**CONFERENCE ON ACCESSION TO THE EUROPEAN UNION – BULGARIA –**

**Brussels, 30 June 2003**

**CONF-BG 16/03**

**Document provided by Bulgaria**

Subject : Additional information
Chapter 24 – Cooperation in the Fields of Justice and Home Affairs

*CONFIDENTIAL!*

# Republic of Bulgaria

## Supplement to the Additional Information
## CONF-BG 55/02 + ADD 1-35 and CONF-BG 03/03 + ADD 1-4

## On Chapter 24
## "Co-operation in the Fields of Justice and Home Affairs"

**June, 2003**

# Table of Contents

The Republic of Bulgaria wishes to refer to its Additional Information No. CONF-BG 55/02 of 30.10.2002 and No. CONF-BG 03/03 of 16 April 2003 on Chapter 24 “Co-operation in the Fields of Justice and Home Affairs” and presents to the attention of the Accession Conference a Supplement comprising the information that has been exchanged with the respective services of the European Commission in the form of sets of additional questions and answers, as follows:

1. On sector “Schengen Action Plan”:
    - Two sets of additional questions.
2. On sector “Reform of the Judiciary”:
    - Two sets of additional questions.
    - Seven annexes.
3. On sector “Data Protection”:
    - Two sets of additional questions.
4. On sector “Visa Policy”:
    - Two sets of additional questions.
5. On sector “External Borders”:
    - One set of additional questions.
6. On sector “Migration”:
    - Two sets of additional questions.
7. On sector “Asylum”:
    - Two sets of additional questions.
8. On sector “Police Co-operation”:
    - One set of additional questions.
    - One annex.
9. On sector “Fight against Terrorism”:
    - One set of additional questions.
10. On sector “Fight against Fraud and Corruption”:
    - Five sets of additional questions.
    - Four annexes.
11. On sector “Drugs”:
    - Three sets of additional questions.
12. On sector “Customs Co-operation”:
    - Two sets of additional questions.
13. On sector “Judicial Cooperation in Criminal and Civil Matters”:
    - Two sets of additional questions.
    - One annex.

# Schengen Action Plan (SAP)

## First set of additional questions – 16th April 2003

### *General remarks*

***The updated Schengen Action Plan has to be officially forwarded to the Accession Conference.***
The updated Schengen Action Plan 2003 was officially submitted to the Accession Conference on 10 April 2003.

***The adopted National Anti-Drug Strategy 2003-2008 (adopted on 25 February 2003) has to be officially forwarded to the Accession Conference.***
The National Anti-Drugs Strategy was officially submitted to the Accession Conference on 10 April 2003.

***Carrier liability: in the additional information under "Migration" it is stated that amendments to the Foreign Nationals Act in order to align with article 26 of the Schengen Implementation Agreement, have been adopted on 26 September 2002. However: in the updated Schengen Action Plan and the Report on the Implementation it is stated that these amendments were adopted at a first reading by Parliament on 6 February 2003. Final adoption is awaited and foreseen on 30 June 2003 (see page 3 and 4 Schengen Action Plan). Please clarify!***
As stated in the previous additional information, the draft law amending the *Foreign Nationals Act* was approved by the Council of Ministers on 26 September 2002. The draft was submitted to the National Assembly on 1 October 2002 and passed first reading on 6 February 2003.
On 9 April 2003 the National Assembly adopted the amendments to *Foreign Nationals Amending Act*.

***Judicial co-operation, page 29: in the additional information under "Judicial co-operation in criminal and civil matters" it is stated that the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters will be ratified by the end of 2002. The updated SAP mentions: by the end of 2003. Please clarify!***
The deadline for ratification of the *Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters* has been changed from the end of 2002 to the end of 2003. This was necessitated due to the complex and entirely new for the Bulgarian penal procedure law, character of the regulations in the protocol whose introduction in the *Penal Procedure Code* would be more time consuming than originally envisaged for achieving full precision and compatibility with the general procedure rules of the Penal Procedure Code. It must be taken into account that the Second Additional Protocol creates difficulties for other states as well, which is obvious from the small number of ratifications (2 states) and is the reason why it has not come into force yet.

***Judicial co-operation, page 30: in the additional information it is stated that the new Extradition Act will be adopted by the end of 2003. The updated SAP mentions 31 December 2004. Please clarify!***
The extension of the deadline for adoption of a new *Extradition Act* was required in view of the forthcoming ratification of the *European Convention on the International Validity of Criminal Judgements* (Council of Europe, Hague, 1970) by the end of 2003 and the entry into force of the Framework Decision on a European Arrest Warrant on 1 January 2004, whose provisions must be reflected in the new Bulgarian legislation on extradition. In order to establish the most appropriate model for Bulgaria, it will be necessary to collect and study additional information on the legislation and practice of the EU Member States regarding the recognition and enforcement of judgements of foreign courts as well as regarding the amendments envisaged in connection with the implementation of the Framework Decision on a European Arrest Warrant.

***Visa, page 14: as regards the positive list, the text is not consistent with the additional information where a firm commitment "upon accession" has been taken. Please align the SAP.***
The remark has been taken into account.

## *To be taken into account in a next revision*

***Borders, page 9, point 4 SAP: a reminder Decision COM-ex 94 (16)rev on the acquisition of common entry and exit stamps is one of the provisions to be applied upon accession.***
The Decision of the Executive Committee of 21 November 1994 on the acquisition of common entry and exit stamps (SCH/Com-ex (94) 16 rev) provides for acquisition and affixation of common stamps upon crossing *"Schengen external borders".* The deadline for design, production and introduction of border entry and exit stamps in accordance with the Schengen requirements has been set on the basis of the above.
The production and introduction of such stamps does not require a lengthy period of time or a lot of financial resources. Having this in mind, Bulgaria is ready to produce and use the stamps as of date of accession to the EU, provided that their technical specifications are made available to Bulgaria by the European Commission in due course.

***Borders, page 12: the heading is "co-operation between Contracting Parties", therefore it is better to delete FYROM, Russian Federation and Georgia. Co-operation with these countries can be dealt with in the additional information.***
The remark has been taken into account.

***Visa, page 13: Reg. 539/01 has two amendments (No.2414/2001 (Romania) and No. 453/2003 (Ecuador), which should be reflected in the SAP.***
The remark has been taken into account.

***Visa, page 15: Reg. 539/01 need to be deleted here, this is the part on the uniform visa sticker.***
The remark has been taken into account.

***Visa, page 16: the SAP also need to clearly reflect (beside the uniform Schengen visa) the "EU uniform sticker", which has to be introduced upon accession.***
The remark has been taken into account.

***Visa, page 16: the last part of the listed acquis "EU Joint Action on Airport Transit Arrangements" can be deleted. This part of the acquis has been superseded by Annex 3 of the CCI.***
The remark has been taken into account.

***SIS: please list in the acquis the following: Council Decision 2001/886/JAI and Council Regulation 2424/2001 of 6 December 2001 on the development of SIS II.***
The remark has been taken into account.

## *Specific remarks and questions*

## *Equipment*

***It would be useful to insert the numbers of equipment that are necessary. See first SAP and additional information.***
The remark has been taken into account.

***The list in the first SAP mentions: maritime patrol ships (2pcs), which is not mentioned in the revised SAP. In the revised SAP 200-tone patrol ships are mentioned. Is this the same?***
Both types of patrol ships mentioned in the SAP are maritime. Out of three, two 50-ton patrol ships have already been delivered. Out of two, one 200-ton patrol ship has been delivered, too.
One 50-tone patrol ship and one 200-tone patrol ship are yet to be delivered, which has been mentioned in the updated SAP.

***The Report on the implementation gives an overview of the equipment acquired in the reporting period. Can they be subtracted of the total numbers necessary?***
The remark has been taken into account.

## *Staff*

***According to the Programme for gradual replacement etc. it is envisaged that on 1 October 2002, 219 conscripts would be replaced by 500 sergeants and 25 officers and that the remaining 394 conscripts would be dismissed as of 1 January 2003. Has this goal been achieved and are the 500 new sergeants already trained?***
The implementation of the Programme for Gradual Replacement of Military Conscript Staff with Professional Border Police Officers at the National Border Police Service was completed according to schedule. All newly recruited sergeants have undergone obligatory initial border police training with duration of 4-5 months. They will also attend additional short-term specialised border police training courses organised in compliance with the 12-month training course at the Border Police Training Centre in Pazarjik, which started on 1 April 2003, without doing the full course.

***In the additional information it is mentioned that as of June 2002 the National Border Police Service employs 8.000 people, including administrative staff and conscripts. Please provide an overview as of 1 January 2003 of the posts available, the posts fulfilled (which means staff employed) for border police staff and for administrative staff. This overview should include the number of staff employed at the various borders (how many at each border) in order to be able to make an assessment. According to our calculation and in relation to the Programme as of 1 January 2003 there are 4811 (previous DCP) + 2.100 (replacement for 3013 conscripts) = 6.911 staff.***
Following the completion of the implementation of the Programme for Restructuring of the National Border Police Service aimed at providing security of the future external borders of the EU, as well as following the implementation of the Programme for Gradual Replacement of Military Conscript Staff with Professional Border Police Officers, the staff of the National Border Police Service amounts to 8,026 people, including officers, sergeants (NCOs) and civil administration. The deployment of the professional border police officers and the administrative staff by borders is as follows:

- Greek border /532.5 km/ - 1800 officers and NCOs and 141 administrative personnel
- Turkish border /268 km/ - 1315 officers and NCOs and 138 administrative personnel
- Serbia and Montenegro border /362.1 km/ - 686 officers and NCOs and 76 administrative personnel
- Romanian border /610 km/ - 1184 officers and NCOs and 98 administrative personnel
- Black Sea Border /411.6 km/ - 712 officers and NCOs and 66 administrative personnel
- FYROM border /185.8 km/ - 592 officers and NCOs and 45 administrative personnel
- International airports - 472 officers and NCOs and 27 administrative personnel

***What are the plans for filling the vacancies?***
At the moment there are 136 vacancies for NCOs which will be filled by the end of June 2003. The training of those NCOs in the full 12-month border police course will start upon their recruitment.

## *Various issues*

***Training: it is stated that from 1 April 2003 a full twelve-month training course for newly appointed officers will start. Has this deadline been met? Does this also mean that the 100 newly appointed officers have to go back to the Training Centre for one full year, while they already have had their initial training in 2002. Please clarify.***

The deadline for commencement of a 12-month training course at the Border Police Training Centre in Pazarjik has been met. Apart from NCOs, newly recruited officers who have undergone obligatory training will undergo additional specialised border police training.

***Twinning projects: it is stated that the establishment of a unified radio surveillance system by the end of 2002. However and as far as we know this is part of a twinning project BG 0203.11, which according to our information will start at 1 June 2003. Please clarify your date mentioned in your additional information. The same applies for the envisaged date given for the development and establishment of Command and Communications Centres for Black Sea and the River Danube (envisaged start beginning 2003).***

According to the supplementary information, "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." On Bulgarian side the project is implemented by the Maritime Administration Executive Agency. The implementation of the project has started according to schedule.

The twinning covenant for the ***BG 0203.11*** Project has been signed by Bulgaria and the German partner. The initial activities under the Covenant are scheduled to start in May 2003 though the actual implementation of the project will depend entirely on the completion of the obligatory procedures for its approval by the European Commission.

***Co-operation agreements on the basis of article 7 Schengen with Romania and Greece: according to the updated Schengen Action Plan the approval of the Council of Ministers will be achieved on 31 March 2003. Has this deadline been met?***

The draft Agreement between the Government of the Republic of Bulgaria and the Government of the Hellenic Republic on Co-operation between the Border Security Authorities in the Border Areas was approved by the Council of Ministers on 3 April 2003. It was officially submitted to the Greek side on 7 April 2003. On 10 April 2003 the Council of Ministers approved also a draft co-operation agreement with Romania.

***The Schengen Action Plan indicates that in the context of expanding the bilateral and multilateral co-operation with the Black Sea region countries, an Agreement on coast guard co-operation with Turkey has been concluded on 18 April 2002. Furthermore, it is stated that a draft specimen bilateral agreement for the above-mentioned co-operation between the countries in the Black Sea region will be elaborated on 30 September 2004. Please clarify this deadline taking into account that there is already an agreement on this issue concluded with Turkey. Could this agreement not serve as an example for the other countries in the Black Sea Region?***

The elaboration of a framework bilateral Agreement for Co-operation with the Black Sea countries is envisaged to take place under the above-mentioned twinning project so as to make an extensive use of European experience and expert support in attaining full compliance with European/Schengen requirements. The envisaged framework agreement will serve as a basis for regulation of the co-operation between the border police authorities of the Black Sea countries and will cover a wide range of relations. The Coast Guard Co-operation Agreement, which has been signed with the Republic of Turkey, has a more limited scope and regulates a specific set of relations with a separate structure in the Turkish border security system. Therefore, this agreement could not serve as a basis for elaboration of the framework agreement for co-operation with the Black Sea countries, but would still be taken into account as much as possible.

***The Schengen Action Plan mentions the start of the Centre for co-ordination, control and exchange of information on Black Sea traffic, envisaged for 30 September 2004, while the first Schengen Action Plan mentions as deadline 2002. Please clarify the difference between those deadlines.***

The original intentions and deadlines for setting up of Centres for Co-ordination, Control and Exchange of Information on the Black Sea and the Danube have been changed in view of Bulgaria's commitment to attain full compliance with European/Schengen standards in the border control area as part of our country's preparation to be an EU external border. Taking into account the importance and the extent of the required work to meet this commitment, it was decided that the best approach would be to make use of the experience and the expert and technical support of the EU through the implementation of a PHARE Project. The deadline mentioned in the updated SAP is also tied up with the PHARE Project ***BG 0203.11,*** which will be implemented in co-operation with Germany. Further to that, it was considered necessary to co-ordinate our position with Romania, with which an agreement has already been reached to locate the Centre for Co-ordination, Control and Exchange of Information on Black Sea Traffic in the town of Burgas. However, the final decision on that matter will be taken at the meeting of the countries in the region in mid-2003 in the town of Odessa.

***Clarify what is meant with the "further elaboration of secondary legislation in the field of maritime and river border security"(page 11 revised SAP) in relation to the fact that it has been decided not to adopt a separate law on border security as stated in the report on implementation of the SAP.***

The following secondary legislation in the field of maritime and river border security and control will be elaborated and adopted: "Regulation on Task Fulfilment and Co-operation at Sea" and "Regulation on Task Fulfilment and Co-operation along the River Danube". The two regulations will be drafted under the BG 99/IB/JH/01 Phare project in co-operation with experts from the German Federal Border Guard. The elaboration of these regulations is not related to the adoption of a separate Border Security Act, since they are aimed at providing detailed regulation of the powers of the specialised bodies of the National Border Police Service in accordance with the Common Border Control Manual and updating the current Instruction I-219/20.12.1999.

***It is stated that the construction of a new terminal at Sofia airport will start at the end of 2002. Has this deadline been met?***

The deadline has been met. The new terminal at Sofia Airport is under construction.

The 22-month contract with the German-Austrian company STRABAK was signed on 16 December 2002. The terminal will have 5 gate tunnels with the possibility to construct another two; there will be 5 levels and a car park for 800 vehicles.

***It is stated that the new infrastructure will allow for separation of passenger flows. This not clear: in the SAP is mentioned separation for EU citizens and third country nationals, while the additional information mentions that separate lanes for EU/EEA nationals and non-EU/EEA nationals at Sofia Airport are already created. Please clarify, taking into account that the distinction between the separation of EU/EEA and non-EU/EEA nationals (obligatory upon accession) and the separations of Schengen and non-Schengen passengers (upon full implementation of Schengen acquis).***

See the information below.

