Co-ordination and Information Analysis Directorate of the Ministry of the Interior, responsible for providing methodological assistance for the duration of the on-the-spot training. This group will continue to function until the system starts to operate on a regular basis at which point the group's tasks will be taken over by the system administrators. The system will be introduced in the framework of the project and in accordance with the arrangements in place at the Ministry of the Interior.

AIS on motor vehicles construction characteristics was developed in view of facilitating forensic identification. The AIS on searched motor vehicles uses the resources of the existing application for motor vehicles construction characteristics.

Two Action Plans have been drafted, approved and implemented in view of providing the necessary legal framework for the functioning of the Mol Automated Information System - one on international police co-operation and one on personal data protection. As a result the *Ministry of the Interior Act* was amended to provide for the setting up of a new unit in the Ministry of the Interior - a National Contact Point, which for the first stage of its development will be established under the NCB-Interpol. Information on the setting up of the National Contact Point is provided at the beginning of this section.

The work on the creation of an automated criminal analysis system is ongoing. An Institutional model for creating an intelligence processing and analysis system has been approved. The twinning partners have assisted in the drafting of an order on the functions and tasks of the analysis units at different management levels of the Mol. The following other documents have been drafted and co-ordinated with the twinning partners: "Key Terms in System Development", "Co-ordination Rules", "Terms of Reference for the Development of the SIGNAL AIS". The Terms of Reference are subject to approval by specially appointed Expert Council, which will follow the existing Mol procedures for creating information systems, and developing and introducing software. Two courses for training analysts in compliance with Europol principles have been conducted.

Foreign language training at the Ministry of the Interior was decentralised as a result of joint work with the twinning partners. New thematic plans for training in foreign languages and information technologies were developed at the Academy of the Ministry of the Interior.

The alignment of the Bulgarian police model with that of EU Member States as an element of the institutional building process of the Ministry of the Interior is an important step in the context of Bulgaria's strategic choice to accede to the European Union. The need to reform the Mol structures, further improve police management and study public opinion on the counteraction of crime has called for the setting up of a Centre for Police Studies with the Ministry of the Interior.

The 14 courses which held under ENFOPOL 118 represent part of the full training cycle for police officials from Central and East European countries; they allowed a large number of Bulgarian police officials to get acquainted with the police culture of EU Member States.

The implementation of the project has helped the Ministry of the Interior to identify objectives for its strategy aimed at building a new model for organisation and management of its structures and human resources. Here are some of the concrete results from the project:

- Adoption of the *Personal Data Protection Act* and ratification of *Council of Europe Convention 108*;
- Draft amendments to the *Ministry of the Interior Act* introducing amendments as regards personal data protection;
- Discussion on the police model identifying three priority tasks for establishment of new Bulgarian police model: development of police model, police career model and police management policy;
- Development by the twinning partners of a comprehensive document on the planning of the AIS for the search activities of the Ministry of the Interior;
- Building AIS on searched motor vehicles as an integral part of the AIS for the search activities of the Ministry of the Interior;
- Conditions to change the culture of police conduct and attitude;
- Expanding the possibilities for police research and studies through the establishment of the Centre for Police Studies;
- AIS on motor vehicles construction characteristics;
- Institutionalisation of the National Contact Point as a central unit for international police co-operation;
- Drafting an order of the Minister of the Interior on the setting up intelligence processing and analysis units;
- Training plan for data processors and analysts to be appointed in the developing intelligence processing and analysis units;
- Terms of reference for development of the criminal analysis AIS.

Furthermore, it should be noted that the scope of activities carried out under the project was extended as a result of implementation of the project objectives and the achieved results without altering the guaranteed outcome or the Covenant budget. Some of the more important extensions are:

- AIS for all search activities of the Ministry of the Interior - including all objects covered by the SIS – has been planned in the framework of implementing the project objectives related to the creation of an AIS on searched motor vehicles.
- The criminal analysis element was completely reorganised. A new strategic approach, which does not affect the budget specified in the Covenant, was adopted. From the initially planned supply of Analyst's Notebook software (i2 Company) and the relevant training, the element was extended to include the development of a criminal analysis system in line with EU standards. The new strategy consists of: 1) development of the technical component, which includes defining methodology, system planning, planning of functions and platform, and 2) parallel development of the institutional component, which includes defining methodology, limited analysis and development and official approval of the system. This phase will be followed by training courses for criminal analysts in March conducted using the newly developed system and the supplied equipment.
- Strategy for the creation of a Bulgarian police model was developed as a result of an in-depth study of the police models of EU Member States.

The EU reiterates its invitation to Bulgaria to provide information on specialised training programmes on procedural and policing techniques and on the specific ethics involved in the fight against organised crime and the serious problem of corruption.

Training in the area of international co-operation and policing techniques for prevention and detection of organised crimes is provided at the Academy of the Ministry of the Interior (AMOI), Police Faculty, as follows:

B. Master's Degree

Organised crime issues are subject to an individual academic course in Combating Organised Crime taught within 48 hours. It is one of the compulsory courses in the master's programme on combating crime and public order maintenance.

The course covers 18 topics, the basic being:

1. European Union: legal and institutional bases supporting the fight against organised crime (2 hours);
2. Combating the illegal production and illegal traffic of drugs and precursors (10 hours);
3. Combating Organised crime in the economic area, including the financial and credit system. Money Laundering (12 hours);
4. Combating organised illegal migration and trafficking in women (2 hours);
5. Fight against corruption in the public administration (2 hours);
6. International law enforcement co-operation in the fight against terrorism. EU anti-terrorism acquis. Countering terrorism (16 hours).

International police co-operation issues are also included in the compulsory courses:

- European Union Law (48 hours) and
- International Criminal Law (48 hours).

C. Bachelor's Degree

Combating Organised Crime is taught as an individual 10-hour course delivered at the end of the fourth year (full-time) or the fifth year (extramural).

Combating organised crime and international police co-operation issues are covered also in the compulsory course on Operational Techniques for Suppression of Economic Crime included in the bachelor's curriculum. They are presented in the following main themes:

1. International police co-operation in the field of organised economic crime (2 hours);
2. Operational techniques for suppression of organised economic crime/financial and credit system, money laundering, smuggling, etc. (6 hours).

D. Specialised courses for NSCOC officers

Annually, the AMOI holds one-month retrainers for NSCOC officers. The course covers 20 topics in the field of international co-operation and policing techniques in the fight against organised crime, delivered within 54 hours. Practically, the content is the same as that of the abovementioned Combating Organised Crime course. Each retrainer is attended by 30-40 NSCOC officers.

In the 2001-2002 academic year, there were 4 three-day courses for further training of NSCOC officers. The courses were dedicated to the following topics in the fields of

international police co-operation and policing techniques fro suppression of organised crime:

1. Terror; 18 hours; 1 course of 22 participants;
2. Drugs; 18 hours; 1 course of 20 participants;
3. Smuggling; 18 hours; 1 course of 23 participants;
4. Money Laundering; 18 hours; 1 course of 20 participants.

International police ethics standards are taught as follows:

E. Master's Degree

- Professional Conduct and Communication Culture (selectable course, 32 hours);
- Police and Protection of Human Rights (selectable course, 32 hours).

F. Bachelor's Degree

- Police Law (compulsory course);
- Separate section on Policing Authority dedicated to the legal basis and terms of enforcing administrative measures by police officials (22 hours, second year full-time and third year extramural);
- Police Ethics and Communication Culture module (8 hours, end of fourth year);
- Police and Human Rights module (10 hours, end of fourth year).

G. Initial training of police officers

Police ethics and human rights issues are taught within the European Police Integration course, which consists of the following three parts:

1. Police and Human Rights (10 hours);
2. Police Ethics and Communication Culture (8 hours);
3. Community Policing (10 hours).

Apart from the above-mentioned full-time courses, the AMOI regularly organises specialised courses for Ministry of the Interior personnel in specific areas. The following major training courses were held during the last academic year:

1. A three-day course on 'Integrity and Fight against Corruption', September 2001, delivered by two lecturers from the US Customs Service. The course was attended by 22 participants from NSCOC, NBPS, the Academy of the Ministry of the Interior and the Customs Agency. The main objective of the course was to present the experience of US services in the fight against corruption and communication with the mass media in that area as well as to analyse the work of other foreign anti-corruption services.
2. A two-week course on 'Operational and Tactical Analysis for Drug Teams', 13-23 March 2001, involving 8 NSCOC analysts. The course was organised by the US National Drug Intelligence Centre (NDIC) in partnership with the NSCOC. It was delivered by former members of the DEA and the military counterintelligence. Its main objective was to train the analysts for team work with operatives in terms of receiving the necessary skills to analyse large quantities of information, integrate the results in a personal hypothesis and present them in a graph to the management for decision making.

3. An international workshop on 'Collecting Drug Intelligence and Developing Operational Analysis', related to the implementation of Objective 4 of the joint UNDCP-PHARE Drug Enforcement Programme on 'Enhancing the Drug Enforcement Measures Taken by Law Enforcement Authorities in Southeast Europe'. The workshop, which was held on 25-29 June 2001, involved three experts from the General Secretariat of Interpol in Lyon, France, four participants from the NSCOC Drugs Division, two Romanian and two FYROM experts.
4. Regional training in fight against drug addiction and drug trafficking organised in partnership with the French Ministry of Internal Affairs., 7-18 May 2001, 15 participants from Albania, Cyprus, FYROM, Moldova, Romania, Ukraine and Bulgaria. Such type of regional training events, which are largely practice-oriented, are held on an annual basis by the French Training Centre for Combating Drug Addiction and Drug Trafficking, established at the Academy of the Ministry of the Interior.

The implemented PHARE Project No. 9911.02 on 'Acquis-oriented management of the criminal information systems' includes element 2.3. 'ENFOPOL training'. So far, seven modules have been accomplished each of which consisted of two courses, the first of them being designed for heads of regional units, divisions of national services and district police stations, and the second one for heads of sections and local police stations.

Course subject	Dates	Number of participants
<i>Police ethics. The Moral Code as a police tool</i>	10.09-14.09.2001	23
	24.09-28.09.2001	23
<i>Police co-operation in Europe</i>	15.10-19.10.2001	19
	22.10-26.10.2001	23
<i>Migration control</i>	05.11-09.11.2001	25
	19.11-23.11.2001	27
<i>Drug trafficking</i>	10.12-14.12.2001	27
	17.12-21.12.2001	26
<i>Crime prevention</i>	14.01-18.01.2002	24
	21.01-24.01.2002	25
<i>Policing a multi-ethnic society</i>	04.02-08.02.2002	21
	25.02-01.03.2002	24
<i>Public order maintenance</i>	18.03-22.03.2002-	25
	06-23	22
	01.04.05.04.2002	

Three two-week seminars, which were targeted at providing knowledge of police management, have so far been implemented in the framework of the 'Post-graduate qualification in the field of police research and development' component:

- 11-22 February 2002; 'Human Resource Management'; designed for heads of divisions of National Service and district police stations; 28 participants;
- 4-15 March 2002; 'Human Resource Management for Middle Managers'; designed for heads of sections and police stations; 24 participants;
- 8-19 April 2002; 'Training of Trainers'; designed for lecturers from the Academy of the Ministry of the Interior and the sergeant schools in Sofia, Kazanlak and Varna; 21 participants.

A total of 407 officers have been trained under the two elements of that PHARE Project.

The Academy of the Ministry of the Interior trains police officers in the fields of human rights, operational co-operation, UN peace-keeping missions, ethnic minority policing, migration, professional ethics, counter-terrorism, organised in the framework of programmes supported by the Council of Europe, the International Red Cross Committee, UNHCR, UNDCP, the British Know How Fund, the British Council, Open Society Foundation, etc.

The EU also reiterates its invitation to Bulgaria to provide the Conference with detailed information as regards the adoption of measures for implementation of the Pre-Accession Pact on Organised Crime, including measures planned for combating trafficking in women and children.

Inventory of the implementation of the Pre-Accession Pact on Organised Crime is provided in Attachment 5 to this section.

In the area of fight against trafficking in people, the Republic of Bulgaria makes substantial efforts to achieve the optimum standards.

On 12 April 2001 the National Assembly ratified (SG No. 42/27.04.2001) the *UN Convention against Transnational Organised Crime* and two of its supplementing protocols: the *Protocol against the Smuggling of Migrants by Land, Sea and Air* and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, which were signed by the Minister of the Interior on 13 December 2000 in Palermo, Italy. The *Protocol on the illicit manufacture of and trafficking in firearms, their parts, components and ammunition* was signed on 15 February 2002 and subsequently ratified by the National Assembly (SG No. 63/28.06.2002).

In view of increasing the co-operation between human trafficking enforcement bodies and institutions, the Ministry of the Interior established in 2001 a Human Trafficking Task Force of law enforcement agencies located at the National Service for Combating Organised Crime. Its aim at a national level is to identify and suppress the activities of transborder crime organisations, and internationally it works with counterpart police authorities specialising in that area. The Task Force is a focal point for intelligence related to the smuggling and trafficking of human beings for sexual exploitation as well as transborder crime networks.

The Task Force consists of three units: analytical, co-ordination and operational.

- The information analysis unit analyses the current situation; identifies the criminal factors; develops preventative measures and prepares situation reports (comprises 2 experts);
- The co-ordination unit is responsible for the co-operation between national and regional police services in the course of joint actions as well as for the effective co-operation with external police structures. The unit includes representatives from NSCOC, NSP, NGS, NBPS and NCB-Interpol (5 experts);
- The operational unit consists of 9 officers and conducts specialised police operations and investigations in the field of human trafficking. Its scope is focused on the following targets: organised crime groups involved in trafficking in women for sexual exploitation; national and Transnational crime organisations dealing in illegal migration to and through Bulgarian territory; other illegal activities related to criminal organisations such as unlicensed firms that hire people for international employment and make illegal profit by exporting Bulgarian citizens abroad;

companies and individuals who assist in and facilitate the illegal adoption of children by foreigners.

The Task Force members receive specialised training in the framework of bilateral co-operation with Germany, in particular the Bundeskriminalamt. The main emphasis is on human trafficking. Furthermore, training has been provided under the EU STOP Programme, the SECI Centre in Bucharest as well as in partnership with non-governmental organisations (IOM).

Each of the 28 Regional Directorates of the Interior have established Regional Teams as part of the efforts to enhance the administrative capacity in the fight against illegal migration, smuggling and trafficking of human beings. The teams co-ordinate the operations launched by the regional services in that area. Since the Task Force came into being, there have been 14 police operations targeted at individuals who control over 40 spots for sexual exploitation and transborder trafficking in women. Those resulted in the arrest of 26 traffickers (both organisers and leaders) and saving of 125 female victims of trafficking.

Between January and April 2002 a total of 89 groups of illegal migrants have been caught at the border, including 68 small groups (up to 10 people), 18 mid-size groups (up to 25 people) and 3 large groups (over 25 people). In most cases detained foreign nationals who crossed the Bulgarian border from Turkey were taken back to the Turkish border authorities or, on some occasions, were delivered to the Bulgarian Agency for Refugees.

A number of legislative measures, including amendments to the penal and penal procedure law have been taken in support of the fight against illegal migration and trafficking of women. The following laws of significant importance for the fight against illegal migration entered into force:

- *Foreign Nationals Act,*
- *Bulgarian Identity Documents Act,*
- *Refugees Act,*
- *Foreign Nationals Amending Act.*

The police co-operation agreements concluded between Bulgaria and other countries place a special emphasis on the mutual assistance in the prevention and fight against human trafficking.