***For a proper assessment on the issue of separation of passenger flows it necessary to provide the following information. Overview of arrivals (from which countries) on the other airports? Necessary for an assessment whether separation of EU/non-EU and SCH-passengers is necessary.***

The number of EU nationals who entered Bulgaria at airport border checkpoints in the period 01.01.2002 - 31.12.2002 is distributed as follows:

Border-checkpoint - Plovdiv Airport - 3155
Border-checkpoint - Sofia Airport - 135 340
Border-checkpoint - Burgas Airport - 263 938
Border-checkpoint - Varna Airport - 355 405
Border-checkpoint - Gorna Oryahovitsa Airport - 97
Total: 757 935

The number of non-EU nationals who entered Bulgaria at airport border checkpoints in the period 01.01.2002 - 31.12.2002 is distributed as follows:
Border-checkpoint - Plovdiv Airport - 7541
Border-checkpoint - Sofia Airport - 154 601
Border-checkpoint - Burgas Airport - 112 661
Border-checkpoint - Varna Airport - 152 146
Border-checkpoint - Gorna Oryahovitsa Airport - 167
Total: 427 116

***In the first Schengen Action Plan (SAP) it was mentioned to amend the Foreign Nationals Act to regulate the separation of passenger flows. This measure is not mentioned in the revised SAP, while the report on the implementation of the SAP mentions that the present draft amendments do not provide for separation of passenger flows at airports and harbours. Please clarify and indicate when (deadline) these legislative changes will be drafted and adopted. It might be useful to insert this issue again in the revised SAP.***

The Republic of Bulgaria accepts that separation of passenger flows and applying different types of passport and visa control for EU/EEA and non-EU/EEA nationals has to be in place as of accession to the EU. The separation of Schengen and non-Schengen passengers is to be fulfilled upon full implementation of the Schengen *acquis.*

In this connection, there is no need for amendments in the national legislation, as the legal basis for separation of the border control will be the formal Act of accession to the EU, which will incorporate the relevant provisions of the EU *acquis* and will come into force by a ratification instrument adopted by the National Assembly.

According to Art. 5, para 4 of the Constitution of the Republic of Bulgaria, international instruments which have been ratified according to the constitutionally established procedure, promulgated and come into force with respect to the Republic of Bulgaria, shall be considered part of the domestic legislation of the country. They shall supersede any domestic legislation stipulating otherwise.

By that time, the necessary infrastructure for the practical separation of passenger flows at the Bulgarian airports and harbours will be fully established.

***Please provide information on international traffic (ferries etc. and from which countries) which arrives in the seaports. Can we conclude that no infra-structural changes are necessary for the separation of passenger flows?***

At this stage it is not considered necessary to make infrastructure changes in order to separate passenger flows at sea ports.

The number of EU nationals who entered Bulgaria at port border checkpoints in the period 01.01.2002 - 31.12.2002 is distributed as follows:
Border-checkpoint - Balchik - 46
Border-checkpoint - Bourgs - port - 2104
Border-checkpoint - Varna - West - 513
Border-checkpoint - Varna - passenger port - 2655
Border-checkpoint - Varna - port - 960
Border-checkpoint - Vidin - river port - 1270
Border-checkpoint - Rousse - port- 3382
Border-checkpoint - Svishtov - 137
Total: 11 067

The number of non-EU nationals who entered Bulgaria at port border checkpoints in the period 01.01.2002 - 31.12.2002 is distributed as follows:
Border-checkpoint - Balchik - 653
Border-checkpoint - Bourgas - port - 14 983
Border-checkpoint - Varna - West - 10 204
Border-checkpoint - Varna - passenger port - 2819
Border-checkpoint - Varna - port - 14 268
Border-checkpoint - Vidin - river port - 22 932
Border-checkpoint - Rousse - port - 15 218
Border-checkpoint - Svishtov - 1095
Border-checkpoint - Lom - 2826
Border-checkpoint - Somovit - 3162
Border-checkpoint - Tutrakan - 179
Total: 88 339.

The number of EU nationals who entered Bulgaria at ferry border checkpoints in the period 01.01.2002 - 31.12.2002 is distributed as follows:
Border-checkpoint - Bourgas - ferry - 418
Border-checkpoint - Varna - ferry - 10
Border-checkpoint - Vidin - ferry - 5402
Border-checkpoint - Oriahovo - 4914
Border-checkpoint - Rousse - ferry - 190
Total: 10 934

The number of non-EU nationals who entered Bulgaria at ferry border checkpoints in the period 01.01.2002 - 31.12.2002 is distributed as follows:
Border-checkpoint - Bourgas - ferry - 6323
Border-checkpoint - Varna - ferry - 977
Border-checkpoint - Vidin - ferry - 18 731
Border-checkpoint - Oriahovo - 35 431
Border-checkpoint - Rousse - ferry - 42 614
Total: 104 076

## Second set of additional questions – 4th June 2003

***Are separate lanes for EU/EEA and non-EU/EEA passengers created at the airports of Varna, Bourgas and Plovdiv? Are constructions necessary in order to separate Schengen and non-Schengen passengers upon full implementation of the Schengen acquis. (Gorna Oryahovitza most probably not necessary given the number of arrivals at this airport). Please provide the requested information.***
The currently existing infrastructure at the airports in Varna, Burgas and Plovdiv does not allow for physical separation of EU/EEA passengers and non-EU/EEA passengers.
The necessary infrastructure for separating passenger flows at the above-mentioned airports will be in place by the date of EU accession.

***An overview of the number of EU and non-EU nationals arrived at the 5 airport has been provided. However, an overview of which countries (requested in the previous set of additional questions) has not been provided. Please provide this information.***
Border Police authorities perform mandatory border passport and visa control in respect of all persons entering, leaving or transiting through Bulgaria. The border control system contains records of the border crossings of all persons and makes a distinction between EU nationals and non-EU nationals.

Between 1 January 2002 and 31 December 2002 the following number of persons entered Bulgaria at Airport Border Checkpoints: 757,935 EU nationals (including nationals of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Holland, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden and UK) and 427,116 non-EU nationals. Their breakdown is as follows: ***Sofia Airport*** - 135,340 EU nationals and 154,601 non-EU nationals; ***Plovdiv Airport*** - 3,155 EU nationals and 7,541 non-EU nationals; ***Burgas Airport*** - 263,938 EU nationals and 112,661 non-EU nationals; ***Varna Airport*** - 355,405 EU nationals and 152,146 non-EU nationals; ***Gorna Oriahovitsa Airport*** - 97 EU nationals and 167 non-EU nationals.

***Please provide information (for Varna, Burgas, Russe and Lom) on the countries from which passengers are arriving/crossing the seaports/river posts.***

As it was pointed out above, the border control system registers the border crossings of all persons and makes a distinction between EU nationals and non-EU nationals. Between 1 January 2002 and 31 December 2002 the following number of persons entered Bulgaria through port border checkpoints: 11,067 EU nationals (including nationals of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Holland, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden and UK) and 88,339 non-EU nationals. Their breakdown is as follows:

| Port | EU nationals | Non-EU nationals |
|---|---|---|
| Burgas | 2,104 | 14,983 |
| Varna-West | 513 | 10,204 |
| Varna-Harbour Station | 2,655 | 2,819 |
| Varna-Central | 960 | 14,268 |
| Ruse | 3,382 | 15,218 |
| Lom | | 2,826 |

# Reform of the Judiciary

## First set of additional questions /Part I./ - 25th April 2003

### *General*

***Since the amendments to the Judicial System Act, adopted in July 2002 were followed by another set of amendments (due to the ruling of the Constitutional Court), which are in Parliament now, it would be useful to provide an English translation of the proposed amendments. We have an English draft of 10 January 2003, but maybe there have been changes in the mean time.***

The English text that has been sent is still valid since there have been no further changes in the draft amendments to the Judicial System Act of 10 January 2003.

Having in mind the declaration on the reform of the judicial system signed between the political parties and the discussion in plenary during the first reading of the amendments, it is likely that the following measures will be removed from the initial draft:

1. Transformation of the Supreme Judicial Council into a permanent body;
2. Change in the quotas for judges, prosecutors and investigators;
3. The general meeting (of representatives of the court, prosecution offices and investigation service) for nomination and election of members of the Supreme Judicial Council from the judicial system.

The discarding of the above provisions is motivated by the emerging ideas for changes in the Constitution of the Republic of Bulgaria relating to the place of investigation and prosecution authorities and, hence, new functions, powers and membership of the Supreme Judicial Council.

### *Specific and related to the last questions of the EUCP*

***Enforcing judgements and reducing court proceedings: What is the date of first reading in Parliament of the amendments to the Civil Procedure Code? Are they adopted finally? If so, when and the date of entering into force. (take into account the actions mentioned in the Action Plan on the updated Strategy Reform of the Judiciary)?***

The amendments to the Civil Procedure Code were adopted by the National Assembly on 24 October 2002 and promulgated in the State Gazette (No. 105/2002) on 8 November 2002. They entered in force on 12 November 2002.

***Has the adoption (if they are adopted) lead to improvements in the duration of court proceedings in civil cases?***

The information provided by Bulgaria gives in detail the measures for enforcement of accelerated civil proceedings, procedural economy and procedural discipline:

- Improve subpoena serving mechanism;
- Improve the mechanism for court rulings notification;
- Relieve the Supreme Cassation Court from cases involving little material interest;
- Improve and speed up executive proceedings.

It takes a larger period of time to make a complete analysis of the effectiveness and efficiency of the adopted amendments. Improvements in the area of employment cases can at this point though be mentioned as a good example. The adopted amendments have been instrumental for speeding-up the process with regard to employment cases where a two-instance procedure has been introduced (exception: adjudication of illegal disciplinary dismissal). They introduced legal regulation for the quick proceedings in labour disputes or disputes concerning offences against trademarks, geographical indications, copyright and neighbouring rights as well as the civil legal status of persons. The changes in the cassation proceedings related to reducing the possibilities for returning cases from the cassation instance to the appellate instance have also lead to faster settlement of disputes.

***What is the exact state of play as regard the amendments to the Penal Procedure Code? (see also Action Plan on the updated Strategy Reform of the Judiciary)***

The amendments to the Penal Procedure Code were adopted at a first reading in Parliament on 20 February 2003. It is expected that the National Assembly will pass them by the end of its first session (by the end of July 2003).

The major changes include:

- In order to achieve speedy and efficient procedures, it is envisaged that for some criminal offences of general nature – those which do not present serious danger to the public and are respectively 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 if the indictment brought against them is three years old in the case of a serious crime and two years old 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).

***What are the "existing conflicts in the current law, which have lead to serious procedural delays" (page 34 CONF-BG 55/02)?***

The following basic weak points and gaps in the current law have been identified:

- The current three-instance appeal of court rulings and the replacement of detention measures with lighter ones practically leads to a "process in the process", slowing down the progress of the procedure. That is contradictory to the requirements of the European Convention on Human Rights and fundamental Freedoms to conclude cases within "reasonable time limits".
- Existing loopholes and ambiguities with regard to the powers of the judge and the prosecutor after the criminal procedure has been terminated.
- Certain provisions create practical blockages to the agreement option, which has proven its efficiency, by permitting the participation in the court proceedings of the damaged person and his/her lawyer, which overburdens the system and, therefore, prevents the prompt settlement of the case between the state and the defendant.

The draft amendments to the *Penal Procedure Code* are aimed at overcoming the established obstacles in the current law that are causing procedural delays. Moreover, they provide for a radical measure seeking closure of cases accumulated in the investigation and prosecution authorities and future acceleration of criminal proceedings (the deadlines of 2 and 3 years in the Legal Commission are decreased to 1 and 2 years).

***What is the average time for court proceedings in civil and criminal cases? Information should cover 2001 and 2002.***

Information on the average duration of court proceedings is provided in the tables below:

| Courts: 2001 | **Total number of resolved cases** | **Up to three months** | | **More than three months** | |
|---|---|---|---|---|---|
| | | **Number** | **%** | **Number** | **%** |
| **District Courts:** | | | | | |
| Criminal cases: | 1782 | 893 | 50,11 | 889 | 49,89 |
| Civil cases: | 72674 | 53389 | 73,46 | 19285 | 26,54 |
| **Regional Courts:** | | | | | |
| Criminal cases: | 30710 | 19107 | 62,22 | 11603 | 37,78 |
| Civil cases: | 402186 | 335521 | 83,42 | 66665 | 16,58 |
| **TOTAL** | 507352 | 408910 | 80,60 | 98442 | 19,40 |

| **Courts: 2002** | **Total number of resolved cases** | **Up to three months** | | **More than three months** | |
|---|---|---|---|---|---|
| | | Number | **%** | **Number** | **%** |
| **District Courts:** | | | | | |
| Criminal cases: | 1889 | 828 | 43,83 | 1061 | 56,17 |
| Civil cases: | 69491 | 51861 | 74,38 | 17630 | 25,32 |
| **Regional Courts:** | | | | | |
| Criminal cases: | 33 939 | 19 494 | 57,44 | 14 445 | 42,56 |
| Civil cases: | 150 301 | 93 659 | 62,31 | 56 642 | 37,69 |
| **TOTAL** | 255 620 | 165 842 | 64,88 | 89 778 | 35,12 |

The above data outline a certain improvement in the work of judges with regard to duration of court proceedings. It is especially evident with the hearing of civil cases despite the heavy workload of judges.

The duration of criminal proceedings heard by district courts for more than three months is determined by the factual and legal complexity of most of them and the efforts of the judges to achieve full clarity and establish the truth.

Generally, it is deemed that there are efforts to resolve the cases within reasonable time limits.

***Please provide statistics on the number of criminal and civil cases over the previous years (2001-first three months 2003) including those dealt with. What is the number of backlogs over these years?***

| **Courts: 2001** | **Total number of filed cases** | **Resolved cases** | **Unresolved cases at the end of the period under review** |
|---|---|---|---|
| | **Number** | **Number** | **Number** |
| **District Courts:** | | | |
| Criminal cases: | 2852 | 1782 | 1070 |
| Civil cases: | 97470 | 72674 | 24796 |
| **Regional Courts:** | | | |
| Criminal cases: | 46017 | 30710 | 15307 |
| Civil cases: | 466246 | 402186 | 64060 |

| **Courts: 2002** | **Total number of filed cases** | *Resolved cases* | **Unresolved cases at the end of the period under review** |
|---|---|---|---|
| | **Number** | **Number** | **Number** |
| **District Courts:** | | | |
| Criminal cases: | 3296 | 1889 | 1407 |
| Civil cases: | 91517 | 69491 | 22026 |
| **Regional Courts:** | | | |
| Criminal cases: | 47499 | 31329 | 16170 |
| Civil cases: | 460588 | 403259 | 57329 |

***Just a clarification: in the additional information (page 36) "new" Judicial System Act is mentioned, where in our opinion the amendments to the JSA are meant. Is this correct?***
That is a laxity of expression. What is meant in the supplementary information is the amendments to the Judicial System Act.

***Article 188c of the amendments to the JSA states: " Court staff shall perform their duties as specified in their job descriptions impartially and accurately", while the additional information states that this article specifies the managerial and organisational functions of court administrators. Please clarify.***
That article has been misquoted in the supplementary information. Article 188r introduces the "court administrator" and regulates its organisational and managerial functions with regard to court staff and the administrative work in court.

***Which articles of the amendments to the JSA introduce the positions of "court administrator" and "judicial assistant"?***

Article 188q introduces the position of "court administrator" and Article 148a – the position of "court assistant".

Article 188q. (New, SG 74/02) (1) The courts and the prosecution offices shall have judicial administrators. The judicial administrator shall plan, organise and manage the judicial employees, shall be responsible for the management of the administrative activity in the court, shall introduce programme decisions on the long-term planning, the budget policy, the finance, the automation and procurement of equipment.

(2) The requirements for occupying the position, as well as the conditions and the order of appointing the judicial administrator shall be determined by the regulations under Article 188, Paragraph 1.

(3) The judicial administrator shall receive basic remuneration amounting to 80 percent of the basic remuneration of a judge in a regional court.

(4) The judicial administrator shall be politically neutral in fulfilment of his official duties.

Article 148a. (New, SG 74/02) (1) Appointed as a court assistant in the Supreme Cassation Court and in the Supreme Administrative Court can be a person meeting the requirements of Article 126. Court assistants shall be appointed by the respective administrative head.

(2) Upon completion of a six-month training in the National Institute of Justice the court candidates can be employed for the remainder of the term under Article 35g, Paragraph 2 as court assistants at the proposal of the managing board of the National Institute of Justice.

(3) The court assistants shall assist the judges in their activity.

***Can these two new positions be considered as "magistrates". If not, please clarify why they are mentioned under the question of upgrading the status of magistrates.***

The court administrator and the court assistant are not magistrates since their official functions and level of education are not legible for a magistrate's position.

They are mentioned in the Supplementary Information with regard to speeding up court procedures by taking over some of the administrative tasks of judges rather than upgrading the status of magistrates.

***Have the costs for social and health insurance been paid from the state budget in 2002 according to article 139c? Has any financial compensation been paid in 2002 according to article 139d? Is there sufficient money in the budget for 2003 to cover these costs. This in relation to the decrease of the budget for 2003 on the proposal of the Ministry of Finance.***

The costs for social and health insurance were not paid out of the state budget in 2002, since the provision of Article 139c of the Judicial System Amending Act of 30 July 2002 entered into force on 1 January 2003.

In 2002, financial compensations under Article 139d were paid only to magistrates. Court administrators will be paid such compensations as of 1 January 2003. the necessary resources have been included in the consolidated State Budget 2003.