The *Penal Code* contains provisions criminalizing the acts mentioned in the *Joint Action of 1997 concerning action to combat trafficking in human beings and sexual exploitation of children*. In a legislative perspective, the criminalisation of the stages of illegal immigration and the definition of 'networking' have brought a tremendous change in the criminal policy of the country in terms of immigration networks. Abduction of persons for the purposes of forceful sexual exploitation outside the country is also criminalized. The illegal smuggling of persons through the state border is also made a crime, and the punishment is even more severe when the smuggled person is under 16 years of age or the smuggling has been organized by a group. There are additional increased sanctions in the cases when counterfeit documents have been used.

On 13 September 2002 the National Assembly adopted amendments to the *Penal Code* (SG No. 92/27.09.2002). They introduce a new special section on Trafficking in Human Beings (Articles 159a, 159b and 159c) which implements the standards of the *Joint Action of 1997 concerning action to combat trafficking in human beings and sexual exploitation of children* and aligns the penal regulations with the requirements of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime*. The section criminalises the trafficking of persons for the purpose of debauchery, forced labour, organ transplantation or forcible subjection both in and out of the country. The new provisions impose severer punishment for trafficking of children, especially through the use of force, deception or dependence, or when it is committed by an organised crime group. The new provisions of the *Penal Code* are in full compliance with the requirements of the UN Convention and the two supplementing protocols on the trafficking and illegal smuggling of human beings, to which Bulgaria has acceded.

The amendment to the *Penal Code* section on debauchery provides for more serious and differentiated punishments for rape of minors as well as rape intended to force into subsequent debauchery or prostitution (Article 152). The amendment to Article 159 under the same section provides for adequate punishment of pornography, including child-related pornography. Moreover, possession of child pornography (in line with the 1997 Joint Action) is criminalized.

A cross governmental Task Force was established by order of the Minister of Justice of 15 June 2001 including representatives of the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Labour and Social Policy, the Ministry of Health, the American Bar Association/Central and East European Law Initiative and non-governmental organisations, which has drafted Law on Illegal Trafficking in Human Beings. The Law codifies extra criminal law aspects of trafficking emphasising on prevention, protection of victims and their re-socialisation. The draft law was approved by the Council of Ministers on 29 August 2002 and subsequently presented to the National Assembly. It is anticipated that it will be passed by the end of 2002. The draft law is entirely compliant with the instruments ratified by Bulgaria (*UN Convention against Transnational Organized Crime, supplemented by a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*). The aim of the draft law is to provide protection and support of the victims of traffic, especially women and children, with full recognition of their human rights, as well as to ensure co-operation between state and public authorities and between them and NGOs in view of creating a co-ordinated programme for fight against illegal trafficking in human beings and developing the national policy in that area.

The EU further invites Bulgaria to provide information on the measures taken for full participation in Europol, in particular as regards concluding a cooperation agreement with Europol. The EU further invites Bulgaria to keep the Conference informed of progress made in alignment with the Joint Action of 14 October 1996 providing for a common framework of the initiatives of the Member States of the EU concerning Liaison Officers.

Availability of national legislation in the field of data protection was an important condition for opening negotiations with Europol. This condition has been fulfilled by the adoption in December 2001 of the *Personal Data Protection Act*, which became effective on 1 January 2002, and the subsequent ratification on 29 May 2002 of *Council of Europe Convention 108/1980 on the Protection of Individuals with Regard to Automatic Processing or Personal Data*. Further information on those instruments is provided under the Data Protection section.

Bulgaria regularly exchanges drug enforcement information with Europol on the basis of situation reports on organised crime. The Ministry of the Interior is currently running a procedure of establishing a National Contact Point, which will include a national Europol liaison office.²³

On 23-24 April 2002 Bulgaria was visited by a Europol expert delegation. The purpose of the expert mission was to be familiarised with Bulgarian data protection legislation and the implementation of the *Personal Data Protection Act*. As a result of the visit Europol drafted a data protection report on Bulgaria to the EU Council, which was finalised on 4 June 2002 following a co-ordination procedure with Bulgarian authorities. The report makes a recommendation that the EU Council give Europol a mandate to open negotiations with Bulgaria on a co-operation agreement. The report will be reviewed at a meeting of the EU Council in mid-October 2002.

Preliminary negotiations with Europol on the text of the co-operation agreement are nearly finalised. Signature of the agreement is anticipated by the end of 2002.

Bulgaria will fulfil its commitment to send a liaison officer after the co-operation agreement has been signed. The necessary funds have been secured.

The Republic of Bulgaria takes steps to align with the requirements of *Joint Action of 14 October 1996 providing for a common framework for the initiatives of the Member States concerning liaison officers*. The Ministry of the Interior is in a process of drafting an Instruction regulating the conditions for selection and recruitment and the rights and duties of liaison officers.

Bulgaria intends to increase its co-operation with the EU Member States by seconding liaison officers in them as well as in other strategic countries in terms of drug enforcement. At the moment, the Ministry of the Interior has posted liaison officers in the following capitals: Moscow, Prague, Rome and Skopje. Liaison officers will be sent soon to Germany, Belgium, Greece, Spain, and France. In addition, liaison officers will be sent also to Poland and Turkey. The draft budget of the Ministry of the Interior for the year 2003 includes the necessary funds for secondment.

APPENDIX:

VIII.1. Penal Code Amending Act (SG No. 92/27.09.2002).

VIII.2. Institutional model of NCP.

VIII.3. Table of police co-operation agreements signed by Bulgaria.

VIII.4. Penal Procedure Code of the Republic of Bulgaria.

VIII.5. Report on the implementation of the Pre-Accession Pact on Organised Crime.

VIII.6. Report on the implementation of the National Strategy to Combat Crime 1998-2001.

²³ See more information on that issue at the beginning of this section.

IX. FIGHT AGAINST TERRORISM

The EU notes that Bulgaria has been a party to the 1977 European Convention on the Suppression of Terrorism since 1998. The EU invites Bulgaria to explain in more detail the co-operation between the services involved in the fight against terrorism, especially as regards the role of the Security Council.

Acting upon the recommendations of *UNSC resolution 1373 (2001)*, Bulgaria has drawn a National Report on Counter-Terrorism Activities (see Attachment). The Report gives a detailed picture of the efforts made by the country to counter terrorist activities.

In June this year Bulgaria drafted Additional Information to the National Report, which includes an overview of the anti-terrorism actions that have been carried out. This information was drawn up in response to the questions put forward by the UNSC Counter-Terrorism Committee. The anti-terrorist action taken by Bulgaria is in compliance with the principles, goals and objectives defined in the National Crime Strategy (the drafting process is being finalised) and is fully consistent with the new realities.

Both the National Report and the Additional Information elaborated by Bulgaria provide information on the functions performed by the various public institutions and agencies charged with the responsibility to withstand the terrorist threat.

There is a Security Council functioning under the cabinet of the Prime Minister. Its terms of reference are outlined in the National Security Concept (SG No. 46/1998) and legally conditioned by *Council of Ministers Decree No. 216/29.09.1998*. Members of the Security Council are the ministers of foreign affairs, defence, interior, deputy ministers of foreign affairs and defence, the Chief Secretary of the Ministry of the Interior and the directors of the National Intelligence Service and the National Security Service. The Security Council is authorised to review and analyse the whole current information and make conclusions about the possible risks for the national security. It comes up with professional assessments and forecasts as to the dynamics of national security threats. In addition, it plans specific measures to eliminate dangers, co-ordinates special services' plans to obtain intelligence, pronounces on the allocation of resources and offers solutions in crisis situations. The Security Council is the principal institution determining the counter-terrorism policy of the government.

The interdepartmental mechanism for co-operation in the fight against terrorism is based on the statutorily determined functions of the operative, intelligence and security services:

- National Security Service (NSS), National Service for Combating Organised Crime (NSCOC), National Police Service, National Gendarmerie (NGS), Anti-Terrorism Unit, Operative and Technical Information Directorate (Ministry of the Interior);
- Military Police and Military Information Service (Ministry of Defence);
- National Intelligence Service and National Protection Service (Presidency).

All services listed above co-ordinate their activities in order to deter and prevent the occurrence of terrorist activity and the use of the territory of the country for preparation and commission of terrorist acts abroad. As regards preparation and attempts for direct commission of terrorist acts in Bulgaria, the leading agency is NSCOC. When obtained intelligence indicates towards the operation of international terrorist organisations in the country or of groups related to foreign services or organisations, the leading agency is NSS.

Interaction between the Ministry of the Interior (NSCOC, NSS) and the National Intelligence Service is regulated by a separate Instruction. The same type of instrument regulates the co-operation between the Ministry of the Interior (NSCOC, NSS, NGS) and the National Protection Service, which is responsible for VIP security, including foreign delegations.

The rights and obligations of each service in terms of blocking acts of air terrorism at airports are set up in operative action plans.

The internal co-operation mechanism at the Ministry of the Interior in terms of preventing and detecting actions involving the use of explosives or other dangerous weapons is regulated in an Instruction of the Minister of the Interior. Responsible for the overall supervisory organisation and co-ordination is the Chief Secretary of the Ministry of the Interior, pursuant to Article 26 of the *Ministry of the Interior Act*. In October 2001, based on Article 23 of the *Ministry of the Interior Act*, the Ministry of the Interior established a Task Force for detection and prevention of terrorist activity in the territory of the Republic of Bulgaria, which is managed by the Chief Secretary of the Ministry. Task Force members are the directors of national services and Sofia Police. The Task Force is charged with the mission to collect, analyse and process the intelligence obtained from the various competent services of the Ministry.

In November 2001 the Task Force developed and adopted a Programme for the activity of the Ministry of the Interior in detecting and preventing terrorist activity in the territory of the Republic of Bulgaria, compliant with *UNSC Resolution 1373*.

In addition the EU invites Bulgaria to sign and ratify urgently the 1999 United Nations Convention for the Suppression of the Financing of Terrorism and to keep the Conference informed of progress made.

The *International Convention for the Suppression of the Financing of Terrorism*, adopted by the UN General Assembly on 9 December 1999, was signed by the Republic of Bulgaria on 19 March 2001 in New York and ratified by the National Assembly (SG No. 11/31.01.2002). The ratification instrument was submitted to the United Nations on 15 April 2002.

More generally, the EU strongly encourages Bulgaria to comply as soon as possible with the acquis and other international standards on the fight against the misuse of the financial system, in particular money laundering, including Directive 2001/97/EC on prevention of the use of the financial system for the purpose of money laundering, and terrorism financing.

In implementation of *UNSC Resolution 1267*, the Council of Ministers adopted *Decree No. 39/27.03.2000*, which provides for 'freezing' of financial assets owned or controlled by the Taliban.

Council of Ministers Decree No. 277/12.12.2001, adopted at the end of 2001, relating specifically to the implementation of *resolution 1373*, provides for the freezing of any funds, other assets or economic resources owned by individuals or legal entities who commit, attempt to commit or support the commission of, terrorist activities.

The amendments to the *Penal Code*, adopted by the National Assembly on 13 September 2002 (SG No. 92/27.09.02) provide for the creation of a new Article 108a, which, under

Paragraph 1, renders a description of 23 serious crimes which, based on their special purpose, are defined as terrorist acts punishable by imprisonment from 5 to 15 years, and, when resulting in death, imprisonment from 15 to 30 years, life imprisonment or life imprisonment without parole.

Paragraph 2 of Article 108a criminalises the raising or provision of funds for terrorist activity stipulating a sanction of imprisonment for 3 to 15 years and a fine of up to 30,000 levs.

Article 108a, Paragraph 3 stipulates that the subject of crime under Paragraph 2 shall be forfeited.

On 26 September 2002 the National Assembly approved at a first reading *draft Law on the Measures against the Financing of Terrorism*. The main objectives of this piece of legislation are to prevent and uncover the actions of individuals and legal entities aiming to provide financing for terrorism. By virtue of the Act, all moneys, financial assets and property owned or kept by the entities shortlisted by the Council of Ministers shall be blocked regardless of the fact in whose possession they are, except for the belongings and rights that cannot be subject to enforcement of judgement. The new legislation will be enforced by the Minister of the Interior and the Minister of Finance. Within three months of its enactment, the Council of Ministers will adopt Regulations for its implementation. The draft law is based on the following EU instruments:

- Common Position of the Council of the European Union of 27 December 2001 on combating terrorism;
- Common Position of the Council of the European Union of 27 December 2001 on the application of specific measures to combat terrorism;
- *Regulation of the Council of the European Union No. 2580 of 27 December 2001 on specific restrictive measures directed against certain persons and entities*

Also, the draft takes into consideration the special recommendations against the financing of terrorism adopted by the Financial Action Task Force on Money Laundering in October 2001.

Bulgaria's statutory basis in the field of money laundering is compliant with the international standards, including *Directive 2001/97/EC* on prevention of the use of the financial system for the purpose of money laundering. In line with the requirements of the Directive, notary publics and accountants even now are among the obligated entities under the *Measures against Money Laundering Act*, in particular Article 3, Paragraph 2(11) and (18). On 9 September 2002 the Council of Ministers approved the draft amendments to the *Measures against Money Laundering Act*. The amendments envisage enlargement of the circle of obligated entities within the meaning of the *Measures against Money Laundering Act* including legal professionals and real estate agents. Thus, there will be full compliance with *Directive 2001/97/EC amending Directive 91/308/EEC on Prevention of the Use of the Financial System for the Purpose of Money Laundering*. The amendments to the *Measures against Money Laundering Act* will be adopted by the National Assembly by the end of this year.²⁶

In drawing up legislation, the EU encourages Bulgaria to ensure that the potential impact on the fight against crime and terrorism is fully taken into account and invites Bulgaria to start early preparations for the implementation after accession of the EU Convention of 29 May 2000 on Mutual Assistance in Criminal Matters and its Protocol.

²⁶ Information on this subject is provided in the Section on Combating Fraud and Corruption of this information.

Bulgaria declares itself in support of international intolerance to terrorism in whatever form. So far, Bulgaria has ratified and promulgated all basic international instruments relating to the suppressing and punishing of various forms of terrorism.

Apart from the *European Convention on Mutual Assistance in Criminal Matters*, Bulgaria is also a party to the *European Convention on the Suppression of Terrorism*, the *European Convention on Extradition*, the *Convention on the Transfer of Sentenced Persons* (the indicated conventions are adopted by the Council of Europe). Moreover, Bulgaria is a party to several multilateral conventions that stipulate legal assistance and extradition in respective criminal matters (*OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, *Council of Europe Criminal Convention on Corruption*, *UN Convention against Transnational Organised Crime* and its two additional Protocols - the *Protocol against the smuggling of migrants by land, sea and air* and the *Protocol to prevent, suppress and punish trafficking in persons, especially women*²⁷).

The Republic of Bulgaria and, particularly, the Bulgarian Ministry of the Interior have signed a number of international agreements containing provisions on co-operation in the fight against terrorism:

- two multilateral agreements (within the framework of the Southeast European Co-operative initiative and the Black Sea Economic Co-operation);
- two trilateral agreements (Bulgaria/Turkey/Romania and Bulgaria/Greece and Romania);
- twenty-six bilateral agreements (with Albania, Armenia, Austria, Belgium, the Czech Republic, China, Croatia, France, FYROM, Germany, Greece, Hungary, India, Italy, Lebanon, Moldova, Poland, Romania, the Russian Federation, Slovakia, Slovenia, Spain, Syria, Turkey, Ukraine and Uzbekistan).

Furthermore, Bulgaria has signed 24 bilateral agreements for mutual assistance in criminal matters (with Algeria, Armenia, Azerbaijan, China, Cuba, Cyprus, Czechoslovakia, former Soviet Union, FRY, Georgia, Greece, Hungary, Korea, Kuwait, Libya, Mongolia, Poland, Romania, Spain, Syria, Tunisia, Turkey, Vietnam and Yemen).

Being a non-permanent member of the UN Security Council from 1 January 2002, the Republic of Bulgaria will continue to actively assist in the expansion of the international co-operation network in terms of suppressing and outlawing terrorism. Bulgaria is ready to contribute to the development and adoption of a new comprehensive convention against terrorism.

Based on the above steps, Bulgaria is preparing for the future implementation of the *European Convention of Mutual Assistance in Criminal Matters* of 29 May 2000 /which will be possible after Bulgaria's accession to the EU/ and the Second Protocol thereto /which has the same provisions as the Convention on the following legal institutes - undercover investigation, controlled deliveries, joint investigation teams, interception of communications etc./

The EU recalls that there may be new acquis before the conclusion of negotiations, such as the future Framework Decision on the execution in the European Union of orders freezing assets or evidence, and the two future Framework Decisions on combating terrorism and the European arrest warrant.

Bulgaria is following with interest the development of EU acquis in the area of terrorism

²⁷ The third Protocol to the Convention on firearms and ammunitions is in the process of interagency co-ordination in view of its future signing by Bulgaria

and is ready to take the necessary steps in view of its adoption prior to finalisation of the negotiations.

APPENDIX:

IX.1. National Report on Counter-Terrorism Activities.

IX.2. Declaration of the 39th National Assembly of 12 September 2001 on the Terrorist Acts of 11 September 2001 in the United States

IX.3. Declaration of the 39th National Assembly of 21 September 2001 on the Terrorist Acts in New York and Washington

IX.4. Council of Ministers Decree No. 277 of 12 December 2001 on the implementation, by the Republic of Bulgaria, of Resolution 1373 /2001/ of the UN Security Council of 28 September 2001

IX.5. List of International Legal Instruments Related to the Prosecution and Punishment of Various Forms of Terrorism to which the Republic of Bulgaria is a Party as of the Present Moment

IX.6. List of Bulgarian statutory instruments related to the suppression of terrorism

IX.7. List of bilateral and multilateral international agreements containing provisions on co-operation in the suppression of terrorism signed by the Republic of Bulgaria

X. FIGHT AGAINST FRAUD AND CORRUPTION

The EU underlines that measures planned to fight fraud should seek to ensure that protection of the European Communities' financial interests after accession is at least equal to the present level in the current Member States. The EU notes the information provided by Bulgaria on alignment with the Convention on the Protection of the European Community's Financial Interests and its Protocols, as well as the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (CONF-BG 19/01). The EU invites Bulgaria to provide a detailed overview with a clear timetable citing all the relevant provisions of its existing and future legislation to align with the provisions of the above-mentioned Conventions, and their Protocols. This information should cover in particular the definition of fraud in all its aspects, the meaning of "advantage" in the definition of corruption, the passive corruption of EU officials and the (criminal) liability of legal persons.

Apart from the general provision on fraud under Article 209, the *Penal Code* penalizes the following offences that may constitute fraud, according to the definition under Article 1 of the 1995 Convention:

- When a person deliberately uses a false or counterfeit document or an untrue document (if the person cannot be held liable for the drawing itself) – Article 316 of the *Penal Code*;
- When a person confirms a falsehood or conceals the truth in a written declaration (before a government authority) or a private document whereby the person is obliged to certify the truth (and the use of that private document to attest fake circumstances or statements) – Article 313, Paragraphs 1 and 3 of the *Penal Code*;
- When an official (the definition of 'official' according to the *Penal Code* covers also persons in the private sector) administers budget resources or expedient resources not according to their purpose and in violation of the budget law or its implementing regulations – Article 254 of the *Penal Code*.

According to the standard set in Article 3 of the 1995 Convention, Article 285 of the *Penal Code* makes it a crime when an official deliberately allows his subordinate to commit a

crime related to his office or work. Furthermore, a person who despite their duties did not exercise sufficient control on the work of persons who are assigned to manage, administrate or account for, public property, causing substantial damage to the enterprise or the economy (Article 219, Paragraph 2 of the *Penal Code*).

On 13 September 2002 the Bulgarian National Assembly adopted amendments to the *Penal Code* (SG No. 92/27.09.2002). They provide for: criminalisation of bribery in the private sector (Article 225b), trade in influence (Article 304b), passive bribery of foreign public officials (Article 301, Paragraph 5), bribery of arbiters and, in particular cases, defence counsellors and attorneys (Article 305); extension of the meaning of the term 'foreign public official' (Article 93, Paragraph 15(c)); limitation of the scope of protection providing for acquittal in some cases of active bribery (Article 306); introduction of fines as another penalty for bribery; more severe punishments for passive and active bribery of judges, jury members, prosecutors and investigators (Article 302(1), and Article 304a) and inclusion of non-material benefit/advantage in the subject of bribery²⁴.

The above amendments comply with the standards of the anti-corruption instruments of the Council of Europe (*Criminal Law Convention on Corruption*), OECD (*Convention on combating bribery of foreign officials in international business transactions* - ratified, in force, promulgated), EU (*Convention on the Fight against Corruption Involving Officials of the European Communities or Officials of EU Member States, Protocol to the Convention on the Protection of Community Financial Interests, Joint Action on Corruption in the Private Sector*) and they have been discussed with the organisations mentioned.

In February 2002 the Ministry of Justice originated a working group tasked to draft proposals for amendments to the *Administrative Offences and Penalties Act*. The amendments are aimed at introducing special administrative liability for legal persons (monetary sanctions) in cases of bribery, trade in influence, money laundering, fraud and other crimes committed by their managing officers for personal benefit. The amendments to the Act will bring full harmonisation with the following international instruments: *OECD Convention on combating bribery of foreign officials*, *Council of Europe Criminal Law Convention on Corruption*, *UN Convention against Transnational Organised Crime*, *Second Protocol to the Convention on the Protection of Community Financial Interests*. The draft should be approved by the Council of Ministers by the end of the year and subsequently adopted by the National Assembly by the first half of 2003.

The EU also invites Bulgaria to provide detailed information on the measures planned, including the necessary legislative amendments to the Criminal Procedure Code and the Internal Financial State Control Act as well as any other legislation, in order to give full effect to the cooperation of the police and judicial authorities with the European Commission (OLAF), as set out in Article 7 of the Second Protocol of 19 June 1997 to the Convention on the Protection of the European Community's Financial Interests.

The EU further invites Bulgaria to include in this information the measures planned to implement these changes, including a timetable, and the appointment of a national contact point for cooperation with OLAF.

²⁴ See Amendments to the Penal Code attached.

According to the *Public Internal Financial Control Act* 2000, the public internal financial control shall be managed and conducted by the Public Internal Financial Control Agency (PIFCA). The Agency's control functions include also funds utilised by the entities financed under EU programmes (Article 4, Paragraph 2 of the *Public Internal Financial Control Act*). The Agency collates and reports to the European Commission the results of its activity relating to EU financial resources (Article 8, Paragraph 1, Subparagraph 15 of the *Public Internal Financial Control Act*) and maintains co-operation with the financial control bodies and organisations of other countries and of the EU (Article 8, Paragraph 1, Subparagraph 18 of the *Public Internal Financial Control Act*). The Prosecutor's Office, the Ministry of the Interior and PIFCA collaborate with one another in the course of performing their duties (Article 15, Paragraph 3 of the *Public Internal Financial Control Act*).

The new *Public Internal Financial Control Act* entered into force on 1 January 2001. The Rules of Procedure of the Public Internal Financial Control Agency were adopted by Council of Ministers Decree No. 35 of 13.02.2001 (effective from 24.04.2001) and *Regulations Implementing the Public Internal Financial Control Act*, adopted on 24.04.2001 (effective from 12.05.2001).

On 2 November 2001 commenced the twinning project BG/2000/IB/FI/04 'Strengthening the public internal financial control', funded by the Phare Programme 2000, which is implemented in partnership between the PIFCA and the French Ministry of Economy, Finance and Industry. The project provides for creation of tertiary legislation on public internal financial control.

Amendments to the *Public Internal Financial Control Act*

During the first year of implementing the new fiscal control legislation and further motivated by the ongoing discussion with the European Commission, it was evaluated whether it was necessary to improve the public internal financial control system in view of improving the management of public expenditure and EU pre-accession funds.

Following consultations with DG Budget of the European Commission the PIFCA drafted amendments to the *Public Internal Financial Control Act*. The amendments to the Act are based on the updated Policy Paper in the area of public internal financial control. On 11 September 2002 the draft was passed at a first reading by the National Assembly and is planned to be finally adopted in October. Envisaged changes aim to strengthen the financial management and control systems in the public sector, increase the guarantees for functional independence of the PIFCA head and improve certain procedures. The most important new elements concern:

1. Ensuring functional independence of public internal financial control, particularly to the PIFCA Director, a position with a 4-year mandate;
2. Opening a new position at spending centres: that of a financial controller who conducts initial (*ex ante*) control of budget administrators (according to the *Public Internal Financial Control Act*, at the moment this function is performed by the chief accountant). That will contribute for the further strengthening of financial management and control systems;
3. Terminating the practice of partially feeding the PIFCA budget with funds constituting detected and recovered amounts from damages caused to public and municipal budgets;

The draft amendments to the *Public Internal Financial Control Act*, adopted at a first reading by Parliament, take into account the recommendations of the peer review, conducted under the SIGMA Programme, assessing the budget environment and control mechanisms in Bulgaria.²⁵

On 24 July 2002 the Council of Ministers established a Public Internal Financial Control Council (PIFCC), which reports to the Council of Ministers. Members of the PIFCC are ministers, the President of the National Audit Office and the PIFCA Director. The council's functions include: elaborating a Public Internal Financial Control Strategy, monitoring and controlling the control units in the government, updating the PIFC Policy Paper, approving action plans, etc. During its first meeting, which took place on 25 July 2002, the PIFCC accepted the PIFC Policy Paper.

In January 2002, the Director General of OLAF was on an expert visit in Bulgaria and held a series of meetings with representatives of all competent institutions. During his visit Bulgarian authorities formally declared their commitment for more active co-operation with OLAF expressing willingness to intensify the process of establishing a National Contact Point for co-operation with OLAF.

Bulgaria intends to establish a national structure for operative co-ordination of anti-fraud efforts located at the Ministry of the Interior, which is of key importance for the implementation of further closer and more effective practical co-operation with OLAF. That structure should initiate and co-ordinate all national-level actions contributing to the protection of the financial interests of the European Community. At the same time it will maintain co-operation with OLAF as well as the competent authorities of the Member States, other countries and international organisations, including requests or financial inspections. With that regard, OLAF has sent a framework legal instrument containing the basic general principles of an efficiently working structure for co-ordination of anti-fraud efforts. On the basis of that instrument, Bulgaria will be able to develop the necessary legislation for the new structure, and the contact point will be created with OLAF's expert support.

An interdepartmental Task Force was formed with a view to identifying the necessary legal changes that need to be made in order to establish and practically put into operation the new Ministry of the Interior structure as well as the needs accompanying its institutional and administrative building. It is anticipated that the new legislation will be drafted and adopted by the end of 2002. Work on the practical setting up of the new structure will begin within the same timeframe anticipating that it will become operating effectively by the first half of 2003.

Bulgaria will provide the EU with detailed information on the pending changes in law as well as on the practical steps towards the establishment of the National Contact Point for co-operation with OLAF accompanied by timetable.

²⁵ By request of the Minister of Finance, in April 2002 SIGMA (a joint OECD/EU initiative) made a peer review and assessment of the current public financial control and management system. The resulting report was sent to Bulgaria in May 2002. It included recommendations which were taken into account in the process of updating the PIFC Policy Paper, which was used as a basis for the amendments to the Public Internal Financial Control Act. The second stage of the peer review will be implemented in the second half of 2003. More information on those issues is provided in the Supplementary Information on Chapter 28, which was submitted by Bulgaria on 16 September 2002 (CONF-BG 47/02) and closed on 30.09.2002.

The EU notes the measures taken by Bulgaria to align its legislation with the existing acquis in the field of money laundering. The EU invites Bulgaria to provide information on progress made in the adoption of the amendments to the Measures against Money Laundering Act of 2001 and to confirm whether specific measures for their implementation are needed, including a detailed description of the scope of the offences foreseen.

The amendments to the *Measures against Money Laundering Act* (SG No. 1/02.01.2001; see attached) define money laundering as the preparation, fulfilment and reception of the result of activities through which money or other assets, as well as the proceeds of them, that have become possessed by a person by means of or in connection with a criminal offence are put into economic circulation (Article 2, Paragraphs 1). According to Article 2, Paragraph 2, there is money laundering when:

- assets obtained by means of or in connection with a criminal offence are transformed or transferred;
- the nature, source, location, management and movement of or title to assets obtained by means of or in connection with a criminal offence are covered up or disguised;
- assets are gained, owned or used with the awareness at the moment of reception that they have been acquired by means of or in connection with a criminal offence.

According to Article 2, Paragraphs 3, there is money laundering also when the predicate offence has been committed abroad and it does not fall within the criminal jurisdiction of the Republic of Bulgaria.

The main modifications in the *Measures against Money Laundering Act* of 2001 include:

- Enlarging the scope and operative independence of the Bureau of Financial Intelligence (BFI) transforming it into the BFI Agency as a separate legal entity under the Minister of Finance.
- Extending the circle of entities obliged to identify their clients and report to the BFI Agency on suspicious operations and transactions by including in it the Bulgarian National Bank (BNB), the Customs Administration, the Central Depository, sports organisations, pension funds, professional car sales people, etc.
- Lowering the limit (10,000 levs) for identification of clients in cases of cash exchange.
- Precise regulation of the BFI Agency's extra judicial access to information classified as bank, official or commercial secret, particularly in the cases concerning requests by foreign financial intelligence units;
- Delegating the BFI Agency independent control functions, including on-the-spot inspection of obliged entities.
- More precise regulation of the co-operation between the BFI Agency and the law enforcement authorities, including introduction of the requirement that the court should deliver its judgement within 24 hours of the filing of the prosecutorial request of freezing or injunction.
- Legally binding the Bulgarian National Bank to provide statistics to the BFI Agency in view of developing statistical analyses and, in the future, full control of currency transactions;
- Introducing special legal provisions on the protection of information that constitutes a bank, official or commercial secret.

The 2001 amendments to the *Measures against Money Laundering Act* have lead to full compliance with the *Council Directive of 19 June 1991 on prevention of the use of the financial system for the purpose of money laundering (91/308/EEC)*.

Following the amendments to the *Measures against Money Laundering Act*, the Regulations for its implementation were also amended (SG No. 111/28.12.2001).