***Is there an estimate of the number of "sufficient" staff for security of courts? (we have heard the number of 400) and are special funds in the budget for 2003?***

The Rules of Procedure of the Ministry of Justice envisages 400 people for court security. The Council of Ministers will adopt a Decree whereby their number will be increased to 503. The Decree is under interagency review pending presentation to a meeting of the Council of Ministers for consideration. The 2003 budget has allocated funds for remuneration and insurance.

***Establishment of specialised administrative courts: has Phare project been started? According to our information it has just started and will finish at the end of 2004 and not at the end of 2003 as is stated in the additional information. When will it end? Outcome? When will specialised administrative courts be established. Action plan on the updated Strategy mention "third quarter 2003" as a deadline, which is the deadline for establishing a working group. According to the other deadlines mentioned it can be stated that all necessary measures (including drafting, adoption and implementation of the necessary legislation) will be finalised in the fourth quarter of 2005. Is this a correct interpretation?***

The twinning partner for the Improvement of Administrative Justice in view of the Fight Against Corruption Project under the Phare Programme 2002 has been selected and the conclusion of a Twinning Covenant is forthcoming. The project will finish in 2005. The expected results are: establishment of contemporary system for administrative justice in compliance with the best EU practices both in terms of legislation and administrative courts; unification, synchronisation and systematisation of the administrative legislation through the elaboration of an *Administrative Procedure Code*.

According to the updated Action Plan for Implementation of the Judicial Reform Strategy, all necessary measures will be completed by the end of 2005, *viz*. drafting, adopting and implementing the legal acts relating to the reform of the administrative justice, including establishment of administrative courts.

There is a working group of Bulgarian experts who will elaborate a draft Administrative Procedure Code by May 2004. In the process of preparing specific sections and provisions the working group will hold consultations with the German experts provided under the Phare Programme. The objective is that a draft be presented to the National Assembly by the Council of Ministers at the end of 2004.

***UN Development Programme: has the task force on commercial matters finished it works within the given deadline (end 2002)? Has the national conference (early 2003) taken place? What are the results and when will these been implemented? This also in relation with the Action Plan on the updated Strategy, where it is stated that a working group etc. in the "third quarter 2003", but no further actions are envisaged.***

The UN Development Programme has concluded the work under the Comprehensive Review of the System of Administrative and Commercial Justice in Bulgaria Project within the deadlines. On the basis of a survey of commercial law, the working group on commercial matters composed of both Bulgarian and foreign experts has issued a report with concrete recommendations for improvement of the commercial justice system in Bulgaria. The report was presented and discussed at a National Conference on "Reform of Commercial Justice in Bulgaria" held on 31 January 2003.

Based on the conclusions and recommendations of the report and the conference, it was decided to restructure the commercial justice system through establishing permanent commercial departments under certain district courts instead of establishing specialised commercial courts. The determination of the territorial coverage and the number of commercial departments, as well as the drafting and adoption of the necessary legislative amendments in that respect, have been included as a priority action by the end of the third quarter of 2003 in the updated Judicial Reform Strategy (approved by Council of Ministers Decision of 3 April 2003) and its implementing Action Plan. The amendments to the Judicial System Act provide for the establishment of a commercial body under the Supreme Cassation Court.

## First set of additional questions /Part II./ - 30th April 2003

***Deadlines that were mentioned for medium term and long term actions are not consistent with the "time frame" mentioned for those actions in the updated Strategy.***

The deadlines set out in the updated Plan are consistent with the time frame provided for in the updated Strategy.

***A complete overview with details on the affected priorities, including for which parts in the JSA a change of the constitution is necessary is needed. This will enable us to assess how the updated Strategy takes into account the ruling of the Constitutional Court of 17 December 2002 and of 10 April 2003.***

The updated version of the Strategy for reform of the judiciary is the result of substantially implemented short-term priorities, on one hand, and changes in the political and the social and economic situation in the country, on the other.

The update is partly resulting from the Ruling of the Constitutional Court of the Republic of Bulgaria No. 13 of 16 December 2002.

The definition of the new priorities is resulting from the necessity of establishing conditions for prompt, efficient and quality justice, which on their turn, are stemming from material and procedural laws.

The concept provides for the elaboration of new codes of civil procedure, penal procedure and administrative procedure, however, as this entails a long and complex process, the first stage of the latter contains amendments of the existing rules of procedure.

For example, in November 2002, amendments of the Code of Civil Procedure were adopted, which ensure promptness and efficiency of civil and executive proceedings.

Amendments of the Code of Penal Procedure have been elaborated and adopted on the first reading. They shall be finally adopted by the Parliament by the end of June and shall become part of the existing legislation.

In the same time, preparation under the PHARE Programme for codification of the administrative justice is underway concerning the elaboration of a code of administrative procedure.

Our proposals regarding PHARE 2003 projects related to the elaboration of new codes of civil and penal procedure have been approved.

As far as the substantive law is concerned, serious amendments of the Law on Commerce, Family Code have been prepared and are to be adopted, as well as the elaboration of completely new laws, such as the Law on the Commercial Register, Law on International Private Law, Law on Execution of Penalties, Family Code, etc.

Amendments in the Constitution of the Republic of Bulgaria, Chapter “Judiciary” are needed concerning the immunity, irremovability and mandate of magistrates. The issues on constitutional amendments related to the composition, powers and the mandate of the Supreme Judicial Council, the relations between the Minister of Justice and the Supreme Judicial Council, are subject to discussion.

Relevant amendments in the Law on Judiciary are to be made in view of the specific amendments of the Constitution of the Republic of Bulgaria. For example, the principle of irremovability is related to development and improvement of the procedures regarding disciplinary proceedings and related proceedings.

Mandate principle is related to rotation of all senior officers within the judiciary as well as their mandate, election, powers.

The updated version of the Strategy is not consistent with the Ruling of the Constitutional Court of 10 April 2003 as it has been adopted prior to that date. The problems addressed by that Ruling of the Constitutional Court concern mainly amendments of the Constitution of the Republic of Bulgaria, which is, in the first place, a political and public act.

The role of the Ministry of Justice in this process may be a supporting, however, not a decisive one.

***It would also be necessary to provide information for which of those necessary changes in the Constitution a Grand National Assembly is required (this would mean the dissolution of the current Parliament and new elections). <u>It is already clear that this is necessary for the required changes in the pre-trial phase and the position of investigators</u>.***

The powers of the Grand National Assembly have been precisely and comprehensively laid down in Article 158 of the Constitution of the Republic of Bulgaria. The ruling of the Constitutional Court of 10 April 2003 raised a question related to the removal of the investigation and prosecution authorities from the judiciary, and hence necessity for such amendments to be adopted by the Grand National Assembly.

The Ministry of Justice is of the opinion that the problems of these two units may be solved within the framework of the current constitutional model. The improvement of the performance of the prosecution authorities and the introduction of the principle of transparency may be achieved by amending the existing legislation ( the Code of Penal Procedure and the Law on Judiciary), by elaborating a special law on the structure of judiciary, respectively.
The problem of the investigation authorities and the proposals for the solution thereof are laid down in detail in a number of communications submitted to the European Commission as well as in point 22 of this Statement. It should be noted that the convocation of the Grand National Assembly should be preceded by the preparation of the required amendments of the Constitution.

***The updated Strategy does <u>not</u> reflect the reforms needed in the Public Prosecution Service. Please clarify and taking into account that representatives of the Ministry of Justice and the Supreme Judicial Council have declared that the necessary changes can be made within the current constitutional framework through amendments to the JSA.***
Two approaches are possible:

1. Further developing and supplementing the Law on Judiciary by provisions on the structure and the functions of the prosecution;
2. Elaborating and adopting a separate law governing the structure and the functions of the prosecution.

Both approaches shall be subject of discussion within the ad-hoc commission already established with the National Assembly to draw up drafts of amendments of the Constitution of the Republic of Bulgaria concerning a reform of the judiciary.
Improvement of the activities of the prosecution authorities shall also be achieved by the amendments of the Bulgarian Code of Penal Procedure proposed and adopted at first reading.

***Is the period 2003-2007 meant with the "five year period" mentioned in the Strategy and its update?***
The updated Strategy does not change the five year period initially set. Within the same period the updated Strategy:

- defines new priorities required by the implementation of those initially laid down and consistent with the development of the political, social and economic relations;
- modifies the time limits for the implementation of certain priorities in accordance with the actual possibilities for the implementation thereof.

As evident from the time limits set in the updated Strategy and the Plan for its implementation, no priorities have been laid down for 2007.

***What is the state of play for drafting and adopting secondary legislation for the implementation of the amended JSA envisaged for the end of January 2003 (i.e. articles 351, 35, 36, 102, 188, 127a, 129 and § 107 of the final provisions)?***
1.The Law on Judiciary does not contain **Article 351**, probably it is due to misquotation;
a secondary legislation has been adopted to support the implementation of the law in the following fields:
2. **<u>Article 35</u>** of the Law on Judiciary: The structural units established under the Law (responsible for court activities, professional qualification, information technologies, counteracting crime, court buildings and judicial security) have been subsequently provided for, as follows:
2.1.**Court activities:** the status and the functions of the Court Activities Directorate are provided for in Article 24, item 1 and Article 25 of Section VII (Specialised Administration) of the Rules on the Structure of the Ministry of Justice.
2.2.**Professional qualification:** As a result of the repealing effect of the Ruling of the Constitutional Court regarding constitutional case No. 13/2002, the Supreme Judicial Council is the responsible authority for the initial, current and subsequent training of magistrates, as well as for the National Institute of Justice. Framework rules of procedure of the Institute have been drafted and shall be examined and discussed by the Supreme Judicial Council in May 2002.

2.3.**Information technologies:** the status and the functions of the Information Services and Technologies Directorate are provided for in Article 22 of Section VI (General Administration) of the Rules on the Structure of the Ministry of Justice.
Decree of the Council of Ministers No 311 of 20 December 2002 on the financing of the Unified Information System for Counteracting Crime (UISCC) has been adopted (published, SG No. 120 of 29 December 2002).
2.4. **Counteracting crime and criminological research**: Under the Rules on the Structure of the Ministry of Justice the following structures have been established: in Article 22 of Section VI (General Administration), the Information Services and Technologies Directorate, and in Article 25, item 4 of Section VII (Specialised Administration), the Institute of Criminological Research, which provide for the legal basis for the implementation of these activities.
Decree of the Council of Ministers No 311 of 20 December 2002 on the financing of the Unified Information System for Counteracting Crime (UISCC) has been adopted (published, SG No. 120 of 29 December 2002).
2.5. **Court buildings:** In accordance with Article 16, Section III of the Rules on the Structure of the Ministry of Justice, the Inspectorate provided for in Article 46 of the Law on Administration shall perform financial audits on the proper payments of the contributions to Court Buildings Fund; in accordance with Article 21 the Directorate of Financial and Economic Activities and Property Management shall organise the financing of the sites requiring overhaul and the construction of new building through the Court Buildings Fund; organise and hold the public procurement procedures intended for the Ministry and in regard with the spending of resources from the Court Buildings Fund; draft proposals for repairs and construction and installation works financed through the budget of the Ministry and the Court Buildings Fund.
2.6. **Security**: Article 30 of Rules on the Structure of the Ministry of Justice provides for the place and functions of the General Directorate of Security. The structure, the organization and its activities are laid down in detail in *Ordinance No. 1 of 30 January 2003 on the Structure, organization and activities of the bodies responsible for the security of the judicial authorities, issued by the Minister of Justice and published in SG No. 11 of 5 February 2003*.
The commanding staff has been already appointed by regions and currently recruitment competitions are held to fill in the vacancies at the Directorate. The budget for the recruitment of 500 officers by the end of 2003 has been provided.
3. **Article 36 of the Law on Judiciary** does not provide for any secondary legislation. Probably Article 36e of the Law on Judiciary has been meant, which constitutes a delegation by law – the collection and spending of resources from Court Buildings Fund and Prison Buildings Fund shall be governed by an Ordinance adopted by the Minister of Justice and the Minister of Finance - for the draft of which has been already prepared and is under a process of consultation.
4. **Art.102 JSA** – para. 5 of the text sends on to the Ordinance, provided for in Art.51 of JSA, which sets the order for appointment of jurymen, the amount of their remuneration, and the organisation of their activities. This is the issued by the Minister of Justice ORDINANCE No.27 of 13.12.1994, which is adjusted in compliance to the JSA of 2002 with amendments, promulgated in SG No.9 of 31.01.2003.
5. Art.188 JSA:
5.1. Art.188, para.1 JSA – There is no decision of the SJC on approval of ordinances, with which the Presidents of the Supreme Court of Cassation, of the Supreme Administrative, the Chief Prosecutor, and the Director of the National Investigation Services ought to specify the bodies for appointment, the units of administration, their functional characteristics, the organisation of work in the administration of the bodies of the judicial power, the positions' roster, the standard position-records of court employees, as well as with which bodies of the judicial power should be established Press-Offices.
5.2. Art.188, para.2 JSA - With Protocol No.8 of 26.02.2003, the Supreme Judicial Council approved the Uniform Classifier of positions of employees in the judicial administrations of the bodies of the judicial power, as provided for by the JSA.

5.3. Art.188, para.3 JSA – An Ordinance on the organisation of the judicial administration, on the functions of the services with the district, regional, martial and appellate courts, and on the statute of court employees, is elaborated and is in the process of coordination
6. **Art.127a JSA** – With Protocol No.14 of 09.04.2003, the Supreme Judicial Council approved the Ordinance about the conditions and about the order of holding competitions for appointment of magistrates, as provided for by the JSA.
7**. Art.129 JSA –** There is no draft of Ordinance about the certification of magistrates, elaborated up to now by the SJC, as provided for by the text of JSA cited.
8. **§ 107 of the Transitional and concluding provisions of the JSA** – the provision in the text for an Act of the Council of Ministers, is adopted - Decree No.311/20.12.2002 for financing the Unified Information System for Counteracting the Crime (UISCC), promulg. SG, No.120 of 29.12.2002.

***In the Strategy of October 2001 are mentioned 3 periods: short-term - 2002, medium-term priorities - 2003-2004, and long-term priorities - 2005-2006. In the updated Strategy - respectively 2003, 2004-2005, and 2006. Comparing the first Action Plan of March 2002 with the (final) updated Action Plan (of April 2003) it can be concluded that most actions are still the same, only with different deadlines (mostly one or more years later). This leads to the conclusion that within the period between the adoption of the (first) Strategy (October 2001) until today (April 2003) no significant progress has been made. The considerable "slippage" in deadlines does not contribute to a credible Action Plan for the implementation of the Strategy on the Reform of the Judiciary.***

***Please clarify.***
To the EC has been submitted a Progress Report about the implementation of the Action Plan on the Strategy of October 2001. All activities, which have been of exclusive competence of the Government, are fulfilled. The ones repeated in the updated Action Plan, are in result of a delay for objective reasons - the bringing of the Law on Judiciary to the Constitutional Court, and its subsequent judgement on that. All priorities tackled by the Constitutional Court Decision of 2002, are postponed for the period of January-September 2003 as short-term priorities, and are fulfilled in conformity with the terms envisaged (for example - the Law on amendment and supplement to the JSA, which was submitted to the National Assembly, and passed in first reading). The transition of some priorities to the medium-term frame is dictated by the necessity of adherence to the normal procedures and sequence of activities, as well as with a view to their genuine realization.

***According to the Declaration on the Judiciary, amendments will be made to the statutory legislation. Amendments to which Law(s) are meant? Shall the envisaged amendments contain the definition of the status of judges, prosecutors and investigators, the regulations on guarantees and on career prevision, improvement of the regime of the disciplinary procedures and implementation of criteria for interrupting the irremovability, and definition of criteria for impartiality and objectivity in the process of work? Please clarify, also in relation to Chapter XIV, where under long-term priorities, "drafting of a new Law on the Judiciary" is mentioned.***
In the Declaration it is provided for "amendments of the rules-of-procedure, substantive and procedural legislation". Envisaged are amendments to the Law on Judiciary, to the Civil Procedure Code, and to the Penal Procedure Code.
The Law on Judiciary regularizes the statute of magistrates, their professional maturity, the disciplinary procedures in the framework of the Constitution in force, and in conformity with the Constitutional Court Decisions.
In regard to the criteria for impartiality and objectivity in the process of work, the matter is subject to regularization by the procedural laws, and in particular - the possibilities of recusation, self-recusation inclusive - leading to the consideration of a case by another court of equal instance (Art.Art.12-14 CPC; Art.Art.25-27 PPC), as well as the measures laid down in the Strategy and in the Action Plan for its implementation, manifested through the normative regulation of the random assignment of cases.