On 19 September 2002 the Council of Ministers approved draft amendments to the *Measures against Money Laundering Act*, which seek to enlarge the circle of entities obliged to report under the Act, including in it lawyers and real estate agents. Furthermore, the amendments provide for the establishment of a supervisory financial intelligence body, i.e. Chief Inspector of Financial Intelligence, as well as a control mechanism consisting of reports and field inspections. The functional independence of the BFI Agency will be ensured by the introduction of a 5-year mandate for its director. The mandate may be terminated if proven that the BFI director neglects his/her official duties. However, the Chief Inspector will not be authorised to give instructions as to how the BFI director should exercise his/her competences.²⁶

The above measures will achieve further compliance with *Directive 2001/97/EC of the European Parliament and the Council amending Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering*. The amendments to the *Measures against Money Laundering Act* will most likely be adopted by the National Assembly by the end of this year.

The EU further invites Bulgaria to provide detailed information on the staffing, training and equipment of the Bureau of Financial Intelligence and an update on the number of cases dealt with by the Bureau.

1.

In view of effectively implementing the *Measures against Money Laundering Act*, the BFI Agency takes the necessary measures to strengthen its administrative capacity.

By virtue of Council of Ministers Decree No. 33 of 12.02.2001 (as subsequently amended, SG No. 108/14.12.2001, effective from 14.12.2001) the total number of BFI Agency employees is 34. This number is currently estimated as sufficient and there are no plans for its increase.

In order to optimise the organisation of operations, the number of expert analysts has been increased from 6 to 10 people divided in five specialised sections. Thus, it is expected to achieve more precise division of tasks and responsibilities as well as direct performance control.

At the moment, the equipment owned by the BFI Agency includes 4 servers and 40 workstations.

2.

As regards training of staff, the Agency implements the following programmes:

- Regional project under the Phare Programme 'Combating Money Laundering', which commenced on 25 February 2002, overseen by the Dutch financial intelligence unit. This project includes a training element consisting of 6 modules for the institutions in the candidate countries involved in the fight against money

²⁶ The planned changes in the *Measures against Money Laundering Act* as well as the recently adopted amendments to the Penal Code are among the key measures taken by the BFI Agency in respect of improving its functioning; they were reported at the meeting of Sub-committee 8 in February and reflect the critical report.

laundering. Module 1 was implemented at the beginning of May. It was focused on legislation and political development of the countries in Central and Eastern Europe on the basis of the new *Council Directive against money laundering (Directive 2001/97/EC of 04.12.2001)*.

- Joint project with the US Treasury Department, which includes secondment of advisors to the BFI Agency on a one-year basis. Advisors began their work at the beginning of March 2002. Since April 2002, they have been delivering a training programme on financial investigation techniques, which consists of a series of 8 lectures (one per month). In addition to BFI personnel, the lectures are targeted for NSCOC, Economic Police, Specialised Investigative Service, Supreme Prosecutor's Office of Cassations and General Tax Directorate officials.
- A €1.2 million twinning project under the Phare Programme will commence by the end of 2002 in partnership with the Spanish Fiscal Research Institute. It is aimed at further harmonisation of the national legislation on money laundering with the acquis. Additionally, it will assist in the strengthening of the administrative capacity of the BFI Agency as well as in the improvement of the interdepartmental co-operation with other competent agencies working in the field of money laundering. The project includes development of training programmes and training for members of the BFI Agency as well as joint workshops with representatives of the prosecution, the Ministry of the Interior, the BNB Bank Supervision Directorate, the Specialised Investigative Service, the Customs Agency, the General Tax Directorate, etc.
- US financial intelligence experts (FinCEN) are developing the content of training workshops, which will be delivered for BFI Agency officers.

3.

In 2001, the BFI Agency received 21 queries from 9 foreign financial intelligence units. Seventeen of them have been responded to – 3 positive, 11 negative and 3 interim replies. In the same period the BFI Agency sent 64 requests to 21 foreign financial intelligence units and received 2 positive, 37 negative and 8 interim responses.

In 2001, there were 301 reports on suspicious operations and transactions, and the total amount of reported operations was \$80,226,072. Prevalent are reports from banks (BNB and commercial banks) – 249 reports – which is 82.42 percent of the total number. 140 financial intelligence cases have been opened in response to the 2001 reports on suspicious operations and transactions (16 were archived, 105 are in a working phase). 64 alerts were forwarded to the prosecution of which 16 were based on reports received in 2001 amounting at \$7,459,600, and 48 were based on reports received in previous years amounting at \$90,255,635. Eight indictments have been issued.

From January to August 2002, the BFI Agency sent 73 requests to foreign financial intelligence units and other specialised international organisations; out of them 32 have not been responded to, 31 have received negative replies, 5 positive replies and 5 interim replies. In the same period, 33 requests were received from foreign FIUs, including 15 interim, 17 negative and 1 positive replies.

From 1 January to 30 June 2002, the BFI Agency has received 105 reports on suspicious operations and transactions amounting at \$172,529,314; 14 of them were sent by the Bulgarian National Bank, 77 from the commercial banks, 2 by the tax authorities, 5 by privatisation authorities, 5 by insurance companies, 2 by customs offices and 1 by an exchange bureau. 116 cases amounting at \$193,135,573 were referred to the Supreme Prosecutor's Office of Cassation.

The EU further notes the information provided by Bulgaria on its internal cooperation structures and invites Bulgaria to provide further information especially on the coordination between the Bureau and the various law enforcement bodies and the judiciary.

In order to achieve adequate enforcement of the law, the BFI Agency is implementing measures to improve its co-ordination with the supervisory institutions of the entities obliged to report under the *Measures against Money Laundering Act* and the law enforcement authorities. The BFI Agency has managed to achieve a good degree of co-operation with the other public institutions and the banks, which is especially important in view of yielding actual results in the combat against money laundering.

Two main legally regulated areas have been developed: on the one hand, relations with the BNB Bank Supervision Directorate and the commercial banks, and on the other with the prosecution, investigation and Ministry of the Interior authorities. Currently, BFI is carrying out on-the-spot checks at the banks and financial houses as well as rendering expert assistance to banks on various issues resulting in the process of implementing the *Measures against Money Laundering Act*.

On the basis of Article 10, Paragraph 5 of the *Measures against Money Laundering Act* the Minister of Finance has approved Co-operation Instructions between the BFI Agency and the General Tax Directorate, the Customs Agency and the Supervisory Agency on Insurance and Gambling

The terms and conditions for co-operation between the BFI Agency and the Ministry of the Interior are regulated in a joint Instruction signed by the Minister of Finance and the Minister of the Interior. In respect of preliminary checks conducted by Ministry of the Interior services, they may, on their own initiative, request assistance from the BFI Agency in clarifying whether the suspected persons have so far been identified by the Agency in terms of suspicious financial operations or transactions as well as in checking the financial status of a particular individual or legal entity.

The BFI Agency has established contacts with over 55 foreign financial intelligence units. Memoranda of Understanding (MOU) have been signed with financial intelligence units from Belgium, the Czech Republic, Latvia, the Russian Federation, Slovenia, Romania, Italy and Poland. On 1 August the Council of Ministers approved the draft MOU's with France, Lithuania, Panama, Ireland and Finland.

The EU notes that Bulgaria ratified the Council of Europe Criminal Law Convention on Corruption on 12 April 2001. The EU invites Bulgaria to inform the Conference of its intentions as regards the Council of Europe Civil Law Convention on Corruption.

On 4 November 1999 the Republic of Bulgaria signed the *Council of Europe Civil Law Convention on Corruption*. The ratification instrument was formally submitted by a Bulgarian delegation on 8 June 2000.

On 7 November 2001 the Republic of Bulgaria ratified the *Council of Europe Criminal Law Convention on Corruption*. The Convention entered into force on 1 July 2002 and it was published in the State Gazette No. 73 of 26 July 2002.

The EU notes that Bulgaria adopted a National Strategy against Corruption on 1 October 2001 in which special attention is given to the fight against corruption within the customs administration, bodies of the Ministry of the Interior and the judiciary. The EU invites Bulgaria to keep the Conference informed of all the measures taken and planned to implement this Strategy, including the detailed programme for implementation, a time schedule and the budget available.

On 1 October 2001 the Bulgarian Council of Ministers adopted a National Strategy against Corruption. The Action Plan for implementation of the National Strategy against Corruption was adopted by Council of Ministers Decision No. 84 of 13 February 2002. The Action Plan sets specific deadlines and responsible bodies for accomplishment of its agenda (see attached).

The EU further invites Bulgaria to provide information on the specialised bodies involved with a definition of their role, the increase of qualified staff, the coordination structure and the creation of a reporting-friendly system.

Implementation bodies, co-ordination structure, staff

1. At a national level

Following up on article 1.1.5 of the Action Plan, the Anti-Corruption Steering Commission, chaired by the Minister of Justice and vice-chaired by the Minister of Public Administration, was established by Council of Ministers Decision No. 77 of 11 February 2002. Members of the Commission are the Minister of the Interior, the directors of the PIFCA and the BFI Agency (both under the Ministry of Finance), the Deputy Director of the Customs Agency and the Head of the General Tax Directorate's Inspectorate (Ministry of Finance) as well as a representative of the National Audit Office. The Commission analyses and summarises information on the implemented anti-corruption measures, co-ordinates and supervises the implementation of the National Strategy and its implementing Action Plan and at the same time proposes measures to enhance efficiency and accelerate the fight against corruption, drafts and presents to the Council of Ministers an annual report on its activity, organises and hosts an annual anti-corruption forum, proposes to the Council of Ministers measures to update and amend the Action Plan implementing the National Strategy. The Rules and Procedures of the Commission were approved by Council of Ministers Decision of 6 June. The Commission is assisted by a Secretariat, which is directly managed by the Chairman of the Commission.

From an operational point of view, the steering councils established in some of the key agencies co-ordinate their actions with the National Commission through their representatives in the Commission.

Parallel to its strategic co-ordination functions and control over the implementation of the Strategy and the Action Plan, the Commission has assumed a basic duty of receiving, reviewing (when there is strong public interest), forwarding for investigation²⁷ and monitoring the follow-up on complaints.

Between 1 March and 15 June 2002, the Commission received 24 corruption-related complaints. Seven of them are related to the privatisation process, two to post-privatisation control, four to money flight from economic structures, two to the process of taxation and financial control, two to the Ministry of the Interior, one to the area of education and six to the process of public procurement.

Out of the 24 complaints received, 12 have been handed over to the prosecution. The Commission has made administrative inquiries into 7 complaints in terms of verifying the authenticity of data and complementing available information in order to make a recommendation and forward the complaint to the competent body. Five complaints have already been cleared up, with follow-up measures for their practical solution.

Throughout August and September 2002 the Anti-Corruption Steering Commission drafted an interim report on the implementation of the Action Plan to the Anti-Corruption Strategy.

²⁷ The Commission has no investigative authority.

2. Sectoral changes in the Action Plan and key areas, internal co-ordination mechanisms

The National Strategy against Corruption and its Action Plan make a special emphasis on the fight against corruption in some key areas such as the judicial system, the Ministry of the Interior, the customs administration, etc.

- Judicial system

The main anti-corruption objectives for the judiciary include *inter alia*:

- enhancing the capacity of law enforcement authorities to deter, detect and punish the various forms of corruption;
- eliminating corruption-breeding conditions in the judiciary;
- guaranteeing a fast and effectively functioning judicial system.

Apart from legislative measures, the achievement of the indicated objectives is supported by:

- specialised training of police officers, judges, prosecutors and investigators in the implementation of the new penal anti-corruption legislation;
- introduction of differentiated corruption-related statistics in the police and the judiciary;
- institutionalisation of a professional magistrate school funded by the national budget; adoption of codes of ethics for magistrates, etc.

On 17 July 2002 the National Assembly adopted amendments to the *Judicial System Act*. The changes are to a large degree aimed at preventing corrupt practices in the judicial system. Particularly, they stipulate that magistrates of all levels must declare their assets, the Supreme Judicial Council must adopt codes of ethics for magistrates and judicial personnel, magistrates must be appointed on the basis of competition procedures and the magistrate training school must become a public establishment funded by the national budget.

On 13 September 2002 the National Assembly passed amendments to the *Penal Code* (SG No. 92/27.09.2002). The changes in the area of corruption envisaged by the amendments are described above. With respect to combating corruption in the judiciary, of particular importance is the introduction of a new article stipulating severer penalties for passive and active bribery of judges, jurors, prosecutors and investigators (Article 302(1) and Article 304a).

- Ministry of the Interior

The special priority of the Ministry of the Interior in the fight against corruption is to enhance internal control in view of preventing and tackling in an effective manner corruption at the Ministry.

In fulfilment of the tasks laid down in the Anti-Corruption Strategy and its Action Plan, the Minister of the Interior established by Order of October 2001 new working organisation providing for the functioning of all interested services and directorates in an integrated system for countering internal corruption.

An Internal Co-ordination Council for preventing and combating internal corruption, chaired by the Deputy Minister overseeing the overall co-operation in the fight against organised crime and corruption, has been set up. Members of the Council are the Chief Secretary of

the Ministry and the heads of all National Services and directorates. The Council formulates the policy and defines the organisation of work for deterring and detecting corrupt practices in the system of the Ministry.

The Chief Secretary of the Ministry of the Interior is responsible for the direct management, co-ordination and control of the fight against internal corruption. The Informational and operative interaction, investigation and recognition control of Chief Secretary's directions on the actions against internal corruption are co-ordinated by a department of the Inspectorate Directorate of the Ministry, which was especially created at the end of last year. Essentially, it is an administrative control body²⁸ without policing authority. It carries out internal administrative inspections after received corruption reports concerning Ministry of the Interior personnel and, if necessary, proposes to the Chief Secretary which policing service should continue the investigation to prove an act of corruption. The automated information system set up and is operated by the above department, providing information related to acts of corruption, checks of signals, respective measures taken and outcomes achieved is statutorily regulated. Access to that information database is authorised by the Minister and the Chief Secretary. All corruption-related complaints concerning Ministry of the Interior staff are directly forwarded to the Internal Corruption Department of the Inspectorate Directorate, which performs an initial inquiry. If necessary, a complaint and the result of its initial investigation are reported to the Chief Secretary, and the Internal Corruption Department remains responsible for the organisation and overall control of the further investigation. Twice a year the department drafts situation reports analysing the results of the internal anti-corruption activities at the Ministry of the Interior and proposing actions to improve the working organisation. The reports and the recommendations are discussed by the Internal Co-ordination Council.

Corruption complaints are operatively investigated by the specialised units established at each national and territorial service of the Ministry of the Interior.

In view of enhancing the capacity to interrupt any attempts of organised crime groups to build corruption-based positions in the public administration, at the end of 2001 the former anti-corruption section at the National Service for Combating Organised Crime (NSCOC) was promoted by Order of the Minister of the Interior to a division. The division is technically equipped and its staff has been doubled to comprise at the moment 22 officers at a central level. It consists of two sections: one responsible for countering corruption within the whole public administration and the other for combating corruption within the Ministry of the Interior. There are additional specialised anti-corruption officers working at the 28 regional units for combating organised crime.

NSCOC's legal authority to detect and investigate corruption-related crime with regard to local and transnational crime structures is provided for in Article 89, in connection with Article 90, Paragraph 1(10) of the *Ministry of the Interior Act* and Article 72 of its *Implementing Regulations*.

NSCOC carries out investigations aimed at preventing and disclosing corrupt practices in the civil service and the local administration whereas it:

1. Detects, controls and registers the behaviour of public officials who serve criminal groups and organisations;
2. Searches and tracks the accumulation and transformation of proceeds resulting from abuse of office.

²⁸ Ministry of the Interior Act, Article 125a (new, SG No. 29/2000), 'Inspectorate Directorate'.