As regards the criteria for interrupting irremovability of a magistrate, they are covered by the existing Law on Judiciary, and as far as the implementation of such criteria is concerned this is not and may not be governed by law as it is a matter of practice of the Supreme Judicial Council.
The drafting of a new Law on Judiciary is related to the adoption of amendments of the Constitution Chapter on the Judiciary and definition of the relevant place and role of the investigation and prosecution authorities, the composition and powers of the Supreme Judicial Council, the immunity and irremovability of magistrates, and the term of office of the administrative heads within the judiciary.

***Supreme Judicial Council (SJC): it is known that the capacity (staff) of the SJC is very limited and need to be strengthened in order to carry out those new powers and the actions of the Strategy on the Reform, most of which are the responsibility of the SJC. SJC consists of judges, prosecutors and investigators, but there is no indication that there is sufficient administrative staff to support and to do the real "groundwork". "Strengthening the capacity of the SJC" is mentioned as a medium term priority (according to the Strategy 2004-2005), while according to the Action Plan and the ruling of the Constitutional Courts most of the actions planned are the responsibility of the SJC. Please provide information on the actual staff of the SJC and clarify how it will be possible that all the short-term actions can be implemented within the given deadlines.***
The number of employees at the administration of the Supreme Judicial Council is 58 for 2003, out of which 39 have been already filled in. Filling in the offices provided for shall strengthen the capacity of the Supreme Judicial Council for the implementation of the duties assigned to it.

***Budget: budget for the judiciary is already now very limited. Almost 80´% is allocated for salaries. Limited funds for infrastructure and almost nothing for implementation actions based upon the strategy for the reform of the judiciary. Influence of CoM on the annual budget is also worrying and although the rules have been changed in the amendments of the JSA, the budget for 2003 has been decreased by the CoM (Minister of Finance). Please clarify how this will be addressed for the budget for 2004 and the following years.***
According to the provisions of Article 196 of the Law on the Judiciary (LJ), the judiciary has its own budget, which is a part of the state budget of the Republic of Bulgaria.
It is drafted by the Supreme Judicial Council (SJC) and it can not be amended either by Ministry of Justice (MJ) or by Council of Ministers. In the frames of its power, the Minister of Justice performs support every year for additional resources for the budget for the judiciary.
Increasing of the absolute value and of the percentage proportion of the budget for the judiciary in comparison with the state budget has been found out from the comparable table attached for the proportions of the budget for the judiciary in comparison with the state budget.
The problems with the budgeting for the judiciary are still coming out from the limited amount of the state budget.
According to the present LG in force, both MJ and SJC have functions on acquiring, building and equipment of the court premises. Structural units have been formed. They are financially ensured for that aim and are well functioning.
A system for implementing of annual passportisation of the premises fund has been introduced, which gives an idea for the necessity of reconstruction of the existing premises, the necessity of new premises and from here – the necessity of planning resources for them. The major part of the court premises meets the European working standards. The conference rooms and the offices of the judges are provided with modern equipment. Good working conditions have been ensured for the magistrates.
The amount of 13 400 000 leva has been additionally given during the 2002 budget year with Council of Ministers decision No 678/22.10.2002 for implementation of the structural reform of the judiciary.
The amount of 15 000 000 leva has been planned for the structural reform of the judiciary into the state budget for 2003.

***Budget: on page 18 of the updated Action Plan (actions 2 and 3) the establishment of two units are mentioned with a deadline "current". Have these unit been established and what are the exact improvements of its establishment?***

In the updated Action Plan, an establishment of units or alternatively – assignment of obligations to existing administrative structures in the MJ and SJC for coordination and implementation of the activities of both institutions, in connection with provision and promotion of the year budget for the judiciary was provided. The deadline is the fourth trimester of 2003.

By now, no such units have been established but the existing ones practically coordinate their activities.

There is structurally established unit in the MJ – department "Property management and assignment of public procurement" where 12 employees are currently working. Part of the activities which are carried out by the department include:

- Performing technical and methodological support to the courts on the issues of large scale constructions;
- Drafting proposals for reconstructions and construction and installation works financed by the budget of MJ and "Judiciary premises" fund;
- Organizing and performing procedures on public procurement for the necessity of MJ and in connection with resource expenditure of "Judiciary premises" fund; performing control over the implementation of assigned contracts for public procurement.

***Training: although establishment of the National Institute of Justice has, according to the Minister of Justice, not been affected by the ruling it is not clear whether there is funding for this establishment. Its predecessor – the National Training Centre for legal and judicial professions was complete funded by foreign donors. Furthermore, the new Institute seems to focus on initial training and does not mention anything about the further (professional) training of judges and magistrates, granted in the JSA***

With the amendments of the LJ from August 2002, obligatory training of magistrates was introduced, which have to be carried out by the National Institute of Justice (NIJ). Initially, the law provided the Institute to be secondary body disposing with budget resources under the authority of the Minister of Justice. This was also one of the texts which were appealed before the Constitutional Court of Bulgaria. With Decision No 13/2002, the Constitutional Court proclaimed as anti-constitutional only the provisions related to the place of the NIJ, with the motive that the NIJ is supporting the professional training of the magistrates, and it should not be under the authority of the Minister of Justice. The last amendments and supplements (approved by the Council of Ministers and adopted by the National Assembly at the first reading), provide the Institute to have legal personality under the authority of the SJC and it to be funded by the state budget, by international and other programmes and projects, by donations and by its own activity.

At the meeting organized on 12.02.2003 (Protocol No 6), SJC adopted decision, which expressed the common understanding and agreement of NIJ to build up on the Magistrate Training Center (MTC) and to use the advantages of MTC under the following conditions :

- NIJ to be administrative, financial and operative independent body, in relation to the requirements of European Charter on the statute for judges.
- The MTC staff to have the possibility to be reappointed in NIJ.
- To provide possibility part of the MTC property to be transferred to NIJ.
- NIJ to keep and extend the MTC training staff on the corresponding training programmes according to the Rules of Procedures of the Institute.
- NIJ to act as a party on the NTS current projects and programmes, in accordance to the corresponding partners and sponsors.

With its decision the SJC defined also that until the beginning of NIJ activities, the advancing qualification of the judges, prosecutors and investigators should be implemented by MTC.

A concept has been drafted for Rules of Procedures which to manage and organized the activity of NIJ, and its final adoption by SJC is expected until the end of July. In the frames of the cooperation with Spain, the experience of the Spanish school for training of magistrates has been used in the drafting of the Rules of Procedures.

Currently, judges and prosecutors who won competitions for junior judges and prosecutors have been trained under the MTC acting programme for initial training until the beginning of the obligatory training regulated by LJ.
The SJC adopted and approved qualification programme for initial training of magistrates and for advancing their qualification.
The Minister of Justice, as member of the Managing Board of MTC, took an obligation for performing the actions necessary to provide the proper premises for the necessities of the administration and educational activities of NIJ. By now, the MJ has provided premises and equipment to the NIJ, which the Center uses in its activity.
To ensure the financial independency of the Institute and to guarantee its normal functioning, the necessary budget resources have been provided and defined. The MJ will continue to support actively to ensure enough state funding for the magistrate training at NIJ.
In budget 2003 of MJ, resources have been planned to cover the expenses for appointment of 15 officers staff in the Institute. Soon they should be transferred from the budget of MJ to the budget for judiciary.
Information for the training of magistrates during 2002 until April 2003 is attached.

***Chapter IV: action 3 (1) "Conduct a training needs assessment of administrative staff", has the deadline (first quarter of 2003) been met?***
The deadline has been met.
The assessment included court officers in appeal, courts martial of appeal and district courts. A total number of 938 court officers from 62 courts have been interviewed. The duration of the professional experience of court officers interviewed varied, the share of those having an experience between 7 and 12 years being ¼ of all the persons interviewed. 87.3% of the court officers interviewed had no knowledge of foreign languages. Only 5.65% of the court officers interviewed had attended computer training courses. Computer technologies have been ranked first, among the three topics suggested, by the court officers interviewed. Basic computer training was considered useful. More than one half of the court officers interviewed highly ranked the topics of Communication Skills and Customer Service under the Main Activities Section. Respondents have given great importance also to the topics of *How to Handle Difficult Customers* and *How to Reduce Stress*. Streamlining workflow processes was considered priority under the Work Processes Section.

***Chapter VI: this (new) chapter ("improvement of the structure") should be more comprehensive taking into account the statements in the 2002 Regular Report on the lack of necessary structural changes in the judiciary. (see for more details point 2 of the above mentioned remark).***
The problem. pointed out through this question should be discussed in two aspects:

1. According to Decision N3/10.04.2003 of the Constitutional Court of the Republic of Bulgaria, under: "structure of the judiciary" must be understood its composition. By now it includes 3 independent units: court, prosecution and investigation. Change in this structure, performing exclusion of the investigation and the prosecution from the judiciary is possible only through constitutional amendments, adopted by a Great National Assembly. The strategy provides rationalization of the operation of the investigation and the prosecution, respectively – improvement of the structure of the judiciary within the frames of the acting constitutional model.

What are the directions:
a/ Prosecution – keeping its place in the judiciary and improving its operation through drafting of a special structural law and amendments of the PPC;
b/ Investigation -keeping its place in the judiciary at a clear, exact and comprehensive definition of its functions and powers. A specialized unit under the Ministry of Interior is established (investigation staff), which should take about 90-95% of the investigations – see Decree N73 of 31.03.2003 for acquiring additional funds from 2003 central budget to the budget of the Ministry of Interior for establishing specialized structures for police investigation, published in SG, N32/08/04/2003.

The investigation will limit its activity in two directions:

- investigation of certain crimes against certain kind of public legal relations (ex: against peace and humanity, against the Republic, etc.).
- investigation of crimes, committed by a certain category of persons (in reference to the subject of crime – MPs, politicians, magistrates).

2. Improvement of the judiciary structure through establishing specialized courts. The purpose is through promoting the qualification and specialization of the judges to achieve higher quality, effectiveness and speed of the judicial procedures.

The Constitution (Art. 119, Para. 2) allows establishing of specialized courts and such will be created in the area of the administrative and commercial court procedure.

***Chapter XII: nothing is mentioned for the <u>implementation</u> of the amendments to the Constitution and nothing on necessary amendments to other parts of the legislation (i.e. Penal Procedure Code) and other related secondary legislation. Please clarify.***

Amendments in the Constitution of the Republic of Bulgaria are needed in order to the country's accession to NATO and the EU, and conducting in depth the reform in the judiciary. The reform in the judiciary requires new provisions for the immunity of magistrates and making it functional; defining of hypotheses which may admit derivations from the irremovability principle – ex: lack of professional qualities as motive for discharge from position. Amendments are needed, connected with the mandate of the heads of units on all levels of the judiciary.

In view of the achieved political consensus for amendments in the judiciary, it is needed to regulate the election procedure, the composition, powers and mandate of the SJC (whether it will include as up to now, representatives of the court, the investigation and the prosecution, or it will be composed only of judges; whether part of its staff will be elected by the National Assembly, and what majority; whether it will be a permanently acting body, or will meet on sessions).

The amendments of the country legislation may be examined in 3 aspects:

a/ amendments in the substantive laws

b/ amendments in the procedural laws;

c/ harmonization of the national legislation with the *acquis.*

***Chapter XI: in the Action Plan of March 2002 (CONF-BG 55/02 ADD 16) specifications and deadlines were mentioned, which have now disappeared. Please explain/clarify amendments to which legislation are meant and the relation with chapter XII, XIII and XIV.***

Chapter XI from the Action Plan of March 2002 has been named "Access to Justice". In the Action Plan of 2003 this Chapter has found its systematic place with consequent number XV and has been named "Provision of Equal Access to Justice".

All specifications and deadlines have been duly pointed out in the up-dated Action Plan. Chapter XI of the up-dated Acted Plan has been named "Legal Amendments" and the major actions to be performed have been laid down in it, in view of preparing, elaborating and adopting of a legal framework as a whole, while in the subsequent chapters XII, XIII and XIV the legal instruments, which should be amended or adopted, have been developed in hierarchical order while the stress has been put on those related to the judiciary; (Chapter XII - the Constitution, Chapter XIII – procedural laws); Laws which should be amended or adopted in view of fully harmonizing the Bulgarian legislation with that of the European Union have been further listed.

***What is the total budget allocated in 2001 and 2002 for (free) legal aid?***

The SJC does not have statistics on the cases of public defenses for 2001. In view of the fact that the reported information for the payment of all participants in legal proceedings has been summarized, the requested information may be obtained by applying the percentage of the payments for public defense as compared to those made in favour of experts and members of the jury for 2002 (27 %), and namely based on a total amount of BGN 5 460 547 the amount of BGN 986 780 should be paid for public defense.

An information about the number of cases and the amounts paid for public defense has been obtained for 2002, i.e. BGN 2 208 691.

***How many cases (specify criminal and civil cases) have benefited from (free) legal aid?***
The number of the cases, in courts and investigation offices, in which public defenders have been used is 33 189 (including penal cases – 28 403; civil cases – 4 786) for 2002.

***What is the envisaged date for the start of the 2003 Phare project?***
Within the frames of programme cycle 2003 of the EU Phare programme, the Ministry of Justice applies on 2 projects, directed towards improvement of the judiciary:

- "Support of the implementation of the Strategy for a reform of the judiciary through introducing information technologies"; it is envisaged the project implementation to start in July, 2004 (according to the project fiche);
- "Reform of the civil and penal procedure"; it is envisaged the project implementation to start during the 2nd quarter of 2004 (according to the project fiche).

***It is stated in the additional information that in July 2002 a National Conference was organised on changes to the Constitution, in particular on the role of the investigation and prosecution, as well as the penal immunity of magistrates. It was planned to organise a follow-up Conference in November 2002. Has this Conference been organised and what were the results?***
The result of the conferences held and the intensive political dialogue is the political consensus attained in reference to a need of reforms in the judiciary – Declaration of 02.04.2003, as well as a Decision of the National Assembly of 23.04.2003 for establishing an Ad-hoc Committee on drafting proposals for amendments in the Constitution of the Republic of Bulgaria.

***Penal immunity of magistrates: the additional information states that after the Conference in July 2002 it was the dominating opinion that penal immunity of magistrates should be brought to functional immunity. What exactly is the difference between this opinion and the existing provision in the Constitution that penal immunity only protects the MANDATE?***
The Constitution of the Republic of Bulgaria does not contain provisions directly defining the immunity of a magistrate (Art. 132, Para.1). *The judges, prosecutors and investigators shall be entitled to the immunity as to the MPs*.), and by way of reference, defines it as the immunity of the MPs (*Art.70. A Member of the National Assembly shall be immune from detention or penal prosecution except for the perpetration of a grave crime, when a warrant from the National Assembly or, in between its session, from the Chairman of the National Assembly, shall be required. No warrant shall be required when a Member is detained in the course of committing a grave crime; the National Assembly or, in between its session, the Chairman of the National Assembly, shall be notified forthwith.)*
Speaking of a need of limiting the immunity of magistrates to a functional one, it is provided that they may not be detained, and against them may not be initiated penal prosecution in reference to their duty implementation as magistrates. (p.8, Para. 6 of Decision of the Constitutional Court, N 3/10.04.2003, Const.Case N 22/2002).

***Investigation service: as a result of the same Conference is the dominating opinion that the investigation service should be placed under the executive branch. What has been the follow-up of this dominating opinion?***
The reform in the investigation will be performed in several stages:

1. Developing an investigation staff (only with University Law degree);
2. Amendments in the Penal Procedure Code – the investigation mainly to be performed by investigators;
3. Decreasing of the existing investigation staff:
    - In reference to the number of staff;
    - In reference to the powers:
        - investigation of limited number of crimes (in reference to the kind of public legal relations, against which they have been directed, ex. against the peace and humanity, against the Republic, etc.);
        - investigation of crimes, committed by a certain category of persons ( in reference to the subject of crime – MPs, politicians, magistrates.

***Chapter XII of the updated Action Plan Reform Judiciary: several actions are mentioned to address the penal immunity of magistrates and the role of the investigation and prosecution (pre-trial phase), which are (looking at final adoption of these changes) long-term priorities (2006). What is the relation between the public and professional debates to be organised in the first quarter of 2004 and the one organised in July 2002? No mention is made (except for an also long-term priority of the adoption of complete new Criminal Procedure Code) of other parts of related legislation and secondary legislation. Are there any plans to address these important issues independent of the changes to the Constitution? Please provide detailed information on which legislation and secondary legislation is involved, the plans to draft amendments including a timetable.***

Chapter XII – "Amendments in the Constitution" does not contain time-tables for 2006. It provides forming work groups for developing a conception on legislative amendments – short-term priorities (*3/ Developing a conception for alternative decisions for amendments and supplements of the Constitution of the Republic of Bulgaria in the part: "Judiciary" and particularly relating to the magistrates immunity, the role and place of the investigation and the prosecution.*
**Term:** 4th quarter of 2003.).

The medium-term priority (1/ Forming of a national expert group for developing thorough amendments of the Constitution, relating to our NATO and EU membership, including, relating to the judiciary, and the role and place of the investigation and the prosecution, and the magistrates immunity) is scheduled for 1st quarter of 2004.

The adopting of the Constitution by the Great National Assembly is a long-term priority, scheduled for 2005.

Chapter XII refers only to amendments in the Constitution, and the amendments and adoption of new procedural laws has been developed in details in Chapter XIII – " Drafting of new procedural legislation – Civil Procedure Code (CPC), Penal Procedure Code (PPC), and Administrative Procedure Code." It also provides the measures and the time-table for their implementation.

As referring to the amendments and improvement of the existing legal acts, apart from the amendments in the Constitution, the following have been started:

1. The Law amending the CPC – adopted by the National Assembly.
2. The Law amending the PPC – the discussion of the draft law at first reading by the National Assembly is to be held on 14.05.2003.
3. The Law amending the Law on Judiciary – adopted at first reading by the National Assembly on 24.04.2003.

***What is the legal basis for the relationship between the Public Prosecution and the Investigation Services in terms of hierarchy?***

The hierarchy dependence is procedural, subject to a legal provision of the PPC.

Art. 44,Para 2. item 1 of the PPC provides the leading role of the prosecutor, as a body of pretrial procedure on criminal cases of general character. This leading role is regulated in the following directions:

1. The investigating authorities – investigators – act under the leadership and observation of the corresponding prosecutor (Art. 48, Para 3 of the PPC)
2. In reference to the investigating authorities, the prosecutor may:
   - give instructions on the investigation. The written instructions are obligatory for the investigator, apart in reference to accusation conclusion, conclusion for suspension or interruption of a penal procedure. The investigator may object to a superior prosecutor against any ruling and written instructions of the prosecutor, apart from these for filing a pretrial procedure, and for a transforming of a police procedure in a pre-trial procedure. The ruling of the superior prosecutor is obligatory for the investigator and is not subject to objection. (Art. 176, 178 of the PPC);
   - require, study and verify all the elements, gathered by the investigators in reference to the crime (Art.176).
   - request the investigation case; participate in performing the investigation acts (Art 176), as well as perform certain investigation, etc. procedural acts. (Art.177);

- to appoint the investigator, or to dismiss him/her, in case of violation of the law, or of incapability of providing a correct case procedure, including take the case from a certain investigator and assign it to another one. (Art. 176).
- cancel by own initiative, or by a claim of interested persons the prosecutor's orders, apart from the order for filing of pretrial procedure, order for initiating of accusation and the final orders. (Art. 176);

3. The Prosecutor General of the Republic of Bulgaria has exclusive powers:

- performs supervision on the legality, and manages the activity of all the prosecutors and investigators, and may perform the acts, included in their powers (Art. 48, Para 6, PPC);
- may cancel and modify the order for filing a pretrial procedure and the order for initiating accusation, or exclusively to transfer these powers to prosecutors from the Supreme Cassation Prosecution office (Art. 48, Para 5, PPC).
- may order to certain assigned by him/her prosecutors from the Supreme Cassation Prosecution Office the supervision and management over the investigator of cases, investigated by the National Investigation Service.

***The Conference in July 2002 also dealt with the "principle of immovability". What was the dominating opinion and what was the follow-up of this opinion? (other topics: SJC and the relation between the Ministry of Justice and judicial bodies is dealt with below).***

The conference in July 2003 dealt with issues relating to amendments in the Constitution of the Republic of Bulgaria, as part of the topics were connected also with Chapter "Judiciary". The predominating statement, related to the principle of irremovability applies to preserving and guaranteeing through this principle the independence of the judiciary, as at the same time constitutional conditions are created for dismissal of irremovable magistrate, who has already lost his/her professional qualities. After the constitutional regulation of the reasons for interruption of the irremovability status, the Law on Judiciary should develop the relevant disciplinary procedure and institutions for its implementation.

***The amendments to the JSA, adopted in July 2002, aimed at expansion of the powers of the SJC and the Minister of Justice. With the ruling of the CC of 17 December 2002 these amendments had to be re-drafted. It is known (and according to the "new amendments) that those provisions affected by the ruling of the CC, aiming at increasing the powers of the Ministry of Justice, have been transferred to the SJC. Are there any other powers granted to the SJC by the amendments to the JSA of July 2002, which cannot be implemented due to the ruling of the CC? Has the "new" ruling of the CC any consequences on these provisions?***

In the adopted at first reading by the National Assembly Law amending the Law on Judiciary there are no additional powers provided for the SJC. Such powers will be provided, for which the Constitutional Court rules that cannot be of the competence of the Minister of Justice (National Institute of Justice, development of a summarized report and analysis of statistical information).
The latest ruling of the Constitutional Court of April. 2003 does not refer issues connected with the statutory law of the judiciary.

***It is stated that the SJC consists of 25 professionals (according to our knowledge there is a staff of 14). How many can be considered as administrative support staff? Taking into account the expansion of the powers of the SJC including those after the ruling of the CC, are there any plans to increase the staff of the SJC in 2003?***

See the answer to question , namely:
The number of the employees in the SJC for 2003 on the pay roll is 58, out of which 39 positions have been occupied.

***It is still not clear what the division of responsibilities is between the Ministry of Justice and the SJC. Although it is stated that the JSA amendments "have considerably expanded the powers of the SJC", it is known that the SJC has to rely on the administration of the Ministry of Justice to make practical use of these powers. The statement that the "SJC administers the budget" is misleading considering that judicial activities, professional training, IT, buildings and security are supposed to be handled by the Ministry of Justice (article 35). Please clarify and take into account the already asked question on the interference of the Council of Ministers on the budget for the judiciary for 2003.***

The SJC does not rely on the MJ administration for the practical realization of its powers. The supreme body of the judiciary has its administration, as well as powers to increase its budget and qualification. The narrow cooperation between the two institutions is in the field of the international programmes, on which MJ is a party, and the judiciary is a beneficiary. In this respect, there is a joint expert group established, which meets every month and discusses the project activity. A comprehensive information has been provided on point 11 in reference to the budget, managed by the SJC and that of the Ministry of Justice.

The statement on the interference of the CoM into the 2003 budget for the judiciary is not correct, as the latter has been discussed and adopted by the National Assembly – in accordance to the constitutional regulation and that to the LJ.

***What is the between the SJC and the Inspectorate within the Ministry of Justice, article 35b of the JSA amendments? Has this Inspectorate already been established or is this provision also affected by the ruling of the CC? Have the 6 administrative units (article 35) already been set up and what are their powers in relation to those of the SJC?***

The Inspectorate at the Minister of Justice, provided for in the Law on Judiciary exists as a unit in the structure of the MJ.

Before the amendments of the LJ in 2003, the check up on the organization on filing, movement and finalizing the cases and files in the SCC, SAC and their corresponding prosecution offices remained outside its powers. The Decision of the Constitutional Court reestablished the scope of powers of the Inspectorate, existing before the law amending the LJ of 2002.

The Inspectorate performs check ups, by an order of the Minister of Justice; and by a Decision of the SJC.

The summarized information of the performed check ups is introduced into the SJC.

Relating to the 6 structural units, re. Art.35 of LJ- see answer of question N6.

***In case of conflict between the Ministry of Justice and the SJC, who is the authority to decide on a solution? What is the hierarchical relationship between the Ministry and the SJC?***

In reference to the provision of Art. 8 of the Constitution of the Republic of Bulgaria, the state power divided into legislative, executive and judicial. The principle of the power division has also been provided by Art. 1, Para. 2 of the LJ in reference to Art. 117, Para. 2 of the Constitution. The provisions of these texts establish and guarantee the independence of the judiciary from the executive and legislative powers.

The MJ is part of the structure of the executive power in the state, while the SJC is the supreme administrative authority of the judiciary. The pointed out texts of the Constitution of the Republic of Bulgaria and the LJ provide the independence of the judicial from the executive power, and in this respect there is no hierarchical dependence between the MJ and the SJC.

The judicial reform in the Republic of Bulgaria is realized in complete respect of the division of powers.

The MJ and SJC lay joint efforts for the successful implementation of the reform, as in support of the upper stated, the following facts have to be accounted:

- The SJC adopted a Declaration in support of the judicial reform in Bulgaria, including in relation to the performed actions by the MJ in this respect;

- On 24-25 April 2003, a round table was held on “Functions, tasks and structure of the self governing bodies of the judiciary and their relations with the MJ”, and as a result of the reports read, and the discussions held, a decision was taken to establish a permanent working body of representatives from the SJC and the MJ in order to achieve the aims in this direction (Attached, pls, find the Conclusions, adopted by the participants in the round table).
- It is envisaged a conference to be held, initiated by the MJ where the updated “Strategy for a reform of the Bulgarian Judiciary” and the Plan for its implementation will be discussed together with the SJC and the leading donors in the judicial reform sector.
- The EU Phare programme project implementation , whose beneficiaries are the MJ and the SJC is conducted under the conditions of narrow cooperation between the representatives of the two institutions.

The MJ and the SJC will continue to work under the conditions of narrow cooperation and interrelation for the successful implementation of the judicial reform in the Republic of Bulgaria.

***What is the hierarchical dependency between the MJ and SJC?***

There is no hierarchical dependency between the MJ and SJC.

MJ is a legal person; an administration that supports the Minister of Justice – central, one-person body of the executive power – in implementing his powers, and it ensures technically his activity.

The SJC is a legal person; joint body that determinates the staff and implements the organization of the judiciary.

Bodies of the state power are:

- The Minister of Justice (not Ministry of Justice) – body of the executive power;

And

- Supreme Judicial Council – body of the judiciary.

According to the principle for the separation of the powers, proclaimed in Article 8 of the Constitution of the Republic of Bulgaria, between the two bodies a relation of subordination cannot exist.

***Is there a specific budget for the activities of the SJC? If so, what is the amount? If not, where do the financial resources, which should allow the SJC to function properly, come from?***

A law is adopting the annual budget of the Republic of Bulgaria.

The amount of 632 500 leva was confirmed for the SJC in the Law on the State Budget.

***Which measures will be taken in order to ensure compliance with the recent ruling of the Constitutional Court on the procedure for the adoption of the budget of the judiciary?***

In the quoted by you Decision of the Constitutional Court, the complete budget for the judiciary has not been concerned but only in its part, defined for the Supreme Court of Cassation. A voting procedure for additional resources necessary for the budget for judiciary has been started, which will fulfill the disposition of the Constitution decision. The Constitutional Court did not adopted as a whole the statement for the anti-constitutionality in adopting the budget for the judiciary.

## Second set of additional questions – 23rd June 2003

***Entry into force of the amendments to the JSA adopted on 31 July 2002: in previous additional information it is stated that they entered into force in August 2002. However, in the latest answers to additional questions on the reform of the judiciary (part 1), it is mentioned on page 6 that these amendments entered into force on 1 January 2003. Please clarify.***

The amendments to the Judicial System Act was promulgated in the State Gazette on 30 July 2002 and entered into force on 03 August 2002.

Para. 97 of the transitional and final provisions of the Judicial System Act enters into force on 1 January 2003, namely: the provisions of Section III, section V, Art. 36c(2) and section VII of Chapter III; Art. 139c, para 1 and Art. 188h - 188j, Art. 188m - 188o, Art. 188s.

***State of play amendments of January 2003 (after Ruling of Constitutional Court), which were submitted to the Parliament on 17 March 2003 and which according to the additional information provided (e-mail of 1 May 2003) passed the first reading. Are they adopted? What is the date of entry into force?***

The National Assembly has passed the latest amendments to the Judicial System Act at a first reading; their final adoption is expected by 31 July 2003.

***The budget for the Judiciary is not clear; different figures are provided. The Bulgarian authorities indicate a budget for the judiciary 2003 of approx. BGN 216 million, while it is known that approx. BGN 138 million has been granted. An increase (according to the SJC) is expected of BGN 5-7 million for the change in budget of the Supreme Court of Cassation. Please clarify this difference and indicate which parts of the judiciary (prisons also?) are included. Please provide a detailed breakdown.***

The budget of the judiciary, established by virtue of the State Budget Act for 2003, amounts to BGN 138,9 million. This budget includes the resources for the different parts of the judiciary, as follows:

| | |
|---|---|
| Supreme Judicial Council | 0,6 million BGN |
| Supreme Prosecutor's Office of Cassation | 7,1 million BGN |
| Supreme Administrative Court | 5,0 million BGN |
| Prosecutor's Offices of the Republic of Bulgaria | 26,8 million BGN |
| Budget of the courts | 71,2 million BGN |
| Budget of the investigation services | 26,8 million BGN |
| Reserve for urgent, incidental expenses | 0,6 million BGN |

The budget of 216 million BGN indicated in the information on the first set of questions includes the budgets connected with the activities of the parts of the judiciary, as indicated above and the budgets of the units related to the work of the judiciary – court security (newly-created structure to the Ministry of Justice, existing as of 01.01.2003), prisons and detention facilities, maintenance, overall repair and acquisition of buildings for the judiciary.

***The amendments to the Penal Procedure Code (solving procedural delays) passed a first reading in Parliament on 20 February 2003. The answers to the additional information provide two different dates for envisaged final adoption (June and July 2003). Please clarify and indicate the envisaged date of entry into force.***

The latest amendments to the Penal Procedure Code were adopted by the National Assembly at a second reading on 11 June 2003. The promulgation of the Penal Procedure Amending Code in the State Gazette is forthcoming.

***Administrative capacity SJC still not clear: additional information states total of 58 out of which 39 have been recruited under the budget 2003. It is known that at the end of 2002 the administrative staff was 14. Does the latest statement mean that in 2003 another (39 – 14) = 25 staff were recruited in 2003? Or will the total administrative staff of the SJC consist of 58 + 14 = 72? What is the envisaged time schedule for recruiting the remaining 19 staff? This information is necessary to enable us to state that the capacity is sufficient to execute all the actions of the Action Plan according to the update time schedule and which are the responsibility of the SJC. Or is it possible that this is the administrative staff at the MoJ, because "transfer" of responsibilities from the MoJ to the SJC is subject to the latest amendments to the JSA, which are not yet adopted and entered into force. Please clarify.***

The total number of the administration of the Supreme Judicial Council, based on Supreme Judicial Council Decision of 4 December 2002 (Protocol No. 39), is 58 persons. As at the end of 2002, the number of the administrative staff was 38 persons.

Two persons have been appointed since 01.01.2003. Currently, the total number of officers appointed in the administration of the Supreme Judicial Council is 40.
The Supreme Judicial Council has adopted a decision for appointment of another 2 full-time officers.

***See question above on adoption and entry into force: are the other provisions of the amendments to the JSA (July 2002) related to the competencies of the JSA already entered into force?***
The amendments to the Judicial System Act entered into force on 3 August 2002.
As a result of Bulgarian Constitutional Court Decision No. 13 of 16 December 2002, new amendments to the Judicial System Act were elaborated.
The amendments concern the following main areas:

- The National Institute of Justice will be placed under the authority of the Supreme Judicial Council;
- Changes in the terms and conditions for acquisition of legal capacity by law probationers;
- Creation of a new Chapter XVIIIa on "Judicial Investigations".

The new amendments to the Judicial System Act have been passed at a first reading by the National Assembly; their final adoption is expected by 31 July *2003.*

***What is the state of play as regards the strategic concept (organisational principles) of the SJC? Please provide information on how many judges, prosecutors and investigators are members of the SJC. Is their participation equally divided among the three branches of the judiciary?***
According to Art.16 of the Judicial System Act, in connection with Art.130 of the Constitution of Republic of Bulgaria, the Supreme Judicial Council consists of 25 members.
The Chairperson of the Supreme Cassation Court, the Chairperson of the Supreme Administrative Court and the Prosecutor General are members of the Supreme Judicial Council by rights.
The National Assembly elects eleven members of the Supreme Judicial Council and the other eleven are elected by the judicial authorities: the judges elect six, the prosecutors elect three and the investigators elect two of their members as Supreme Judicial Council members.
In the present Supreme Judicial Council there are representatives of the three branches of the judicial system – 14 of the members are judges, 6 are prosecutors and 2 are investigators.