NSCOC's authority to fight against corruption includes investigation into corruption-related crime by:

- using informants;

- using special means of intelligence on the basis of procedures and conditions prescribed by law;
- employing urgent procedural methods under the conditions set out by the *Penal Procedure Code*;
- seizing and counterchecking documents.

While carrying out administrative checks in the structures of the public administration, internal control authorities are obliged to inform²⁹ immediately the respective prosecutor of any case which produces evidence of corruption. If the prosecutor decides that the requirements of probable cause³⁰ is not met, the case is forwarded to the police authorities, including NSCOC, for preliminary examination under Article 191 of the *Penal Procedure Code*.

At present, the efforts of the Ministry are focused on delivering appropriate specialized training for the officials who are directly involved in countering corruption, as well as on the supply of specialized technical equipment. Creation of an Information System is envisaged. It will help exercise more efficient control and management, conduct an in-depth analysis and undertake due measures for prevention and efficient countering of corruption in the Ministry of the Interior.

In order to achieve these aims, the Ministry of the Interior will rely, in addition to its own resources, on the expertise and technical assistance obtained under the forthcoming Phare 2002 project in this area, which is planned to start by the end of this year or the beginning of next year. The project envisages drafting of amendments to the present legislation in view of its further alignment with the EU *acquis* and practices, development and implementation of a Corrupt Practice Prevention Programme at the Ministry of the Interior based on EU best practices, as well as development of a system encouraging anti-corrupt conduct among risk groups of MoI officials (police, border police). It is also planned within the project to develop and implement a *Code of Ethics for Ministry of the Interior officials* as well as training programs on prevention and fight against corruption. The project is designed for two years. The Phare Programme will assist with €1.7 million, and the national co-funding is €300,000.

The trade in influence, which is often associated with corruption, occupies third place in the overall share of economic crime. In 2001, the Ministry of the Interior detected 2,054 instances of abuse of office and 59 instances of corruption. In the first six months of 2002, 150 corruption-related cases were investigated; 37 of them did not substantiate a probable cause. 113 officers of the Ministry of the Interior were found to have abused their official position or been bribed; 40 are being prosecuted and the other 73 have been imposed disciplinary sanctions.

The Ministry of the Interior maintains active relations with the mass media in view of keeping society informed of corruption-related offences and the results of their investigations. There are conditions for broader involvement of civil society structures in anti-corruption activities facilitated by the opened public reception rooms, hotlines, and

²⁹ Penal Procedure Code, Article 174. (2) Where they come to know about a perpetrated crime of general nature the officials must notify forthwith the body of pre-trial proceedings and take the necessary measures for the preservation of the general setup and data about the crime.

³⁰ Penal Procedure Code, Article 190. (1) There is 'probable cause' for instituting preliminary proceedings where a justified supposition can be made that a crime has been committed.

other means of encouraging public organisations and citizens to report against cases of corruption, while their anonymity is guaranteed.

- Anti-corruption reform in the customs administration

Detailed information on the implementation of anti-corruption measures by the Bulgarian Customs Administration is provided in the Customs Co-operation section to this Supplementary Information.

- Tax administration

A Council of the heads of inspectorate departments is in a process of constitution under the Minister of Finance. It will co-ordinate its subordinate agencies and directorates in their fight against corruption and financial fraud.

In implementation of the Anti-Corruption Strategy Action Plan, the Academy of the Ministry of the Interior has already developed two theoretical courses for specialised training in corruption matters. The first course is designed for the competent law enforcement authorities which are directly involved in the fight against corruption. The second one is focused on the issues of corruption in the public administration and is designed for representatives of the Ministry of the Interior and the public administration. In view of updating the training programmes and bringing them in full compliance with European and international standards and best practices, the Academy has entered into active academic exchange with international partners from the European Union, the United States and Norway.

APPENDIX:

- X.1. Measures against Money Laundering Act (in English).
- X.2. Action Plan Implementing the National Anti-Corruption Strategy (in English).
- X.3. Report on the implementation of the National Anti-corruption Strategy Action Plan.

XI. DRUGS

While noting the measures already taken by Bulgaria on the drug aspect, the EU stresses the importance for Bulgaria of effectively implementing a balanced and practical national drugs strategy in line with the EU Drugs Strategy 2000-2004, both inland and at the border, as well as intensifying co-operation with the Member States in this field, making full use of the possibilities for co-operation with Europol foreseen in the Pre-Accession Pact on Organised Crime.

1.

In accordance with the *Narcotic Drugs and Precursors Control Act* on 3 September 2002 the National Drugs Council approved the first National Anti-Drugs Strategy. This document has been drafted in the context of the declared will and determination for practical implementation of the intentions expressed in the Joint Declaration between the EU Member States and the Candidate Countries on Drugs, to which the Republic of Bulgaria officially acceded on 28 February 2002. The Strategy has been developed by an interagency working group in the framework of a PHARE 2000 project, implemented in partnership with the UK³¹. The document outlines the framework of actions that Bulgaria will take in the next 5 years. It is based on the experience of a number of European countries as well as the necessity of examining the drug problem in Bulgaria with the

³¹ The National Drugs Strategy has been drafted ahead of the deadline set under the Phare Project /March 2003 is the deadline for completing the implementation of the whole project/.

united efforts of all public, national, regional and local institutions, non-governmental organisations and the

general public. Bulgaria is aware that the drug problems in the fields of demand and supply can only be resolved on the basis of a comprehensive, balanced multidisciplinary and cross governmental approach.

The Strategy is based on the following four building blocks:

- Improving the development and implementation of a balanced policy in the drugs area
- Establishment of strategic co-ordination
- Better information exchange
- Local policy delivery – strengthen the role of Municipal Drug Councils

The Strategy provides a situation analysis and a risk assessment and, based on specific indicators, defines the drug threats and suggests steps for their overcoming. The risk assessment has been made as regards supply and demand.

Annual risk assessments are envisaged during the 5-year course of Strategy implementation.

The basic principles of the Strategy are fully consistent with those of the EU Strategy on Drugs (2000-2004). Furthermore, it outlines the following global aims:

- Provide effective treatment and prevention aimed at reducing drug abuse and the related negative consequences;
- Reduce supply of illegal drugs through improving the efficiency of law enforcement bodies;
- Reduce the volume of illegal trade in chemical substances (precursors) used for illegal production of drugs;
- Establish a national drug intelligence unit to support the work of national and international institutions involved in the fight against illegal drug trafficking;
- Provide effective drugs policy co-ordination and management and establish efficient information systems.

On the demand side, the strategic tasks are as follows:

- Prevent the increase of the number of new drug addicts;
- Reduce abuse of illegal drugs;
- Reduce abuse of narcotic substances used for medical and veterinary purposes;
- Overcome social isolation and social deprivation of high-risk groups;
- Limit the spread among drug abusers of diseases which have an impact on society: blood-transmitted infections (HIV, hepatitis B, C), tuberculosis, sexually transmitted diseases, etc.;
- Encourage employment of drug abusers with the mediation of employment bureaus;
- Develop a system of efficient and varied treatment programmes;
- Provide easier access to efficient treatment programmes;
- Develop and introduce best practice standards in prevention, treatment, rehabilitation and reduction of health hazards;
- Develop and implement programmes for social rehabilitation and reintegration;
- Enhance international co-operation, scientific and research activities to the benefit of the National Anti-Drugs Strategy;
- Monitoring and assessment of results in the area of demand reduction.

On the supply side, emphasis is placed on the following strategic tasks:

- Optimise border control;
- Establish national cross-ministry anti-drugs operational information unit /NDIU/;
- Reduce the “spill out effect” (availability of drugs) within the country;
- Reduce drug related crime rate;
- Increase the analytical capacity for study of narcotic substances;
- Improve efficiency of control on legal production and trade in chemical substances - precursors to prevent their diversion for illegal drug production;
- Widen and improve co-operation among law enforcement bodies at national, regional and international level;
- Improve anti-drug legislation;
- Monitoring and assessment of results in the area of supply reduction.

The Strategy has been submitted to the Council of Ministers for consideration. Within three months of its adoption by the Council of Ministers the Strategy will be followed by drafting and approval of a detailed Action Plan, specifying concrete measures, tasks and a timetable for implementation of the strategic objectives/tasks defined in the Strategy as well as the responsible agencies.

The interagency working groups created under the said twinning project have already commenced their work on the Action Plan. The drafting process takes into account all the national and international drug-related (demand and supply) projects and programmes with the aim of ensuring the required level of co-ordination by building on their achievements or intended measures.

2.

As mentioned above, one of the key aims of the Strategy is to further widen and improve international co-operation and exchange of information between law enforcement bodies at national, regional and international level.

In the framework of the above mentioned Phare project one of the interagency working groups set up is the NDIU Working Group. It is chaired by the Director of the National Service for Combating Organized Crime and comprises representatives of all competent MoI services, the Customs Agency and the Bureau for Financial Intelligence. The primary goal to create such a unit is to adopt an integrated approach for collecting, assessment and analysis of drugs intelligence with the involvement of all Bulgarian law enforcement bodies. Together with the UK twinning partners work has already started on the elaboration of the necessary legal framework for the functioning of the Unit, the definition of its functions, tasks etc. and it is envisaged to be finalized by the end of this year. In May 2002 UK experts visited Bulgaria with the purpose to make a review of existing IT infrastructure including technical user requirement. As a result they made concrete recommendations for the setting up of a National Drugs Intelligence Unit (NDIU).

Currently, Bulgaria keeps very intensive bilateral operational contacts with EU Member States. Information exchange with Member States is facilitated by the foreign liaison officers covering Bulgaria, in particular the German, British, French, Dutch, Belgian, Italian, Austrian, Scandinavian (mostly from Sweden) and Spanish LOs. Information exchange with Greece is based on direct contacts between the national competent bodies of the two countries. Drug enforcement operational co-operation with the neighbouring countries, particularly with Romania, Turkey and FYROM, is also very active.

The Customs Agency took an active part in the international operation of April this year named TRUCK STOP, which targeted heroin trafficking along the Balkan Route and the Silk Route as a main source of financing international terrorism. Over 30 countries participated in the operation. Only 5 customs administrations were invited to send representatives to the International Co-ordination Centre located in the German Customs Criminal Service, including the Bulgarian Customs Administration. At the final debriefing meeting the participation of the National Customs Agency was highly appreciated.

In the period 10 June -10 July 2002 the specialised anti-drug units of the Bulgarian Customs Administration took an active part in the development of the operational plan and the subsequent implementation of the international Operation CONTAINMENT. The main purpose of this operation was to combat heroin trafficking from South West Asia along the different branches of the Balkan Route and the Silk Route. The operation was initiated by the Drug Task Force, chaired by Bulgaria in the framework the SECI Centre in Bucharest. Customs and police bodies from the South East European countries, Central Asian Republics, DEA - USA and German Customs Criminal Service (ZKA) took part in the operation. It was reported that the Bulgarian Customs Authorities seized 327 kg of heroin, which is 75% of the whole amount seized during the operation. Particular attention should be paid to the case of 10 July this year when 230 kg of heroin were seized at the Kapitan Andreevo border checkpoint. At the final discussion meeting special emphasis was placed on the excellent co-operation between the Bulgarian specialised anti-drug units of the Customs Agency and the National Service for Combating Organised Crime of the Ministry of Interior.

The legal grounds for controlled deliveries are contained in Article 16, Paragraph 1(11) of the *Customs Act* according to which "in performing their official duties customs authorities can carry out controlled deliveries in co-operation with the competent authorities of the Ministry of Interior and following authorisation by the relevant Prosecutor's Office". The *Ministry of the Interior Act* contains a similar provision concerning the powers of the National Service for Combating Organised Crime - according to Article 92, Paragraph 1(3) in the course of performing its functions the Service can "carry out controlled deliveries in co-operation with the customs authorities". In view of enhancing the capacity to combat organised crime the amendments to the *Ministry of the Interior Act* (adopted at first reading by the National Assembly) envisage extension of powers of the National Service for Combating Organised Crime under Article 92 of the *Ministry of the Interior Act* through providing possibilities to use undercover agents and carry out undercover operations. The *Draft Law amending the Ministry of the Interior Act* for the first time provides regulation of controlled purchases through supplementing Article 162, Paragraph 1(16)².

The competent Department of the Central Customs Directorate and the relevant units of the National Service for Combating Organised Crime are well co-ordinated when conducting controlled deliveries. Since 1996 thirty-five (35) joint controlled deliveries have been conducted.

3.

Bulgaria intends to intensify its international co-operation by seconding liaison officers not only to the EU Member States, but also to other key countries in terms of drug enforcement. Shortly anticipated is the secondment of liaison officers to Germany, Greece, Spain, Belgium and France. Liaison officers will be seconded also to Poland and Turkey.

² Further details about the amendments to the Ministry of the Interior Act are provided in the *Police Co-operation* Section of this Supplementary Information.

The funds necessary for the secondment of these officers have already been allotted in the draft budget of the Ministry of the Interior for 2003.

Bulgaria and Europol regularly exchange information on the fight against drug trafficking included in situation reports on organised crime. The Ministry of the Interior is in a process of establishing a National Contact Point, which will include a Europol office.³

On 23 and 24 April 2002 Bulgaria was visited by a Europol delegation. The purpose of the expert mission was to be familiarised with Bulgarian data protection legislation and the implementation of the *Personal Data Protection Act*. As a result of the visit Europol drafted a data protection report on Bulgaria to the EU Council, which was finalised on 4 June 2002, following a co-ordination procedure with Bulgarian authorities. The report makes a recommendation to the EU Council to authorise Europol to start negotiations with Bulgaria on a co-operation agreement. The report is foreseen to be considered by the EU Council in mid October 2002.

The preliminary negotiations with Europol on the text of the co-operation agreement are in advanced stage. Bulgaria anticipates to sign the agreement by the end of 2002.

Bulgaria will meet its commitment to second a liaison officer to Europol once the co-operation agreement has been signed. The necessary funds have already been allotted in the Ministry of the Interior's draft budget for 2003.

The EU notes the information provided by Bulgaria on the elaboration of a National Anti-Drug Strategy and the establishment of a National Contact Point for future co-operation with EMCDDA, which will be achieved through a twinning project. The EU invites Bulgaria to provide detailed information on its implementation, addressing all the components involved.

A Draft Agreement between the European Community and the Government of the Republic of Bulgaria on the Participation of the Republic of Bulgaria in the work of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) was approved by Council of Ministers Decision No. 273 of 30 April 2002 as a basis for negotiations. By the same Decision, the Minister of the Interior was authorised to carry out the negotiations and sign the Agreement on behalf of the Government of the Republic of Bulgaria, which will be subject to subsequent ratification. On 30 April 2002 Bulgaria made an official statement of approval in respect of the draft agreement and the financial aspects of its participation in the work of the EMCDDA.

As mentioned above, the Strategy provides on the basis of specific indicators a risk assessment and defines the relevant area for action. In that respect, Bulgaria recognises the necessity of integrated drug data. For that purpose, the twinning project envisages development of a Drugs Information System functioning according to EMCDDA standards. In the process of developing an integrated (demand and supply) Focal Point, Bulgaria will rely on expert input from its UK partners as well as from EMCDDA experts.

Currently the role of the Focal Point is performed by the Secretariat of the National Drugs Council. The Focal Point is foreseen to be relocated and situated permanently in the National Addictions Centre with the Ministry of Health.