***In the additional information and the answers to the additional questions (1 May 2003) it is stated that 6 administrative units with the Minister of Justice for the interaction between the Ministry and the SJC and the bodies of the judiciary (article 35 JSA) are set up, except the one on professional qualification. Framework rules for this unit will be discussed in the SJC in May 2003. Has this been done?***
By Supreme Judicial Council Decision (Protocol No.6 of 12 February 2003), a Working Group was set up for preparation of a conception and for elaboration of Draft Rules of Procedure for the National Institute of Justice.
The Draft Rules have already been prepared and proposed to the Supreme Judicial Council for consideration.
It is envisaged that the Rules of Procedure will be finally approved after the adoption of the new amendments to the Judicial System Act.

***In the additional information it is stated that within three months of the enactment of the amendments to the JSA the Council of Ministers must issue a decree on financing of the Integrated Crime Information System. Funds are already reserved in the budgets for 2002 and 2003. Has the Council of Ministers issued the Decree for financing the Integrated Crime Information System?***
As it was mentioned in the answers to the first set of questions on Chapter 24, the Council of Ministers has adopted Decree No.311 on the financing of the Unified Anti-Crime Information System (UACIS), promulgated in SG, No.120 of 29.12.2002.

***In the answers to the additional questions (1 May 2003) it is stated (among others) that further strengthening of the co-operation between the SJC and the Ministry of Justice is envisaged within the context of a PHARE 2002 programme of which both institutions are beneficiaries. When will this programme start and when finalised?***

In the answers to the additional questions (1 May 2003) it was mentioned that PHARE projects involving the Ministry of Justice and the Supreme Judicial Council as beneficiaries are usually implemented in close cooperation and coordination between the representatives of the two institutions.

As regards the reform of the judiciary, a PHARE 2002 project on "Implementation of the Strategy to Reform the Bulgarian Judicial System" is commencing; it involves the Ministry of Justice and the Supreme Judicial Council as beneficiaries. The project is not aimed at strengthening the cooperation between the two institutions.

At the moment, the draft covenants on the two subprojects (A and B) are ready; twinning partners are respectively Austria and France. The two draft covenants have been submitted for internal coordination and approval by the partners and the European Commission. It is expected that the integrated project will commence at the end of the 3rd quarter this year, at latest, and will be completed by the end of 2004.

# Data Protection

## First set of additional questions – 18th February 2003

***Draft amendment to the Ministry of Interior Act which was adopted in first reading by the National Assembly on 1 August 2002, was it finally adopted in October 2002 as foreseen? When did it enter into force? If not, what is the deadline for adoption/entry into force?***
On 6 February 2003 the National Assembly finally adopted the amendments to the Ministry of the Interior Act.

***The Action Plan concerning the implementation of the personal data protection legislation. Has it been drafted/adopted/implemented? If not when is the deadline?***
The said Action Plan is among the measures included in the Personal Data Protection section of the National Schengen Action Plan. It was drafted in co-operation with French experts under PHARE project BG 9911.02, implemented in partnership with Spain and France, and was duly approved by the Minister of the Interior in February 2002. The implementation of the Action Plan and of the project itself was successfully completed at the end of 2002. The final project report contains detailed information on its implementation, including of the Action Plan.

***Terms of citizen's rights of access to police information. Have they been drafted/adopted/implemented? If not, deadline?***
The regulation of the terms of citizen's rights of access to police information databases is among the tasks set in the National Schengen Action Plan /Personal Data Protection section/. The task was accomplished with the adoption of the amendments to the *Ministry of the Interior Act* passed by the National Assembly on 6 February 2003. One of the aims of the amendments introduced in the Ministry of the Interior Act is to achieve alignment with the relevant provisions of the *Personal Data Protection Act*.
According to Art. 182, para. 4 of the Ministry of the Interior Amending Act: "Every person shall be entitled to request access to their personal data processed in the databases of the Ministry of the Interior, which are collected without their knowledge". Art. 184, para. 2 stipulates that the conditions for personal data processing will be defined in an Instruction of the Minister of the Interior. According to Art. 182, para. 9, access to the databases in Art. 1 will be regulated in a Regulation of the Minister of the Interior. According to Art. 185a /new/ of the Ministry of the Interior Amending Act, the protection of individuals with regard to the processing of personal data and as regards access to such data is controlled by the Personal Data Protection Commission under the terms and conditions stipulated by the Personal Data Protection Act.
The internal legal framework regulating the setting up and registration of automated information databases is currently being updated according to the amendments introduced in the *Ministry of the Interior Act*; work has commenced on the procedure for information database registration at the Personal Data Protection Commission. Completion of the process of drafting and adopting internal regulations is envisaged by the end of 2003. This is tied with Regulation on the minimum necessary technical and organisational measures as well as the acceptable protection of personal data in registers, which is under development by the Personal Data Protection Commission.

***Classified Information Protection Act. Has it been drafted/adopted/implemented? If not, deadline?***
The *Classified Information Protection Act* has been in force since 3 May 2002 /State Gazette No. 45/30.12.2002/. The *Regulations for its implementation* were adopted by Council of Ministers' Decree No. 276 of 2 December 2002, and have been in force since 10 December 2002 /State Gazette No. 115/10.12.2002/.

***Data Protection Commission. Is it operational (deadline was set at 30/9/2002)? Have the Chairman and members actually been appointed? How many experts and administrative staff are working there? (Clarify why the rules talk about 76 officials while previous additional info mentioned 15 experts), which training has been provided and could we receive more details on the equipment? It is mentioned that the 2002 budget foresaw in salaries. For whom? If the Commission is not operational yet, what is the deadline for putting it in operation?***

As mentioned in the supplementary information (CONF-BG-55/02) the Personal Data Protection Commission was established by Decision of the National Assembly of 23 May 2002, in accordance with the Personal Data Protection Act. The Commission is an independent collective body, which consists of a Chairman and four members. The Commission has been operational since 1 September 2002.

The administration of the Commission is divided into directorates, and the total number of its staff, including the Members of the Commission, is 76 (in accordance with the Rules of Procedure for the Commission and its administration, promulgated in State Gazette No. 71 of 2002, amended in State Gazette No. 9/31.01.2003). The 15 people personnel indicated in the supplementary information reflects the situation in 2002, and the Commission's budget for 2002 amounting precisely to 195.984 levs was calculated on the basis of the same personnel strength /see below details about the budget/.

Since its inauguration the Commission has reviewed 19 complaints, requests for access to personal data and consultations and has carried out on-the-spot checks in response to complaints in Blagoevgrad and Russe. The Commission has studied and analysed the registers kept by the main personal data administrators – the ministries and their departments, municipalities, the National Social Security Institute, banks, insurance companies, etc. The Commission has also produced and published a registration request form for personal data administrators. The Commission takes part in the work of expert groups responsible for drafting legislation related to personal data protection /e.g. amendments to the *Civil Registration Act*, etc./.

The Commission also works on an international level, which is at this stage mainly related to participation in international conferences and working visits to EU Member States. The main objective is to establish contacts and exchange experience with counterpart bodies/commissions in Central and Eastern Europe and in the EU Member States.

In addition to the training provided in the framework of international co-operation, training in European law is also carried out by the Institute for Public Administration. A special training program for Commission staff has been developed. It covers areas such as trade-oriented practical implementation of the law, protection of information systems, encryption of information, personal data *acquis* and harmonisation of the national legislation, etc. The training program should commence as of April 2003. Furthermore, the timetable for regional training seminars for personal data administrators will be completed by the end of April 2003.

Measures to enhance the logistical support for the Commission are underway with a view to ensuring effective performance of its objectives. Those include supply of technical equipment for 10 workstations, which are to be connected in an information system, and implementation of additional technical equipment necessary for the normal functioning of the Commission and its administration.

***Is there a budget allocated for 2003 for the Data Protection Commission? If so how much?***

The Data Protection Commission's budget for 2003 is 778,557 levs for 76 full-time positions.

***Have the supplementary regulations to design within the Ministry of Interior the single and privileged point of Communication with the data Protection Commission and the regulation on additional guarantees for the security of information systems been drafted/adopted/implemented? If not, what is the deadline?***

According to the Ministry of the Interior Act, the Information Co-ordination and Analysis Directorate identifies the information policy of the Ministry; develops the information and system environment supporting the existing automated information databases; introduces new information technologies; co-ordinates the interaction with the automated information systems of other state bodies and institutions; registers automated databases in the Ministry of the Interior. In accordance with its functions stipulated by law the MoI Information Co-ordination and Analysis Directorate has been designated as an exclusive contact point for the Personal Data Protection Commission

In order to ensure the security of information systems, it is envisaged to build a central information system security unit and designate information system security officers in all MoI structures by the end of 2003. The Regulation on the general binding terms for security of automated information systems or networks used for creation, processing, storage and transfer of classified information, which has to be adopted by virtue of Article 90, Paragraph 1 of the *Classified Information Protection Act*, is currently under interagency review; it will set out the underpinning principles for creation of the unit.

## Second set of additional questions – 30th April 2003

***Please clarify the function of the administrative staff of 76, including the chairman and members of the Commission. Does this mean 76 – 5 = 71 administrative staff? Are all 71 supporting staff for the Commission? Given the number of cases so far, this seems excessive.***

The administration, assisting the activity of the Commission for Personal Data Protection (CPDP), comprises 71 employees grouped into 4 (four) departments (according to the Rules of Procedure for the activities of the Commission and the activities of its administration, SG No. 9 /31.03.2003) as follows:

- Financial, Economic and International Activities Department – 20
- Legal Department – 20
- Hardware and Software Department – 18
- Information Department - 12

The administration is directed by a secretary general. Each department consists of management personnel, experts and technical assistants.

According to the Law on Personal Data Protection the Commission:

- analyses and exercises overall control on the compliance with the legislation in the field of personal data protection
- keeps a register of personal data controllers
- carries out check-ups of personal data controllers' activities
- gives opinions and authorisations in the cases provided for by the Law
- issues mandatory instructions related to the protection of personal data
- upon prior notification, imposes temporary ban on personal data processing that breaches the personal data protection rules
- considers complaints against controllers who have denied natural persons access to their personal data, as well as other controllers' or third parties' complaints in relation to the rights provided for in the Law
- participates in the drafting of legislation related to personal data protection
- issues a bulletin containing materials on its activities, on the decisions made, and on information about controllers

Taking into account the above mentioned authorities and functions of the Commission, also the fact that there are no regional structures, the total number of 71 employees in the administration not only does not seem excessive, but after developing all activities of the Commission it may become insufficient. Considering complaints and requests for access is only small part of the activity of the Commission.

***According to the provisions of the Act and the internal regulations on the work of the Commission, <u>one month</u> after its establishment it should have been given suitable premises for its administration. However, according to our information the Commission (until 20 March 2003) is still working in a small room (16 m2) in the premises of the Council of Ministers. Please clarify.***

On 22 April 2003 the Ministry of Regional Development has offered to the Commission for Personal Data Protection a building in a new residential area in Sofia. It is expected that all the necessary procedures to transfer the title of the building to the CPDP will be completed by the end of May.

***Until 20 March the supporting staff of the Committee compromises of 4 people, which including the chairman and the members is 9 in total. In the additional information a number of 15 is mentioned for 2002. Please clarify.***

In the draft budget of the Commission for 2002 (accepted by the end of 2001, before Commission's establishment, based on the estimation of experts from Ministry of Finances) an administration of 15 employees was set. The remaining personnel up to the required number will be appointed by 1 September 2003.

***Is the conclusion correct that in 2003 in total 67 new staff will be recruited? Please take into account the fact that no suitable premises are yet available.***

It is intended that by 1 September 2003, after CPDP has moved to the new building, the remaining new staff will be appointed, in accordance with the Rules of Procedure for the activities of the Commission and the activities of its administration.

***Are the necessary funds for building the information system included in the budget for 2003? (in the answers to the questions it is only mentioned that the budget for 2003 is for personnel).***

The budget for 2003 includes the necessary funds to start building the information system, and the feasible timeframe in that respect, which is also connected to the transfer of the new building, is September 2003.

***It has been stated that the Commission from its inauguration until now has reviewed 19 cases. According to our knowledge (on 20 March 2003) this number is 10. Please clarify.***

Up to 29th April 2003 18 complaints, 28 requests for access to personal data, 53 applications for registration of data controllers are submitted to the Commission.

***Equipment: it is stated that enhancement of equipment is "under way". What does this mean? Please clarify more details on timing, including the necessary budget. How many workstations are available at the moment? The 10 workstations required do not seems sufficient when a staff of 76 is envisaged. Please clarify.***

The Council of Ministers is under obligation to provide the necessary assets to enable the operation of the Commission. Since that issue, too, is dependant on the provision of suitable premises (building) for the needs of the Commission, the required technical equipment will be installed as soon as the members of the Commission have moved in their new offices.

***Training: please clarify what kind of training has been provided in the "framework of international co-operation". Has the special developed training programme for staff of the Commission started in April 2003? Please clarify the relation between this training programme and the regional training seminars, which will be completed by the end of April 2003.***

In the framework of international co-operation, the members of the DPCP participated in a workshop on 1-6 December 2002 in Germany.

The training program for the staff will start by 15 September 2003.

The regional training seminars are not included in the staff-training program. They are intended for data administrators in connection with their obligations under the Personal Data Protection Act, as well as for individuals in relation to their rights.

The regional seminars do not end by the end of April 2003; they start at the beginning of June 2003.

The first regional seminar is intended for the municipalities as data administrators and will take place in the town of Ruse on 10-11 June 2003.

# Visa Policy

## First set of additional questions – 12th March 2003

***As regards the installation of equipment for issuing the new Bulgarian visa sticker, it is stated that it will be installed in another 22 missions by the end of 2002. Has this deadline been met?***

***According to the additional information equipment for the issuing of the new visa stickers has been installed in 36 missions, will be installed in 22 missions by the end of 2002 and in the remaining missions by the end of 2003. Adding these numbers: 36 + 22 + 27 = 85. According to Bulgaria's information there are 88 diplomatic missions. What about the other 3?***

Of all the 92 diplomatic and consular missions of the Republic of Bulgaria, authorised to issue visas, the new version of the visa control computer system - "Visa 2001", has been installed in 62 up to now. By 31 December 2003 it will be installed in yet another 25 missions /including those in Donezk and Rostov na Don, where the installation depends on the opening of Bulgarian missions there/. Thus at the end of 2003 the visa control computer system /VCCS/ - "Visa 2001", will be put into operation in 87 missions, while its old version - "VIP" will continue to function only in Iraq (Baghdad). At this stage the VCCS will not be installed in the diplomatic and consular missions of the Republic of Bulgaria in Afghanistan (Kabul), People's Democratic Republic of Korea (Pyongyang) and Yemen (San'a) for reasons related to public security, and in Chile (Santiago) - for economic reasons. The visa stickers of the type "Visa 2001" will be issued manually in those missions. The difference in the total number of the diplomatic and consular missions (according to the additional information they are 88) is due to the fact that now the missions in Ukraine (Donezk) and Russia (Rostov na Don) are included, as well as those in Russia - Ekaterininburg and Novosibirsk, which were founded after the submission of the additional information.

***As regards the entry into force of the list of countries for which an airport transport visa (ATV) need to be issued, a more firm date of entry is necessary.***

The list of countries whose citizens need an airport transit visa is attached in Annex 3 to the new Visa Regulation on the terms and procedures for issuing visas and has been in force since 17 May 2002.

***On-line connection of diplomatic mission with the Visa Centre: in the previous DCP it was stated that "60 diplomatic missions were connected to the Visa Centre, progress has been made because now 66 diplomatic have been connected. Furthermore, all diplomatic missions would be connected by the end of 2003". The total number of diplomatic missions is 88: what about the other 22? New version (see above) installed in 36 missions, 27 by the end of 2003: 36 + 27 = 63 missions. Information provided is confusing, because "on-line" connection and new version has to be separated. Please clarify.***

The on-line connection of the diplomatic and consular missions with the Visa Centre is implemented through the installation of the VCCS, i.e. all mission which use the VCCS ("Visa 2001" and "VIP") have already been connected or will be connected with the Visa Centre by the end of 2003 (with the exception of the above-mentioned 4 missions).

***Under the issue of training "the modified Common Consular Instructions for the candidate countries" is mentioned in the additional information. What is meant by that? Is this a Bulgarian version of the CCI, because within the EU there is only one CCI, which is the same for all MS. A more specific date than "in the coming months" for the distribution of the CCI is necessary.***

The modified version of the Common Consular Instructions for the Candidate Countries is the CCI of the Member States, which was distributed for implementation within the PHARE Horizontal Program in April 2002 in Bucharest. It contains directions about the provisions, which should be adopted by the Candidate Countries before accession and those, which could be applied at a later stage, namely after the accession to the Schengen area. The distribution of the CCI to all Bulgarian consular missions will be completed by 30 June 2003.