The EU takes note of Bulgaria's intention to sign and ratify the 1995 Agreement on Illicit Traffic by Sea, implementing Article 17 of the UN Convention against Illicit Traffic in

³ Further details about this issue are provided in the *Police Co-operation* Section of this Supplementary Information

Narcotic Drugs and Psychotropic Substances by the end of 2002 (CONF-BG 73/01) and invites Bulgaria to keep the Conference informed.

Bulgaria reiterates its intention to sign and ratify by the end of 2002 the Agreement on Illicit Traffic by Sea, implementing Article 17 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Currently, an interagency working group has been set up and is making an analysis of the level of correspondence and the need to introduce amendments to the national legislation in view of signing and ratifying the above Convention.

The EU notes the information provided by Bulgaria on co-operation between the relevant bodies in the field of drugs and the establishment of the National Council on Narcotic Drugs. The EU invites Bulgaria to provide detailed information on the functioning of the National Council on Narcotic Drugs (date of establishment, possible institutional changes, number of meetings, results), on its role in the drafting of the National Drugs Strategy as well as to provide information demonstrating that it has the necessary co-ordination capacity to fulfil its tasks.

The National Drugs Council (NDC) with the Council of Ministers was established on the basis of Article 10 and 11 of the *Narcotic Drugs and Precursors Control Act*, adopted in 1999 (SG No. 30/02.04.1999, effective from 03.10.1999, amended No. 63/01.08.2000). Council of Ministers Decree No. 10 of 17 January 2001 adopted Rules of Procedure for the Council, by which the latter became operational. The Council is chaired by the Minister of Health, with deputies the Chief Secretary of the Ministry of the Interior and a Deputy Minister of Justice.

Members of the NDC are:

- representatives of the President of the Republic of Bulgaria, the Supreme Court of Cassation, the Supreme Administrative Court, the Supreme Prosecutor's Office of Cassation and the National Investigation Service;
- ministries and agencies: the deputy ministers of economy, finance, foreign affairs, labour and social policy, agriculture and forests, defence, transport and communications, education and science, as well as the directors of the Customs Agency, the National Service for Combating Organised Crime (Mol), the National Police Service (Mol), the President of the Public Agency for Youth and Sport, the Director of the National Drug Addictions Centre and the Head of the National Narcotic Drugs Service of the Ministry of Health.

The NDC receives technical and administrative support from a Secretariat. The interagency working group, which drafted the National Anti-Drugs Strategy, included experts from all agencies represented in the Council as well as members of the Secretariat.

From 2001 to the end of September 2002, the National Drugs Council held seven meetings, 4 of them in 2001 and 3 in 2002. Some of the more important issues discussed so far by the NDC were:

- Adopting a National Programme for Prevention, Treatment and Rehabilitation of Drug Addicts 2001-2005 (approved by Council of Ministers Decision No. 159);
- Approving the proposal of the Expert Drugs Council regarding reclassification of the *TRAMAL* preparation, which is listed in Annex 2 'High Risk Substances Used in Humane and Veterinary Medical Practices' to Annex 3 'Risk Substances' to the *Narcotic Drugs and Precursors Control Act*, Article 3, Paragraph 2;
- Approving proposal by the Expert Drugs Council regarding transfer *dihydroetorphine* to Annex 2 'High Risk Substances Used in Humane and

Veterinary Medical Practices' to the *Narcotic Drugs and Precursors Control Act*, Article3, Paragraph2;

- Approving the indicators forming the basis of the information system of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA);

- Approving proposal by the Expert Drugs Council regarding inclusion of *Zolpidem* and *Gamma-hydroxybutyric acid* in Annex 3 'Risk Substances' to the *Narcotic Drugs and Precursors Control Act*, Article 3, Paragraph 2.
- Adoption of a National Anti-Drugs Strategy.

The Municipal Drugs Councils have been established on the basis of Article 15 of the *Narcotic Drugs and Precursors Control Act*. In most cases they have developed in response to local needs. Their role will be further strengthened in view of their future involvement in co-ordinating and implementing the national strategy on local level. Following consultations with the Municipal Drugs Councils and the 28 regional administrations the best ways to provide direction and support for the work of the MDC's and their relationship with the structures responsible for co-ordinating national drugs policy will be identified. MDC's will contribute to the annual assessment of the drugs situation; the delivery of national strategy objectives; the provision of the required data for the drugs information system (Focal Point).

As mentioned above, within three months of the adoption of the National Anti-Drugs Strategy, an Action Plan for its implementation will be elaborated and adopted. The Action Plan will define the necessary measures to improve the functioning of the National Drugs Council and the Municipal Drugs Councils. An expert group of legal professionals has already been established under the Project and is responsible for identifying the legislative changes needed in view of improving the work of the bodies responsible for defining and implementing the national drug policy. The results of their work will be incorporated in the Action Plan, which will indicate also the responsible bodies and relevant timetables.

XII. CUSTOMS CO-OPERATION

The EU encourages Bulgaria to continue its efforts towards acceding to the Convention on Mutual Assistance and Co-operation between Customs Administrations (1997) and the Convention on the use of information technology for customs purpose (1995) and to keep the Conference informed. The EU also invites Bulgaria to provide detailed information on the content of the legislation necessary to allow for Bulgaria's accession to these Conventions, including whether Bulgaria will opt-out of any of the special forms of co-operation provided for in Articles 20 (8), 21 and 23 (5) of the 1997 Convention.

The EU further invites Bulgaria to inform the Conference of its intentions on the drawing up of a legal framework allowing for controlled deliveries, cross-border surveillance, hot pursuit and joint special investigation teams.

The Republic of Bulgaria reiterates its intention to accede to the two Conventions in the customs area which are open for signature only for EU Member States.

Bulgaria will ratify the *Convention on Mutual Assistance and Co-operation between Customs Administrations* (1997) under the condition of the hypothesis in Article 30 "Reservations" on the special forms of cooperation provided for in Articles 20(8), 21 and 23(5) of the Convention.

In order to accede to the *Convention on Mutual Assistance and Co-operation between Customs Administrations*, it is required that the Customs Administration should have authority in the area of deterring and detecting customs offences. At the moment,

according to the current *Customs Act* (see **Appendix XII.1**), customs authorities are empowered to:

- organise and carry out preventive and detective work in terms of customs and currency-related offences and crimes (Article 15, Paragraph 2, Subparagraph 5);
- investigate crimes in the cases and under the terms and conditions provided in the Penal Procedure Code (Article 15, Paragraph 2, Subparagraph 9), which currently extend to the area of investigating currency-related crimes;
- participate in joint operations with the police (Article 16, Paragraph 2, Subparagraph 11);
- take part in controlled deliveries together with the competent bodies of the Ministry of the Interior and with the permission of the Prosecutor's Office (Article 16, Paragraph 11).

The *Road Traffic Act* has been amended (SG No. 76/09.08.2002, in force from 10.08.2002). The amendments authorize special control bodies of the Customs Agency – mobile customs teams – to stop road vehicles inland for checkups on the basis of their legally delegated authority under the *Customs Act*, as well as to enjoy special traffic privileges.

It is proposed to amend the *Penal Procedure Code* in view of enlarging the scope of customs powers in the criminal process to investigate offences breaching the customs regime. The proposals are under review by the relevant ministries and it is anticipated that they will be approved by the end of 2002.

The national legislation provides the necessary conditions for accession to the *Convention on the Use of Information Technology for Customs Purposes*. Special provisions concerning the Convention are contained in the following Acts:

- *Personal Data Protection Act* (SG No. 14/01.2002, Chapters 4, 5, 6 and 7);
- *Classified Information Protection Act* (SG No. 45/30.04.2002, Chapter 2, Sections 4 and 5, Chapter 3, Sections 1 and 2, Chapters 5, 6 and 7);
- *Customs Act* (SG No. 15/06.02.1998, amended No. 110/21.12.2001, effective from 01.01.2002, Article 17, Paragraph 5).

In view of enforcing the provisions of the *Classified Information Protection Act*, the Council of Ministers will adopt the relevant secondary legislation in the immediate future.

The EU notes Bulgaria's progress in concluding Memoranda of Understanding with business organisations and encourages Bulgaria to continue its efforts in this field. The EU invites Bulgaria to keep the Conference informed of progress as well as inform the Conference whether these agreements are in line with Joint Action of 29 November 1996 on Co-operation between customs authorities and business organisations on combating drug trafficking.

In 1999 the Deputy Minister of Finance and the Head of the General Customs Administration approved General guidelines for applying the WCO Programme *Anti-Drugs Alliance between Customs and Business Organisations*, which are in accordance also with *Joint Action of 29 November 1996 on co-operation between customs authorities and business organisations in combating drug trafficking*.

At present, Memoranda of Understanding have been concluded with four airline companies (Balkan and British Airways – 12.02.2000, LOT – 12.10.2001 & Olympic – 05.10.2001) and three companies providing express courier services (DHL – 11.01.2000,

TNT-Bulgaria – 05.10.2001, UPS-Bulgarian Parcel Service – 15.11.2001). The Bulgarian Customs Administration will further expand its activities by concluding Memoranda of Understanding with representatives of the chemical industry, shipping agents and container operators by the end of 2003.

The Memoranda of Understanding that have already been concluded as well as those which will be concluded are in full compliance with General guidelines for applying the WCO Programme *Anti-Drugs Alliance between Customs and Business Organisations*.

The EU also notes the detailed information provided by Bulgaria on co-operation with other law enforcement agencies and the reorganisation of the Customs Agency. The EU invites Bulgaria to provide further information on the content of these co-operation agreements and to clarify whether these agreements also give effect to Council Resolution of 29 November 1996 on the drawing up of police/customs agreements in the fight against drugs.

The terms and conditions for co-operation between police and customs authorities are defined in an Instruction on the terms and procedures for cooperation between the customs authorities and Ministry of the Interior services in deterring and detecting infringements of and crimes against the customs and currency regimes, adopted on 26.08.2002. This Instruction repeals the Instruction of 2001 bearing the same title. Apart from issues already regulated by the previous Instruction, the new instrument covers also the activity of the mobile customs teams as well as the terms and conditions under which road vehicles may be stopped inland.

The aim of co-operation as regulated in the Instruction is to prevent and uncover offences related to the customs and currency regimes by means of exchanging information, carrying out joint operations and undertaking other special actions based on their legitimate functions.

Information exchange includes:

- breaches of customs-related legislation, which are criminalised by the *Penal Code*, in particular Article 242 (smuggling) and Article 251 (currency offences);
- data on legal entities and/or individuals who are suspected with good reason of breaching the customs regime and the currency legislation;
- data on transport vehicles and goods involved in customs or currency offences;
- situation reports analysing the trends in the customs and currency offences and the possible risks (by type of goods, countries of origin, modus operandi, offenders).

Intelligence is exchanged between the Customs Agency Intelligence and Investigations Directorate and the specialised units of the national services with policing functions of the Ministry of the Interior (NSCOC Smuggling Division, NPS Economic Police Division, NBPS Operations and Search Division).

The Co-operation Instruction provides the customs authorities with an opportunity, on their own initiative, to request assistance from Ministry of the Interior authorities, and defines the scope of that assistance. It sets out the assistance engagement on behalf of customs authorities and the engagement of customs and police authorities to co-operate with each other with a view to conducting checkups related to assistance requests extended in the framework of international co-operation.

In addition, the Instruction provides that the police and the customs may set up joint teams to conduct operational and search activities aimed at identifying and deterring smuggling, customs fraud and currency-related crimes.

According to the Instruction, the mobile customs teams are co-ordinated by a specialised

department of the Customs Intelligence and Investigations Directorate at the Central Customs Administration as well as by a liaison officer designated by the Minister of the Interior following the proposal by the NSCOC Director.

The liaison officer facilitates the interaction between the customs and police authorities in terms of the mobile customs teams.

The mobile customs teams consist of two officers from the Customs Administration, designated by order of the Customs Agency Director, and one officer from the Ministry of the Interior, designated by order of the NSCOC Director.

The Instruction stipulates that road vehicles shall be stopped by an unequivocal sign given with a stop stick after stopping a vehicle, the members of a mobile customs team must introduce themselves producing a service ID or another service insignia. If the driver of the vehicle refuses to stop at the signal of the mobile customs team, the vehicle is to be chased and the team shall immediately inform the competent police authorities thereof seeking their assistance.

On 31 October 2001 was signed an Instruction for cooperation between the Financial Intelligence Agency and the Customs Agency. The Instruction regulates the way whereof the two agencies will work together in view of performing joint operations and sharing information in the course of implementing their legal duties, as well as coordinating the activities of common interest related to measures against money laundering.

Operational co-operation between the two administrations under Article 5 of the Instruction includes bilateral exchange of information, creation of task forces and interaction on specific cases of determent and detection of money-laundering-related activities.

According to Article 9 of the Instruction, the two agencies shall share internal instruments related to their inherent control authorities; organise joint trainings; and use other methods and forms within their authority areas.

An important step towards improving the co-operation with law enforcement authorities, particularly those of the judiciary, is the Agreement for Co-operation and Information Sharing between the Customs Agency and the National Investigative Service signed on 17 September 2002.

On 3 July 2002 the Customs Agency signed an Agreement for Co-operation and Assistance with the National Audit Office. Furthermore, there is a Memorandum of Understanding between the Public Internal Financial Control Agency and the Customs Agency.

The Instruction on co-operation between the Public Receipts Agency and the Customs Agency is pending update.

An Instruction on co-operation with the tax administration is under preparation.

A new *Regulation on Border Checkpoints*, regulating the organisation, activity and management of border checkpoints as well as the collaboration between border control services, was adopted by Council of Ministers Decree No. 104/20.02.2002 (SG No. 54/31.05.2002). The Regulation places special emphasis on contemporary forms of co-operation between border control services (passport control, customs control, veterinary control, phytosanitary control, etc.) at national and regional levels, as well as on the exchange of information between those services in view of establishing integrated border control and facilitating and speeding up border crossing. As regards interaction, the approach Bulgaria has adopted is to annually conclude Memoranda between the services

working at border checkpoints, which will provide the necessary flexibility for changing the priorities and methods of co-operation.

The establishment of a National Drugs Intelligence Unit (NDIU) is subject to a Phare Project³² implemented in partnership with the UK. The NDIU will collect, process and analyse the operational information received from competent law enforcement agencies. This will contribute to the improvement of and cross-governmental co-ordination and co-operation in fighting against drugs and reducing drug supply. The NDIU will comprise members of all drug-related services of the Ministry of the Interior and the Customs Agency. It will be a key element in the overall criminal analysis system, which is developed under the Institutional Strengthening of the Bulgarian Police Project, supported by the Phare Programme (see Attachment 4). The new regulatory basis necessary for the purposes, tasks and organisation of the NDIU will be elaborated and adopted by the end of 2002. The institutional building of the unit itself, according to the National Schengen Action Plan, will be completed by the end of March 2003.

(The above information is also provided under the Police co-operation section.)

The EU also invites Bulgaria to provide more detailed information on the re-organisation of the Customs Agency, including a timetable, the number of staff, its training and its intentions towards the operational and tactical approach of the future Customs Police. The EU further invites Bulgaria to clarify the relation between this re-organisation and the re-organisation of the Customs Intelligence Service, which is currently ongoing.

1.

In accordance with the *Customs Act* and the *Administration Act*, the administrative structure and functions of the Bulgarian Customs Administration have been approved by the Council of Ministers through adopting Rules for the Internal Structure of the Customs Agency (Council of Ministers Decree 1/2001).

The amendments to the *Road Traffic Act*, adopted by the National Assembly in August 2002, aim to regulate the operation of the mobile teams in terms of giving them authority to stop vehicles inland. That authority is subject to further regulation via amendments to the *Customs Act*, which are anticipated by the end of 2002.

Furthermore, following a procedure of cross government co-ordination, the Council of Ministers approved on 26 September 2002 amendments to the Rules of Procedure of the Customs Agency related to its reorganisation.

The mobile teams have been established as a separate structural unit of the Customs Intelligence and Investigations Directorate and, in accordance with the practices of the Customs Administrations of EU Member States, are called 'mobile teams'. The Mobile teams have been trained, and five of them took over their duties on 30 August 2002. Another five teams will become operational by the end of 2002.

The EU also notes the information provided by Bulgaria on the conclusion of bilateral international co-operation agreements on mutual assistance. The EU invites Bulgaria to inform the Conference of its intentions for concluding similar agreements with EU Member States and to provide information on whether within the customs administration a dedicated unit exists for handling requests for international mutual assistance and co-operation.

³² Development and delivery of a National Drugs Strategy. See more detailed information on the project in the Drugs section.

The Republic of Bulgaria is extending the legal framework for co-operation with other customs administrations. On 25 July 2002 the Council of Ministers approved the text of a draft Agreement between the Government of the Republic of Bulgaria and the Republic of France on mutual administrative assistance in the field of prevention, intelligence, investigation, establishing and punishing customs violations, and authorised the Director of the Customs Agency to sign it.

By Decision No. 501 the Council of Ministers has endorsed an Agreement between the Government of the Republic of Bulgaria and the Government of the Islamic Republic of Iran on mutual assistance in the appropriate implementation of customs legislation and prevention, investigation and fight against customs offences

The Customs Agency Intelligence and Investigations Directorate has a specialised unit, which examines requests of international mutual legal assistance and co-operation in the field of smuggling and customs fraud.

The EU further invites Bulgaria to provide detailed information on its overall training strategy and its specialised training programmes (management techniques, risk analysis techniques and combating financial crime) for customs officers.

As regards professional integrity, Bulgaria develops and implements feasible training systems with a view to providing further professional improvement and motivation for the customs administration. The training programmes are developed jointly with experts from the EU Member States. They are based on the Strategy for organisation and management of human resources (a synopsis of the Strategy is provided in **Appendix XII.2**) and the Strategy for qualification and specialisation of the staff in the Customs Agency (a synopsis of the Strategy is provided in **Appendix XII.3**).

Bulgaria will continue to harmonise its human resource policy in the customs administration with EU standards and practices.

Bulgaria will introduce EU practices and standards with regard to human resource management with the assistance of project BG 0103.05 under the PHARE Programme, which is implemented in partnership with the German Customs Administration. Particularly, this will be accomplished through the "Human Resources Organisation and Management" component. The project includes the making of a full analysis and recommendations with regard to:

- the administrative structures at a central and regional levels;
- the provisions on administrative management;
- the internal communication system; and
- the management training.

The training system is constantly adapted to the changes in the customs administration. In the process of updating, run in co-operation with EU experts, in 2002 the Strategy for qualification and specialisation of the staff in the Customs Agency was harmonised with some of the recommendations of the Council of Ministers Institute for Public Administration and European Integration. The specific recommendations in terms of concrete customs checkpoints have been taken into account.

A customs training programme has been approved by Council of Ministers Decree No 85. Simultaneously, another training programme designed for newly recruited customs officers

has also been adopted. Both programmes include a customs ethics component developed jointly with the French Customs Administration.

The EU notes that Bulgaria has approved a National Anti-Corruption Strategy and the specific measures planned. The EU invites Bulgaria to keep the Conference informed of progress, in particular on the setting up of a unit dedicated to investigate claims of corruption within the Customs Agency. The EU also invites Bulgaria to provide information on the number of investigated corruption cases over the past years as well as the number of cases in which a disciplinary sanction or any other sanction has been imposed.

The measures falling under the competence of the Customs Administration provided in the National Anti-Corruption Strategy are applied in the framework of the Action Plan implementing the Anti-Corruption Strategy, Section 1.3. 'Anti-corruption reform in the Customs Administration' and in accordance with the provisions of the Strategy of the Bulgarian Customs Administration for Combating Corruption and Other Customs Malpractices. The latter was elaborated in co-operation with EU experts in the framework of a PHARE Project 'Combating corruption in the Bulgarian Customs Administration'.

Among the more important measures implemented in that area by the Bulgarian Customs Administration are:

- A representative of the Bulgarian Customs Administration has been included in the national-level Anti-Corruption Steering Commission;
- The *Code of Ethics* for customs officers was adopted in July;
- Customs officers with actual contribution to the fight against corruption and other customs malpractices will be entitled to additional material benefits based on established regulations and mechanism.
- Customs officers who have been charged with abuse of office and against who preliminary proceedings are carried out under Chapter 12 of the *Penal Procedure Code* are deprived of their personal customs stamps and service firearm and are transferred to another position not associated with customs controls until their case has been cleared by the competent bodies;
- Personal customs stamps are kept under a special regime;
- The operational staff working at customs facilities wear special ID cards on their uniforms;
- Customs facilities have been provided with mail boxes where passengers, carriers, clearance agents, trade representatives, etc. can post feedback or complaints;
- Each customs facility, in addition to the Inspectorate of the Customs Agency, has created a hotline, which is broadly advertised at prominent places;
- Internal control at the Bulgarian Customs Administration is carried out by a specialised unit – the Customs Agency Inspectorate – which is immediately subordinated to the Customs Director. It is responsible for internal investigation and all kinds of enquiries at customs facilities (complex, targeted, complaint-generated). Each enquiry ends with a report, which apart from the findings provides also recommendations, including on seeking disciplinary liability from customs officers. When there is sufficient data of a crime, the case is submitted to the competent authorities. Between September 2001 and September 2002 the Inspectorate checked and investigated internally over 50 complaints, which resulted in the imposition of 126 disciplinary sanctions, including 77 dismissals.

Internal control on the performance of customs officials has been improved through:

- on-the-spot checks based on filed complaints/alerts;

- enhanced control on the financial status of Customs Administration officials at all levels.

Regulation No. 2 of the Minister of Finance provides for a mechanism for additional financial stimuli establishing a Customs Officer Motivation Fund.

The EU notes that the powers of the customs officers were planned to be extended by the end of 2001 and invites Bulgaria to inform the Conference whether this deadline was met as well as to provide detailed information on the content of these investigative powers.

The information is provided at the beginning of this section under the paragraphs dealing with the adopted amendments to the *Road Traffic Act*.

The EU further invites Bulgaria to provide detailed information on the introduction of mobile surveillance units, the development of customs laboratories and risk analysis, and in particular on the number of different risk-analysis systems and their compatibility with EU-systems.

Information on mobile units is provided above.

1.

The Customs Laboratories Strategy provides for an increase in the expert and technical capacity of the Bulgarian Customs Administration, as regards the application of tariff and non-tariff measures, as well as measures connected with the agricultural and other policies. The capacity of the administration will be improved by means of introducing effective methods of analysis, modern analytical tools and a standard system to secure and control the quality of the laboratory analysis.

The Strategy will be updated by the end of 2002 to reflect the recommendations made by EU experts on the basis of analysis of available activities and equipment. Bulgaria will apply for financing under the PHARE 2003 Program in view of completing the equipment for the Central Customs Laboratory in Sofia and the chemical laboratory in Ruse and upgrading its IT system. After the upgrade, the IT system will be connected to the BICIS, which will provide for:

- More effective implementation of the regulations and decisions concerning tariff classification of goods in the Combined Nomenclature;
- Appropriate storage of laboratory test results, and
- Making the test results accessible to all interested parties.

2.

The Bulgarian Customs Administration is constantly improving its control activities by applying risk analysis methods. Special priority is attached to certain types of goods, mainly excise goods, and to declaration checking for correct classification, value and origin. In 2001, 21 cases of proven customs fraud were detected on the basis of risk analysis. 6 similar cases were registered in the first two months of 2002.

Since March 2002, the Plovdiv Regional Customs Administration has actively been using risk analysis in customs checks. 8 risk profiles have been elaborated - 1 for representative purposes and 7 for different groups of goods. These risk profiles were based on the characteristics of the region. The factors affecting the level of risk are analysed. During the pilot period when this approach was applied, full customs control was carried out in about 120 cases a month, which is about 5% of the total number of cases.

It is envisaged that the BICIS Customs Intelligence and Investigation Module, which will provide for wider application of risk analysis, will begin functioning by the end of June 2003.

APPENDIX:

XII.1. Customs Act

XII.2. Summary of the Strategy for organisation and management of human resources

XII.3. Summary of the Strategy for qualification and specialisation of the staff in the Customs Agency.

XIII. JUDICIAL CO-OPERATION IN CRIMINAL AND CIVIL MATTERS

With regard to the further alignment of Bulgaria's Penal Code and Penal Procedure Code which was to be completed by the end of 2001 in order to accede to the European Convention on the Transfer of Proceedings in Criminal Cases (1972), the European Convention on the Enforcement of Foreign Criminal Sentences (1991), the Convention on Simplified Extradition Procedures (1995), and the Council of Europe Convention on the International Validity of Criminal Judgments (1970), the EU invites Bulgaria to keep the Conference informed on a regular basis of developments in this field.

Amending the ratification instruments on the *European Convention on Mutual Assistance in Criminal Matters* and its *Additional Protocol*, the *Convention on the Transfer of Sentenced Persons* and the *European Convention on Extradition* and its two *Additional Protocols* (SG No. 11/31.01.2002), Bulgaria has made changes in the following declarations concerning language of correspondence: declaration to Article 34 of the *European Convention on Extradition*; declaration to Article 16, Paragraph 2 of the *European Convention on Mutual Assistance in Criminal Matters*; and declaration to Article 17, Paragraph 3 of the *Convention on the Transfer of Sentence Persons*. Those changes will facilitate and speed up the process of extradition and transfer of sentenced persons.

On 13.09.2002 the Bulgarian National Assembly adopted amendments to the *Penal Code* (SG No. 92/27.09.2002) aimed at improving the penalisation system in the field of terrorist, corruption, organised crime, human trafficking and cyber crime.

Plans by the end of 2002:

- Partial amendment of the declaration to Article 6, Paragraph 1 of the *European Convention on Extradition* determining the nationality of the person;
- Withdrawal of the reservations on the *European Convention on Mutual Assistance in Criminal Matters* regarding the dual criminality condition and the motives to refuse legal assistance;
- Ratification of the *Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*.

Plans by the end of 2003:

- Ratification of the *Additional Protocol the Council of Europe Convention on the Transfer of Sentenced Persons*, ratification of the *European Convention on the Transfer of Proceedings in Criminal Matters* (1972) and the *European Convention on the International Validity of Criminal Judgements* (1970).

At the date of accession to the EU, Bulgaria will have ratified the *Convention on Mutual Assistance in Criminal Matters between the EU Member States* (2000) and its *Protocol* (2001) and the *Convention relating to Extradition between the Member States of the European Union* (1996).

At the moment the Ministry of Justice (MOJ) is developing draft amendments to the *Penal Procedure Code* whose adoption by the National Assembly is anticipated by October 2002. The aim of the amendments is to improve the provision of legal assistance in criminal matters and enhance the procedure for international legal assistance and extradition within the current legislation:

- In view of enduring a well-defined mechanism for the principle of reciprocity, the *Penal Procedure Code* will include new provisions authorising the Minister of Justice to determine the application of reciprocity.
- A new provision will explicitly authorise first-instance courts, when ruling out on transfer cases, to pronounce on the criteria mentioned in Article 17 of the *European Convention on Extradition concerning concurrent extradition requests*. Thus, the judgement of the first-instance court may be appealed on that basis.
- New provisions will allow the transfer of persons on the request of an international court as well as introduce procedure for quick extradition, in compliance with the *Convention on Simplified Extradition Procedure between the Member States of the European Union (1995)*.

By the end of 2003, it is planned to draft an *Extradition Act*, which would provide thorough regulation of the mechanisms for extradition and international legal assistance in criminal matters. The extradition procedure will be taken out of the *Penal Procedure Code* and become subject of regulation only to that new Act.

In addition to the above measures, on 15 March 2002 the Bulgarian Parliament, with a view to improving the capacity of the country to implement international legal assistance in criminal matters, ratified the Rome Statute of the International Criminal Court and deposited the ratification instrument with the United Nations at an official ceremony on 11 April 2002. Thus, the Republic of Bulgaria has joined among the first 60 countries whose ratification will allow the Statute enter into force on 1 July 2002. On 23 November 2001 Bulgaria signed the *Convention on Cyber-Crime*, which will be ratified by the end of 2002.

The EU takes note of Bulgaria's intention to accede to the European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (1980) and to the Convention on the Civil Aspects of International Child Abduction (1980) in 2002 and 2003 respectively.

On 18.09.2002 the Republic of Bulgaria signed the *European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (20 May 1980)*. The Ministry of Justice is developing draft amendments to the *Civil Procedure Code* and the *Family Code* in terms of implementing the *European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (1980)* and the *Convention on the Civil Aspects of International Child Abduction (1980)*, which will make possible, as laid down in the legislative agenda of the government, the simultaneous ratification of both conventions by the end of 2002.

The EU notes the detailed information provided by Bulgaria on the steps taken to ensure compliance with the provisions of the Schengen acquis on judicial cooperation and takes note of Bulgaria's statement that full alignment will be achieved by the end of 2003 (CONF-BG 73/01). The EU invites Bulgaria to keep the Conference informed of progress made, in particular as regards the accelerated procedure in extradition cases, the improvement of language skills of magistrates and the upgrading of equipment in courts, prosecution

offices and investigation services.

The intended measures as regards the accelerated procedure in extradition cases are mentioned in the first part of this section.

Criminal matters

The necessary *acquis* enforcement institutions in the field of legal co-operation in criminal matters are in place. The bodies that are to take part in the implementation of legal assistance in criminal matters, extradition and transfer as well as their powers are designated in the Bulgarian law. Those are the central bodies mentioned under individual conventions or treaties and the competent judicial bodies.

Bulgaria participates in the PHARE-Horizontal Project on judicial co-operation in criminal matters, which has contributed to the elaboration of a National Action Plan providing for two types of magistrate training:

- Information on EU legislation in the fields of justice and home affairs that is either in force or under preparation;
- Exchange of good practices with foreign magistrates.

In the framework of the PHARE-Horizontal Project, in July 2002 Sofia hosted training of trainers (judges, prosecutors and MOJ experts) from Bulgaria and Romania working in the area of international legal co-operation in criminal matters. The same project will assist in the preparation of a Legal Assistance and Extradition Manual, which will include the relevant procedures in each of the beneficiaries (Bulgaria, Poland, Romania, Slovenia, Hungary and the Czech Republic).

The Republic of Bulgaria takes active participation in the Criminal Law Committee and the various Council of Europe committees of criminal law experts as well as in the Council of Europe programmes against corruption and organised crime in Southeast Europe (PACO), SPOC and SPAI.