***As regards the tourist visa and a short entry visa, additional clarifications are needed (such a distinction does not exist in Bulgaria's legislation) on the following aspects:***

***- the maximum duration of stay of a tourist visa***

***- what is the difference (in comparison to the short entry visa) in terms of processing time/procedure (simplified?), price? Is this a kind of "facilitated" visa?***

***Are holders of tourist visas entitled to receive automatically and successively a short entry visa. In other words what is the meaning of "facilitate those who travel for tourist purposes to prepare the necessary documents and obtain a short term visa"?***
The categories of visas, issued by the Republic of Bulgaria, are explicitly enumerated in the *Foreign Nationals Act* and the *Regulation on the terms and procedures for issuing visas*. According to the legislation they are as follows: airport transit visas, transit visas, short-term visas, group visas, long-term visas and visas issued at the border. There is no category of visa such as a "tourist visa". The so called "tourist visa" is actually a short-term visa with an indicated purpose of travel - "tourism" and the procedure for its issuing is not facilitated in any way, including with regard to Russian and Ukrainian tourists. As far as this is a short-term visa, it is issued under the procedure, the processing time and the fees provided for this type of visa in the Act and the Regulation, and thus it is in full compliance with *acquis communautaire.* As a short-term visa, it permits a maximum duration of stay of 90 days within a period of six months. The only difference from the *acquis* is in the visa application forms, which are 4 types at this stage: for an airport transit visa, for a transit visa, for a short-term visa and for tourist purposes. All of these application forms contain identical data for the identification of persons. The distinction between the application form for a short stay and the one for tourist purpose is in the information, which is required in order to prove the purpose of travel. In the first case it is information about the availability of an invitation and the inviting person, while in the second case it is about the availability of a package with prepaid basic tourist services.

## Second set of additional questions – 15th May 2003

***What is the legal basis for creating the separate form for a "tourist visa"?***
There is no separate type of "tourist visa". The application form that has to be filled in by persons travelling for tourist purposes is provided in Annex No. 8 of the Regulation on the terms and procedures for issuing visas. In principle, people who travel for tourist purposes are issued short-term single-entry visas.

***Is this "tourist visa" mentioned (e.g. as a sub-category of short-term visas) in an administrative/implementing regulations and/or instruction for consular authorities? For instance: requirements for issuing multi-entry visas are specified in the legislation (article 9 (2)).***

***What are the specific requirements/documents for issuing a "tourist visa" and how does the consular staff know what and how to check this?***
As there is no special type of "tourist visa", it is not subject to special legal regulation - it is issued according to the procedures, processing time and fees provided in the Act and the Regulation for short-term visas. The only difference between the visa application form for "tourism" and the application form for a short-term visa is that the former does not contain information on the position and organisation of the person. Instead, it contains travel voucher data (number and date of issuance, host travel agent, Bulgarian travel agent). The voucher is also attached to the documentation that verifies the purpose of travel, which is enclosed to the application.

***Is there a difference in price for a "tourist visa" and a short-term visa?***
There is no difference. The price is the one that has been specified for short-term single-entry visas. In view of promoting tourism and protecting the interests of Bulgaria, the Council of Ministers adopts separate decisions whereby visa fees are reduced for the duration of a tourist season for organised tourists - nationals of certain countries, who are required visas for Bulgaria.

# External Borders

## First set of additional questions– 19th February 2003

***What are the criteria "good reasons" for extending the time to stay from 4 to 10 days as mentioned in the Agreement of 1972 between Bulgaria and FRY?***

***When Bulgaria will have to impose visa obligations to nationals of FRY (BG's commitment: upon accession) and therefore need to revoke/denounce the visa-free agreements (the 1972 Agreement and the intergovernmental Agreement), what will happen to local border traffic, taking into account that visa exemptions on grounds of local border traffic would be against the acquis?***

Bulgaria has emphasised that the above-mentioned Agreement is not implemented due to the existing visa-free regime. Furthermore, Bulgaria clearly realises this Agreement's incompatibility with the acquis communautaire and, in compliance with the commitment made in the accession negotiations to fully align its visa regime with that of the EU, intends to terminate this Agreement officially /either by denunciation or by mutual agreement/ upon accession to the EU.

Meanwhile Bulgaria will continue to follow closely the development of the "small border traffic" issue, which has already been put forward for discussion at the European institutions in view of adopting a unified and generally applicable European legislation. This is evidenced in the Commission Staff Working Paper: Developing the Acquis on Local Border Traffic (SEC (2002) 947). In that sense, specific legislative action at an EU level could be expected in the near future.

As a future EU Member State Bulgaria will adopt the relevant EU acquis.

***What kind of documents are the "documents specified" in the Annex to the Agreement between Bulgaria and Romania on small border traffic?***

As stated in previous reports, this bilateral agreement, as well as the Agreement with FR Yugoslavia, is not implemented in practice, too. For that reason the Ministry of the Interior does not issue the documents specified in the above-mentioned Agreement. These documents are not mentioned in the Bulgarian Identity Documents Act, which provides detailed regulation of the issue in compliance with the *acquis communautaire*.

Bulgaria has made a commitment to terminate officially the above Agreement /either by denunciation or by mutual agreement/ *upon accession to the EU*.

***The implementation of the Agreement between Bulgaria and Romania of 11 March 1971 has been suspended in practice. Are there any plans to re-negotiate the 1971 Agreement? If so, is there already a draft? (Romania stated in its additional information that they were planning a re-negotiation).***

See the information above.

Taking into consideration the prospective membership of Bulgaria and Romania in the European Union, Bulgaria shares the opinion that it would not be expedient to discuss a specific draft or open negotiations between the two countries on that issue.

***What is the content of the draft Agreement with Greece establishing a free movement zone (required documents to cross the borders, how are checks carried out etc.)? Are there any developments in the signing and implementation of this draft Agreement, the text of which was exchanged in 1999?***

Negotiations between Bulgaria and Greece on an Agreement establishing a free movement zone for persons residing on both sides of the border have been suspended. Reasons for signing such an Agreement no longer exist after the adoption of Council Regulation 539/2001, whereby Bulgaria was included in the list of countries whose nationals are exempt from a visa requirement when crossing an external border of a Schengen Member State.

***Bulgaria does not intend to conclude similar (small border) agreements with Turkey and FYROM. Can be concluded that nationals from those countries need to be in possession of a valid travel document and a visa? (for FYROM visas will be introduced upon accession)***
Bulgaria does not intend to start negotiations to conclude similar agreements with Turkey and FYROM. Currently Turkish nationals must be in a possession of valid travel documents and a visa in order to enter Bulgaria. Bulgaria still maintains a visa-free regime with regard to FYROM nationals, which will be terminated upon accession to the EU in accordance with the commitments made.

***Bulgaria stated in its previous additional information (CONF-BG 73/01) that it intends to draft and adopt a Border Security Act and that the secondary legislation for its implementation by the end of June 2003. The current additional information only states that a draft has been elaborated and provides two articles of this draft. Questions: will the given deadline be met? What is the actual state of play? More detailed information on the content is necessary and besides that it is rather difficult to evaluate a draft (no full text has been provided), which still need to be passed through a legislative procedure.***
The Draft Border Security Act being an element of a PHARE twinning project BG9911.01 has been drafted on schedule. Detailed information about the content of the draft is included in the *Schengen Action Plan* Section of the latest supplementary information (CONF-BG 55/02). The draft is also included in the final project report.
Taking into account the principle of border management centralization established in the Member States and the approach of legal codification in the respective area adopted by the Bulgarian legislature, as well as the important role played by the Border Police in terms of ensuring the national security and maintaining public order, Bulgaria has arrived at the decision that all amendments affecting the functions and authority of the Border Police Service should be regulated in the basic *Ministry of the Interior Act* and related by-laws.
Bulgaria confirms its intention to implement the assumed commitments and deadlines regarding the *Border Security Act*. The draft has already been co-ordinated with European and Bulgarian experts and its underpinning principles have been approved entirely and will be accepted. A large number of the provisions of the draft Act will be correspondingly introduced in a *Ministry of the Interior Amending Act* (June 2003), amendments to the *Regulations Implementing the Ministry of the Interior Act* (March 2003) and other by-laws. Thus Bulgaria will implement entirely its commitment for further harmonization of border controls and transformation of the Bulgarian Border Police into a modern and professional border security service that is fully compliant with EU/Schengen standards and requirements. That will in addition be instrumental to meeting the requirements of the Bulgarian legislation for comprehensive and codified system of Ministry of the Interior's principles, activities, structure and bodies in terms of ensuring national security and maintaining public order.

***Implementation of the new Regulation on Border Checkpoints, effective since 3 May 2002, will be based on the signing of annual interagency Memoranda of Understanding (MoU). Any MoUs signed for 2002 and with whom? What are the plans for 2003?***
The provisions of the *Regulation on Border Checkpoints* which provide for annual conclusion of interagency Memoranda of Understanding /cited in the latest supplementary information (CONF-BG 55/02)/ will be implemented in the mid-term perspective because they are related to the elaboration and adoption of a Strategy for Integrated Border Control /at a national level/. According to the updated National Schengen Action Plan the deadline for elaboration of the Strategy is 30 June 2004. The interagency Memoranda of Understanding will serve as implementing instruments for the Strategy.
Until then, the co-operation and interaction between the state authorities responsible for border control will continue to be carried out as follows:

- *on a national level* – through the Interagency Border Checkpoints Council and the expert-level Working Group responsible for supporting its activities;
- *on a regional level* (at border checkpoints) – through practical co-operation.

However, in accordance with the 2002 Regulation on Border Checkpoints the heads of agencies/bodies involved at border checkpoints will conclude annual protocols on the allocation of costs related to the maintenance of checkpoint facilities, technical equipment and infrastructure.

# Migration

## First set of additional questions – 18th February 2003

***Is it possible to provide numbers of detected illegal employed foreigners and the number of employers detected and fined. Does Bulgarian law also provide for confiscation of property of employers?***

The Minister of Labour and Social Policy General Labour Inspectorate was reorganised into a General Labour Inspectorate Executive Agency by Council of Minister Decree No. 92 of 26.05.2000 (SG No. 44/2000). Since 01.01.2002 the General Labour Inspectorate Executive Agency has been authorised to supervise the application of the *Employment Promotion Act*, including the legal employment of foreign citizens in the Republic of Bulgaria on the basis of employment permits issued by the Employment Agency. Between 01.04.2002 and 31.12.2002 there were 80 illegally employed foreigners; during the same period were detected 7 illegal employers of foreign nationals.

According to Bulgarian law, and employer who signs a labor contract with a foreign citizen who does not have a work permit, as well as a foreigner who pursues employment activities without a work permit, are liable to a fine or a property sanction in line with the provisions of Article 48 of the *Foreign Nationals Act*.

"Article 48. (1) A fine of 500 to 5000 levs shall be imposed on a foreigner who:

"1. reenters the country after an expulsion;

"2. pursues employment, business or other activities without due permission;

"3. remains in the country beyond the permitted visiting period.

"(2) The penalty in Article 1 shall be imposed, too, on natural persons who employ foreigners without due permission, and legal entities shall be sanctioned by 20000-lev fine.

"(3) When the offenses in Articles 1 and 2 are repeated, the offender shall be liable to a fine from 1000 to 10000 levs, and legal entities shall be sanctioned by up to 40000-lev fine."

***In the previous DCP it was asked whether Bulgaria's current legislation is in line with the relevant acquis:***

- ✓ ***Council Recommendation of 22 December 1995 on harmonising means of combating illegal immigration and illegal improvement and improving the relevant means of control***
- ✓ ***Council Recommendation of 27 September 1996 on combating the illegal employment of third-country nationals***

***Although very detailed information on alignment has been provided, it is not explicitly stated that with the adopted changes Bulgaria's legislation is fully aligned with the above-mentioned acquis. Can be concluded that this is the case? If not, which provisions still needs alignment?***

In its latest supplementary information (CONF-BG 55/02) Bulgaria provided a very detailed description in view of demonstrating that the recent changes in the national legislation have brought full compliance with the cited instruments of the *acquis*.

***In the field of illegal immigration and illegal employed amendments (carrier liability and the establishment of a National Register of foreign nationals staying in Bulgaria at the National Police) to the Foreign Nationals Act have been approved by the Council of Ministers on 26 September 2002. Is this amendment already adopted and entered into force? Has the National Register already been established?***

On 06.02.2003 the National Assembly adopted at a first reading the draft amendments to the *Foreign Nationals Act*, and its final passing is expected by 30 June 2003.

The draft includes a separate legal framework on the terms for establishing a single centralized National Register of Foreign Nationals in the Republic of Bulgaria and the scope of the data to be collected, their storage and transfer conditions. The National Register of Foreign Nationals software has been in operation since 1995. At the moment the system of short-term visitor (up to 90 days) address registration is tested It is a subsystem of the National Register of Foreign Nationals.

***Bulgaria plans the adoption of a Migration Act. The draft is envisaged to be ready by 31 March 2003. Any recent developments? Is the deadline still valid?***
The interagency working group continues working on the draft *Migration/Migration Service Act*. The initial deadline has been extended and currently it is planned that the draft should pass Council of Ministers approval by the end of June 2003 and subsequently enter the National Assembly for adoption.

***Has the readmission agreement with the United Kingdom, expected by the end of 2002, been signed within the given deadline? If not, what is the reason for the delay.***
The Readmission Agreement has not been signed yet due to prolonged discussions between the sides on some of the provisions. On 06.02.2003 the parties held expert negotiations in Sofia and the agreement was finally approved. Signature has been scheduled for 21 February 2003.

***What are the exact dates of signing the readmission agreements with Poland, Romania, Slovakia, Slovenia, Hungary and the Czech Republic?***

***Poland***
Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of Poland on the Readmission of Illegally Residing Persons – signed in Warsaw on 24.09.1993, in force since 04.02.1994.

***Romania***
Agreement between the Government of the Republic of Bulgaria and the Government of Romania on the Readmission of Own Citizens and of Aliens – signed in Bucharest on 23.06.2000, in force since 26.06.2001

***Slovakia***
Agreement between the Government of the Republic of Bulgaria and the Government of the Slovak Republic on the Readmission of Own Citizens – signed in Bratislava on 18.09.1995, in force since 24.08.1996

***Slovenia***
Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of Slovenia on the Readmission of Persons – signed in Sofia on 30.06.1998, in force since 14.04.2000

***Hungary***
Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of Hungary on the Readmission at the State Border of Illegally Residing Persons – signed in Budapest on 11.11.1998, in force since 16.07.1999

***Czech Republic***
Agreement between the Government of the Republic of Bulgaria and the Government of the Czech Republic on the Readmission of Persons – signed in Sofia on 09.04.1998, in force since 07.11.1998

***In the previous DCP it was stated that the readmission agreements with FYROM and Ukraine were signed on, respectively, 4 June 2001 and 4 September 2001. In the latest additional information the date of 27 March 1992 was mentioned. Please clarify.***
The date of 27 March 2002 indicated in the latest supplementary information (CONG-BG 55/02) refers to Georgia.
The Readmission Agreement with FYROM was signed on **04.06.2001** and has been in force since 19.06.2002.

The Agreement between the Government of the Republic of Bulgaria and the Cabinet of Ministers of Ukraine on Readmission of Persons Who Reside Illegally in the Territories of the Tow Countries was signed on **4 September 2001** and entered into force on 2 August 2002.

## Second set of additional questions – 30th April 2003

***Does BG law also provide for confiscation of property of employers? (this question was not answered)***
Bulgarian legislation does not provide for confiscation of property owned by an employer who signs a labour contract with an alien without a work permit.

***In the report on the implementation of the Schengen Action Plan (SAP), which was officially forwarded on 10 April 2003) it is stated that due to a lack of financial resources the 4 envisaged special centres (Varna, Haskovo, Rousse, Blagoevgrad) will be delayed. In the first SAP this deadline was 31 March 2003 and in the updated SAP 30 June 2004, which already was a delay. Due to the fact that the report on the implementation and the updated SAP were both adopted on 6 March 2003, can it be concluded that there will be a further delay in opening these 4 centres?***
The new deadline for opening the 4 centres is feasible. It has been updated in the SAP with a view to avoiding further delay in the implementation of this measure.

***Has the deadline for signing the readmission agreement with UK - 21 February 2003- been met?***
Yes. The Readmission Agreement with the United Kingdom was singed on 21 February 2003 as it was mentioned in the information on the previous additional questions.