Civil matters

Bulgaria has taken a lot of initiatives for further training of MOJ experts and magistrates in view of ensuring effective implementation of the *acquis* principles and standards in both criminal and civil matters:

- Bulgaria-Council of Europe bilateral seminar on 'The role of the Supreme Court of Cassation in the Civil Procedure - participation of judges from the Supreme Court of Cassation (held in Strasbourg, September 2001);
- Seminar on 'Extradition and Legal Assistance in Criminal Matters' with lecturers from the International Legal Assistance Department of the Ministry of Justice, the Public Prosecutor's Office, INTERPOL, Sofia Court of Appeal, Ministry of Foreign Affairs (held in Borovetz, Bulgaria, October 2001)
- Expert mission of the Council of Europe for assessing Bulgarian legislation in the field of mediation (continuation of the regional CoE seminar 'Mediation and Other Alternative Ways for Dispute Settlement', held in December 2000 in Plovdiv, Bulgaria, under the CoE ADACS Programme, with the participation of the Southeast European countries) - participation of judges from Sofia, Varna, Veliko Turnovo (held in October 2001)

- CoE seminar on 'The role of the government co-agent service before the European Court of Human Rights' – participation of 25 judges from various regions of the country (held in Sofia, October 2001)

- A working meeting of CoE experts with a Bulgarian working group (30 magistrates) on the subject 'Consolidation of the system for execution of judgements' (held in Sofia, November 2001)
- Study visit of 5 judges and two experts from the Ministry of Justice to the Federal Ministry of Justice in the Federal Republic of Germany on the implementation of the *Hague Conventions on adoption and the international abduction of children* and other issues connected to the Hague Conference on Private International Law (held in November 2001)
- Participation of Bulgarian magistrates in study visits, organised by the German Foundation for International Legal Co-Operation for Magistrates from Central and Eastern Europe:
 - For judges working on civil and commercial cases - November 2001
 - For judges and prosecutors working on criminal cases - November and December 2001
- Study visit for training in administrative justice in France and Germany of three Bulgarian judges, organised by the Council of Europe – April 2002
- Working visit of five members of Bulgarian professional bar organisations in Greece; meetings at the head offices of partnering Greek organisations aimed at furthering bilateral co-operation, identifying and planning joint activities – April 2002
- Seminar on alternative dispute solution means, organised by the Ministry of Justice and the British Embassy, involving participation of 35 judges, MOJ experts and lawyers – May 2002, Sofia
- Bilateral seminar, organised by the Bulgarian Ministry of Justice and the Romanian Ministry of Justice, on "International judicial co-operation in criminal matters" with the participation of 17 Bulgarian and 17 Romanian judges as well as MOJ experts from both countries – June 2002, Ruse
- Training of trainers in the framework of the PHARE-Horizontal project on judicial co-operation in criminal matters with the participation of 10 Bulgarian judges, prosecutors and investigators and MOJ experts and 5 Romanian magistrates 0 July 2002, Sofia.

A two-day Conference on the Situation and Problems of Bulgarian Legal Professional Associations and the Role of the Legal Profession in the Process of Accession to the EU was organised in the framework of the Project on Strengthening the operation of the judicial system and the institutional capacity of the Ministry of Justice to adopt and implement the European Union *acquis* in the fields of justice and home affairs", supported by the PHARE Programme 1999. The conference was held on 12-13 June 2002 and offered presentations made by representatives of all Bulgarian professional legal organisations as well as many German, Greek European-level organisations.

The Magistrates Training Centre has continued to train newly appointed and serving magistrates. As many as 424 judges took part in the 22 initial training seminars in criminal and civil matters held between September 2001 and August 2002.

366 judges and MOJ experts have taken part in the 11 seminars and conferences for current training. The topics cover international co-operation in the fight against organized crime and drug trafficking, the *Electronic Signature Act*, the *Child Protection Act*, insolvency issues, the *Radio and Television Act*, current topics in the field of accountancy and international criminal justice.

The third aspect of magistrates' training is related to the EU *acquis* and its implementation. 16 seminars, 5 of which in partnership with the PHARE Programme, have been held with

the participation of 334 judges, prosecutors, investigators, representatives of the Ministry of the Interior and the Ministry of Justice and university lecturers.

MTC training curriculum includes also courses on human rights protection, delivered mainly by the French Ecole Nationale de la Magistrature. In 2002, it added new courses on international legal co-operation and EU law.

Magistrate training is complemented by the contribution of other structures like the Legal Initiative for Training and Development (LITD), which organised a number of training courses for prosecutors on criminal law novelties and implementation of the *European Convention for the Protection of Human Rights and Fundamental Freedoms*.

In terms of language training, a 5-month course on EU legal terminology, designed for Bulgarian magistrates, started at the beginning of 2002 under MATRA – the pre-accession programme of the Dutch Government. The course is financially and technically supported by the USAID, the Judicial Development Project in Bulgaria and on the initiative of the Magistrate Training Centre. Trainees are mainly lecturers (magistrates) who teach EU law at the Centre and speak English fluently.

The training process covers discussions on the historical background of the European Union, the building principles of the legal basis of the EU and key provisions of the basic Agreements. It also includes the founding case studies of the practice of the European Communities Court. The overall aim of the programme is to improve the usage of English terminology and enhance the qualifications of the Bulgarian lecturers in that area.

The Judicial Development Project in Bulgaria treats training as a pilot course. Based on the positive response and the great interest shown by Bulgarian magistrates, it is intended to continue to deliver similar training in the future.

As regards planned measures to modernise the equipment at courts, prosecutor's offices and investigative service, the Judicial Reform Strategy provides for the following:

In a short-term perspective (by the end of 2002):

- Developing standards for information exchange between individual judicial subsystems;
- Developing a global programme as a basis for a compatible automated system capable of tracing the status of cases at courts, prosecutor's offices and investigative services;
- Supplying computer equipment for the courts;
- Introducing a management system at a national level.

In a mid-term perspective:

- Introducing standard software for public registers kept in courts;
- Developing a unified system for data collection and statistics as a managing tool;
- Introducing a common managing information system.

In a long-term perspective:

- Harmonising the information systems of all judicial authorities as an element in the global criminal information system and incorporating them into the information system of the Republic of Bulgaria;
- Creating a judicial information system in view of interconnecting courts, prosecutor's offices and investigative services;
- Full computerisation of courts.

The Supreme Judicial Council and the Ministry of Justice have created a common unit to manage the whole process of computerisation and automation of the judicial system,

which will subsequently grow into a separate Judicial Technology Agency. The aims and powers of that Agency will be subject to additional broadening in view of achieving more effective administration of the judicial system.

The EU invites Bulgaria to provide further detailed information on the implementation of Joint Action of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children.

Detailed information on the enforcement measures in this area is presented under *Police co-operation*. The same section contains also information on the draft Law on Illegal Trafficking in Human Beings, which codifies the extra criminal law aspects of the trafficking phenomenon and emphasises on prevention, victim protection and rehabilitation.

The witness protection institute, introduced in the Bulgarian *Penal Procedure Code* in 1997, Article 97a, applies to the protection of the victims of trafficking. It guarantees witnesses that their identities will not be revealed and they will be placed under security measures when there is sufficient basis to believe that their lives, health or property or those of their relatives may be endangered as a result of their testimony.

The EU reiterates its invitation to Bulgaria to provide more detailed information on the implementation of the amendments to the Criminal Procedure Code regarding pre-trial detention and judicial control by (over?) the prosecuting authorities. The EU moreover invites Bulgaria to provide further detailed information on the amendments to the Execution of Punishments Act to improve prison conditions and on measures to investigate and tackle the abuse of power by law enforcement bodies.

One of the most important areas covered by the 1999 amendments to the *Penal Procedure Code* was to introduce standards for human rights protection. The European Court of Human Rights admits that judicial control on the violations of the right of freedom is one of the main rule-of-law principles. Seeking to meet those requirements, the Bulgarian legislature made substantial changes in the legal regulation of all forms of violation of the right of personal freedom.

The full text of the *Penal Procedure Code* is attached to the *Police co-operation* section.

Detention in custody (Articles 152, 152a and 152b)

Article 152 of the *Penal Procedure Code* provides for the grounds whereon the severest measure of detention in custody is applicable, and Article 152a regulates the procedure applying to that measure. The grounds correspond to the requirements of the *European Convention for the Protection of Human Rights*.

There are many provisions ensuring avoidance of illegal actions on behalf of the competent bodies in the criminal procedure and illegal deprivation of liberty. One of them is that the measure shall be authorised by a judicial authority on the basis of the requirements of the *European Convention for the Protection of Human Rights*, and the decision of the court may be contested before an appellate instance. Further safeguard provisions concerning detainees are the possibility to appeal against an effective detention measure before a judicial authority, whose ruling is subject to another appeal before an appellate instance, and the time restrictions. The maximum period of detention in custody is set out in Article 152a, Paragraph 4 of the *Penal Procedure Code* (2 months, 1 year, 2 years), and after the period has expired, the detainee must be released by the prosecutor.

Preliminary detention (Articles 202-203 and 206)

Preliminary detention occurs in the pre-trial phase of the criminal procedure. It is actually a measure of procedural enforcement, which applies only to certain procedural figures (suspects). The measure is imposed in the cases when a person is brought as a suspect by the body of preliminary proceedings. Preliminary detention may be undertaken by an investigator pursuant to Article 202, Paragraph 1 of the *Penal Procedure Code* and may last for 24 hours. This relative independence of the investigator in respect of the preliminary detention is restricted by prosecutorial supervision provided for in Article 203 of the *Penal Procedure Code*, which stipulates that the investigator must inform the prosecutor about the detention within 24 hours providing reasons therefore. The prosecutor is to either confirm or revoke the measure of preliminary detention. The 24-hour period may be extended to three days by the prosecutor provided that the person has been detained in the circumstances of Article 202, Paragraph 1, Subparagraphs 1 and 3 of the *Penal Procedure Code* (the person has been caught in the act of crime or closely afterwards; obvious traces of the crime have been discovered on the person, their body or clothes or in their dwelling). The procedural figure of the suspect is in existence for a short period of time before it has been established whether there are grounds for pressing charges. If within the time designated under Article 203, Paragraphs 1 and 2 of the *Penal Procedure Code* – 24 hours or 3 days – the pre-trial authority does not indict the suspect placed under preliminary detention, he/she must be duly released.

The 'suspect' is a procedural figure that occurs only in crimes subject to preliminary proceedings as a form of pre-trial procedure and only under certain conditions. Any suspect has well-defined procedural rights: to be informed what they are suspected of; to make explanations; to raise requests, remarks and objections and appeal against the rulings of the prosecutor or the investigator that violate their rights and legal interests. Suspects may appoint a defence counsel from the moment of preliminary detention in accordance with the provision under Article 73, Paragraph 1 of the *Penal Procedure Code*.

Prison conditions

The following measures have been implemented:

- a) Improving conditions for maintaining the physical and mental health of inmates. One of the priorities here is to increase the capacities for normal nourishment of inmates.

The Ministry of Justice managed to secure in its 2002 budget funds allowing a 20 percent increase in the money value for food per inmate compared to 2001. The rational sustenance of prisoners is supported by local agricultural farms established with penitentiary facilities whose produce comes as a supplement to prisoners' food.

Inmates are allowed to receive sufficient quantities of food parcels. Moreover, money rates for private needs have been increased.

- b) Controlling prison overpopulation.

Prison overpopulation is indirectly affected by the general tendency towards reduction in the overall number of prisoners. Thus, from 11,130 as at 01.05.1999 the number has gone down to 9,254 as at 01.03.2002. This allows for improvements in the living conditions.

The National Assembly passed amendments to the *Execution of Punishments Act* (SG No. 62/25.06.2002). It extends the possibility of placing convicts from the main penitentiary buildings in transitory prison facilities. Preliminary accounts prove that nearly 20-30 percent of prisoners may be taken out of penitentiaries and placed under semi-free conditions and full-time labour employment.

c) Improving living conditions at penitentiary and custody facilities.

A lot of renovation work has been done in 2001 and is further planned for 2002. The prisons in Belene, Stara Zagora, Burgas, Plovdiv and Vratsa are currently reconstructed, with new lavatories and constant access to running water and flush toilet facilities.

It is envisaged to build new and repair the existing custody facilities. The Ministry of Justice has assigned the necessary funds, and currently all detention facilities are being renovated in view of ensuring direct access to light, ventilation, heating and normal hygiene. This involves also securing open-air places and visitor rooms.

The EU invites Bulgaria to provide more detailed information on the establishment of the International Legal Cooperation and Human Rights Department in order to improve Bulgaria's capacity in the field of international judicial cooperation, in particular the date of its establishment, the number of staff, training and equipment.

Since June 2001, the Ministry of Justice International Legal Co-operation and Human Rights Directorate has been divided into two departments: International Legal Co-operation and Human Rights (staffed with 9 experts) and International Legal Assistance (staffed with 8 experts). Experts in both departments are sufficiently trained to carry out the tasks of international legal co-operation and legal assistance, and at the same time take in-service courses.

As regards institutional building of that Directorate, the following measures are planned:

1. Technical strengthening.

- Supplying equipment for the central authorities with a remit in the area of extradition and international legal assistance (Ministry of Justice International Legal Assistance Department and Supreme Prosecutor's Office of Cassation International Section), with the technical and financial support of the Phare Programme.
- Introducing new a software product for registration of legal assistance, extradition and transfer requests for the sake of authentic statistics as well as installing a network application on extradition and legal assistance, with a common database.
- Improving the structure of the international legal co-operation unit at the Ministry of Justice aiming to settle strict division of functions among individual experts, increasing their number and enhancing their training qualifications.

The necessary funds will be programmed in the National Phare Programme 2003.

2. Training of experts.

Two types of expert training is envisaged:

- General theory on extradition, transfer and legal assistance in criminal matters;
- Practical training and exchange of experience in the implementation of the EU criminal law conventions.

Training will be conducted in 2002-2003 within the bilateral co-operation programmes with Germany and the Netherlands as well as in the form of training of trainers organised and financed under the Co-operation in Criminal Matters PHARE-Horizontal Programme.

The EU notes the information provided by Bulgaria on its preparations for integration in the European Judicial Network. The EU invites Bulgaria to inform the Conference of progress made including the establishment of direct contacts between the competent judicial authorities.

Co-operation in criminal matters between Bulgarian judicial authorities and EU Member States' judicial authorities is further facilitated by the possibility of Central and East European countries and Cyprus to designate contact points for judicial co-operation in view of achieving gradual integration of those countries with the European Judicial Network. The Republic of Bulgaria has already appointed points of contact with the competent judicial and other bodies of the EJM countries. Interaction with the entities in the EJM helps to build up the effectiveness of judicial co-operation and prepare Bulgarian law enforcement authorities for the time when they will become part of the Network, after Bulgaria's accession to the European Union. At the moment Bulgaria uses the following functions of the European Judicial Network:

- Active mediation facilitating the establishment of the handiest direct contacts between local judicial authorities and other competent authorities in the respective country;
- Transfer of updated basic information.

Like the rest of the EU candidate countries, Bulgaria has nominated also a contact point for co-operation with Eurojust. The Eurojust contact point, being a prosecutor from the Supreme Prosecutor's Office of Cassation, establishes direct operational contacts with the standing judicial co-operation unit. Moreover, the participation of the Eurojust contact point in the regular steering meetings of contact points in that network, covering various areas such as terrorism, human trafficking, fraud and corruption and trafficking in drugs, adds to the improvement of the effectiveness in the fight against serious crime, especially organised crime, in the cases when it involves two or more countries. The necessary legal basis for implementation of the said direct contacts will be ensured by the ratification of the *Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*. Eurojust will play an important role in the transfer of legal assistance requests from third countries within the framework of an agreement based on Articles 24 and 38 of the European Union Treaty concerning international co-operation in criminal matters.