# Asylum

## First set of additional questions – 12th March 2003

***The new Refugees and Asylum Act, which entered into force on 2 December 2002. Some questions came up while assessing this Act, in particular as regards Articles 13 and 16. The criteria mentioned in Article 13 for refusal and a withdrawal of a status are relevant for the refusal of a status, but are not appropriate for a withdrawal of a status. The same is valid for the criteria of Article 16. Could you please clarify why a no separation between refusal and withdrawal of a status has been made.***

Article 13 of the *Asylum and Refugees Act* settles cases of manifestly unfounded applications as envisaged in the *1992 London Resolution relating to the Manifestly Unfounded Applications for Asylum*. The separation between refusal and withdrawal is clearly distinguished when the provision is interpreted connotatively. The beginning of the provision includes two hypotheses as follows:

1. In the presence of some of the grounds listed in the separate sections the application is considered manifestly unfounded and the person is not granted protection;
2. In case such grounds are ascertained at a later stage, after a refugee status or a humanitarian status have been granted, the respective status is withdrawn because the relevant facts under sections 5, 6 or 7 for example might become known to the competent authority considerably later and after finalizing the refugee status determination procedure with a positive decision.

It is quite probable some of the above-mentioned facts to remain uncovered in the accelerated procedure considering the short deadlines (3 days). In case an alien has been granted protection, despite the fact that he acted in bad faith or did not disclose the appropriate circumstances he would avail of the granted rights. Under some of the sections, for example 1, 2, and 3, it *is* possible that statute withdrawing should not occur as a hypothesis and hence they would never be applied. Other sections, however, (4, 5, 6, 7, 9, and 10) are relating to unlawful behaviour of the person seeking protection and hence he should not avail of favourable after effects as this represents a general legal principle: nobody should derive rights from his own unlawful behaviour.

Article 16 of the *Asylum and Refugees Act* settles cases where a non-existence of protection need is deemed. The above-mentioned provisions are included in the Act due to some basic reasons - the practical experience of the Agency in the last few years and their presence in the already denounced Refugees Act. The only logical frame for these provisions in the new law is also in connection with the regulations of the *1992 London Resolution relating to the Manifestly Unfounded Applications for Asylum*, under which the national legal framework might include admissibility procedures rendering the applications deniable on objective grounds.

Like Article 13, the above-mentioned article settles more than one hypothesis. The hypotheses are as follows:

1. In the presence of some of the grounds listed in the separate sections it is considered that there is a non-existence of protection need and the procedure may be discontinued, and thus the respective status is not granted;
2. In case such grounds are ascertained later - i.e. the non-existence of protection need is revealed or becomes known later and after a refugee status or humanitarian status has been granted, the respective status might be suspended.

***In Bulgaria's additional it is stated that in order to take fingerprints an amendment to the Ministry of the Interior Act is necessary, which were to be adopted by the end of October 2002. Has this deadline been met?***

The *Ministry of the Interior Amending Act*, which regulates *inter alia* "taking of fingerprints", was adopted by the National Assembly on 6 February 2003 and promulgated in the State Gazette N 17 of 21 February 2003.

***As regards the EURODAC Regulation: the legislative amendments to the Ministry of the Interior Act are (as stated in the additional information) in line with this Regulation. One remaining question: is taking of fingerprints also possible (and provided by law or these amendments) for persons if they are at least 14 years of age?***

The Bulgarian legislation in force allows under certain conditions to take fingerprints of persons who are at least 14 years of age.

***It is stated that the Agency for refugees plans to create its own databases, containing all documents and data related to the identity of asylum seekers. Are there any developments on this plan?***

The State Agency for Refugees avails of its own information database comprising all personal data and documents relating to aliens who have lodged applications for protection between 1993 and 2003. The database is on hard copy. Under the Agreement between the State Agency for Refugees and the Ministry of the Interior an Automated Information System on Refugees has been developed. It includes all personal data and documents relating to aliens seeking protection and has a search tool in line with the standards of international co-operation. The system was put into operation at the beginning of 2003 and is currently being tested and improved. The data on all registered aliens who sought protection will be recorded in the system by stages.

***General remark/question as regards implementation of the integration of recognised asylum seekers: although the new Act provides for assistance, most of it is implemented with the financial support of NGOs. From the additional information it is not clear what the financial contribution of the Bulgarian Government is. Could you please clarify.***

Financial support for asylum-seekers with refugee status or humanitarian status from the national budget is allocated in accordance with the *Social Welfare Act* (promulgated in the State Gazette, N 56 of 19.05.1998, last amended in the State Gazette, N 120 dated 29.12.2002):

According to Art. 2, para. 4 of the *Social Welfare Act* aliens with refugee status or humanitarian status are entitled to social welfare support under the conditions applicable for Bulgarian nationals.

Unlike Bulgarian nationals, however, who in order to receive monthly social support are required registration with an Unemployment Office at least 6 months prior to applying, persons with refugee status are not subject to such a term if they were registered in the respective Unemployment Office within one month after receipt of the decision (*Rules Implementing the Social Welfare Act*, Article 10, para. 4(7)).

Aliens who have been granted asylum, refugee status or humanitarian status and who have permanent disabilities are entitled to the respective social welfare assistance and services as well as auxiliary equipment like wheel-chairs, hearing aid, etc., disabled pension included on behalf of the Bulgarian State.

Article 32, para. 2 of the *Asylum and Refugees Act*, which entered into force in December 2002, envisages that “A recognized refugee or an alien with humanitarian status may be provided with financial support for housing for a period of up to 6 months as of the date of coming into effect of the decision for status granting, under conditions and procedure laid down by the Chairman of the State Agency for Refugees in coordination with the Minister of Finance.”

Currently the State Agency for Refugees has drafted a project for the conditions and procedures for extending financial support for housing, which will be co-ordinated with the Minister of Finance in due time.

The draft includes two approaches:

I. Extending the term for accommodation in Reception and Registration Centres (up to 6 months) for aliens with refugee status or humanitarian status who have special needs (those with chronic ailments, single parents with children, pregnant refugees, single elderly refugees over the age of 60 years, people with permanent disabilities, etc.).

Decision on every particular case will be made after a social interview and assessment of the health, family and economic status of aliens with refugee status or a humanitarian status.

This approach will ease the integration of the above mentioned groups as it will eliminate the need for aliens to look for and renting housing by themselves during the first months after receiving the decision for granting refugee status or humanitarian status. During that period solutions will be sought for individual cases like:

- accommodating single elderly refugees above the age of 60 years in Old People's Homes;
- accommodating unaccompanied minor refugees in Parentless Children's Homes;
- disabled aliens who have been granted refugee status or humanitarian status will receive expert medical examination for disabilities and be assisted in filing an application for a disability pension.

II. Extending financial support for renting housing for up to 6 months under a special scheme including:

- assessment of the health, family and economic status of the aliens with refugee status or humanitarian status;
- assessment of the personal involvement in the integration process such as participation in free Bulgarian language training managed by the State Agency for Refugees and the Bulgarian Red Cross;
- registration at the Employment Offices and active job hunt;
- registration at the respective Social Welfare Directorates and enlisting for social welfare benefits.

As far as education of child refugees is concerned, it is worth mentioning that the education in the State and municipal schools in the Republic of Bulgaria is free as it is state-subsidized for both Bulgarian children and aliens below 18 years of age who are seeking or have been granted protection. Currently effective are special regulations relating to the right to education of child refugees, as follows:

- Article 26 of the *Asylum and Refugees Act*: "Children below the age of 18 shall have the right to education at the state and municipal schools of the Republic of Bulgaria in accordance with the procedure established by the Chairman of the State Agency for Refugees and the Minister of Education and Science.";
- Regulation N 3 of 27.07.2000 of the Ministry of Education and Science for the procedure of accepting refugees in the State and municipal schools in the Republic of Bulgaria.

Article 1, para. 2 of Instruction N 3 of 05.07.1999 of the Ministry of Education and Science concerning the conditions and procedure for granting textbooks to school children coming from socially disadvantaged families envisages the opportunity for minor refugees from grade two to grade eight to be granted textbooks free of charge.

The above-mentioned measures for integration of the recognized refugees are financially supported by the respective ministries – the Ministry of Labour and Social Policy and the Ministry of Education.

***The Agency for Refugees has proposed to the Government a Project for Housing of Recognised Refugees, which is planned to be implemented under the Phare 2003 program. What is the exact state of play of this proposal? Has a proposal for Phare support been submitted? What is the content of this Project?***

A proposal for such a project was submitted to the Bulgarian Government; later it was reshaped and the State Agency for Refugees applied in September 2002 under the 2003 PHARE Program with a Project Fiche for IB-Twinning Project *Strengthening of the Institutional Capacity of the Bulgarian State Agency for Refugees in the Field of Documentation and Integration*. The project was enlisted in the Government Programme under N28 and is worth €1.2 million. The application was declined in November 2002 by the European Commission due to lack of funding. In its letter N 02.17-16 of 17 February 2003 the Council of Ministers informed the State Agency for Refugees that the agency could apply for allocations from the undistributed 2002 PHARE funding. The Agency drafted a Project Fiche *Strengthening of the Institutional Capacity of the Bulgarian State Agency for Refugees in the Field of Accommodation and Social Integration of Recognized Refugees* - IB Twinning Project worth €0.88 million. The Project Fiche was sent to the Ministry of Finance EU Funds Management Directorate on 25.02.2003. The Agency is awaiting the decision.

***As regards social assistance in the additional information a reference is made to Article 28 of the Refugees Act, which is no longer valid because this Act has been replaced. Has the new Act a similar provision as the "old" Article 28?***

The right of aliens seeking protection to social support is envisaged in Article 29, para. 1(4) of the *Asylum and Refugees Act*. In the already denounced Refugees Act the provision was in Article 28.

***Family reunification: what is according to Bulgarian national legislation meant with underage?***

According to the *Persons and Family Act*, with the accomplishment of 18 years people become of age, they are fully capable through their actions to acquire rights and be obligated (Art. 2). Persons under 14 years of age are minors. Instead of them and on their behalf legal activities are carried out by their legal representatives – parents or guardians (Art. 3). Persons between 14 and 18 years of age are juveniles. They carry out legal activities with the consent of their parents or trustees, but they can conclude alone ordinary minor deals to satisfy their current needs and can have at their disposal what they have earned (Art. 4).

Consequently, according to the Bulgarian legislation, underage is a person who has not accomplished 18 years of age but has already accomplished 14 years of age.

***Reception centres: what is the capacity of the Integration Centre for Refugees in Sofia?***

Compliant to Article 47, para. 2(3) of the *Asylum and Refugees Act* the Integration Centre is not an accommodation centre. It is a territorial unit of the State Agency for Refugees providing for Bulgarian language training, vocational training and other activities which are inherent to the integration of aliens seeking protection in the Republic of Bulgaria as well as their reintegration in case of voluntary repatriation like:

- Bulgarian language training for minor refugees
- Vocational training according to labour market demand for women refugees in the studies of the centre and for men - at the respective Unemployment Offices
- Social consultancy for aliens granted refugee status or humanitarian status in the sphere of social activities and employment
- Integration-oriented cultural activities for aliens seeking or granted protection
- Social education for minor refugees

The capacity of the Integration Centre provides for training in different courses on a daily basis between 133 to 181 persons seeking or granted protection.

***Reception centres: could a clarification be provided for the difference in staff between the staff in Banya (16 staff for 80 persons) and Sofia (22 staff for 500 persons)?***

As of 01.12.2002 the staff of the Registration and Reception Centre in Sofia has been increased from 22 to 32 employees under the *Rules of Procedure of the State Agency for Refugees* (Decree N 291 of 12.12.2002 of the Council of Ministers).

It is worth mentioning that the number of staff of both registration and reception centres matches specific requirements such as:

- In the Registration and Reception Centre in the village of Banya there is a self-contained kitchen for preparing three meals daily for aliens seeking protection. This explains the larger number of staff.
- In the Registration and Reception Centre in Sofia there is no self-contained kitchen. That is why the aliens seeking protection receive a monthly grant for sustenance set according to the monthly minimum income fixed by the Government of the Republic of Bulgaria. The administration of the Registration and Reception Centre is sharing a building with the administration of the State Agency for Refugees and some of the activities of the Registration and Reception Centre are assisted by the staff of the administration of the State Agency for Refugees (registration, preparation of documents, social support, etc.).

***Reception centres: for the construction of two new centres a feasibility study is carried out. What is the deadline? Will the feasibility study be ready in time in order to accompany and make eligible the project proposal that was submitted under Phare 2003? What are the consequences for the staff of the Agency of Refugees after the extension of the capacity. Any plans for the increase of staff?***

In our understanding the question does not correspond to reception centres but to transit centres, which – compliant with Article 47, para. 2 of the *Asylum and Refugees Act* – are territorial units of the State Agency for Refugees for accommodation, medical examination and accelerated procedure for aliens seeking protection.

In September 2002 the State Agency for Refugees applied for PHARE funding with a Project Fiche for *Strengthening of the Accommodation Capacity of the Bulgarian State Agency for Refugees* – an Investment project for construction of two transit centres (near Kapitan Andreevo Border Check Point and Sofia Airport Border Check Point). The project is included in the programme of the Bulgarian Government under N 29 and is worth €5 million. The project was approved without major corrections. Currently in the framework of the project BG 0103.06 the documentation for the two transit centres is drafted, namely the feasibility study, the architectural design and the tender dossier which will supplement the Project Fiche for application for 2003 PHARE funding for construction of two transit centres. Drafting of the documentation should be finalized in April 2003.

A proposal will be submitted to the Council of Ministers of the Republic of Bulgaria for opening of the two new transit centres and fixing the number of staff after their construction has been completed.

***Number of requests for asylum: in the first five months of 2002, 1.938 asylum requests were lodged. Please provide the total number for 2002. Looking at the number of requests: will the future capacity be sufficient for these numbers?***

2888 requests for asylum were lodged in 2002. It is deemed that after the construction of the two transit centres is finalised the future capacity will meet the needs of asylum seekers.

***Could information be provided on the (free) legal aid for asylum seekers, including the available budgetary means.***

The budgetary funds allocated to the State Agency for Refugees for 2003 are limited and are earmarked above all for support of the aliens seeking protection like accommodation, sustenance and medication. The conditions for legal aid provided for by the State Agency for Refugees currently include due explanation of the rights and obligations of the aliens during the refugee status determination procedure and after granting a status.

Free legal aid for persons seeking protection is extended by the Bulgarian Helsinki Committee. For consultation purposes the Agency has provided to the Bulgarian Helsinki Committee premises in the building of the Sofia Registration and Reception Centre.

It is an established practice after granting a refugee status or a humanitarian status Integration Centre officers to provide free social and legal consultations and other services such as: direction to the Unemployment Offices, the social services, the labour expert medical commissions. A brochure for social and labour consultations has been compiled; it is translated into Persian, Arabic, French and English for the needs of the refugees. The number of the consultations held in 2002 was 265.

## Second set of additional questions – 15th May 2003

***Has the deadline (April 2003) for finalising the feasibility study for the two transit centres (Kapitan Andreevo and Sofia Airport) been met?***

Yes, the deadline has been met. The consultant company submitted the architectural plans and the tender documentation to the State Agency for Refugees on 28 April 2003.

***Has the Phare 2003 project for the construction of these two transit centres been submitted and approved?***

In September 2002 the State Agency for Refugees applied to the PHARE 2003 Programme with a project fiche on "Strengthening the Reception Capacity of the State Agency for Refugees"- Investment project for the construction of these two transit centres. The project received the support of the European Commission and has been included in the financial proposal under the National PHARE 2003 Program. It is pending approval by the PHARE Steering Committee in Brussels in June 2003.

***Has Bulgaria already started with the proposal for the required number of staff of these centres? As stated in the answers to the additional questions ("submit the proposal to the Council of Ministers after construction") seems a bit late. Please clarify.***

The State Agency for Refugees is already training staff for the specific work in the transit centres and is considering the required number to be appointed there. In accordance with Art. 47, para. 3 of the *Asylum and Refugees Act*, the decision to set up transit centres is taken by the Council of Ministers on a proposal from the Chairman of the State Agency for Refugees. The practical procedure related to opening the centres and approving the staff numbers is carried out within one month.

# Police Co-operation

## First set of additional questions – 11th April 2003

***It is stated that an amendment to the Ministry of the Interior Act, providing inter alia the legal basis for the National Contact Point (NCP) has been adopted by the National Assembly on 6 February 2003. Amendments to the Rules Implementing this Act for the proper functioning of the NCP will be ready on 31 March 2003. Has this deadline been met? What is the envisaged date for adoption? Is the entry into force of the amended Ministry of the Interior Act, adopted on 6 February 2003 depended on the adoption of the amended Rules? Please note that on page 80 of the additional information (CONF-BG 55/02) the end of December 2002 were mentioned as a deadline for the adoption of the amended Rules.***

The organisation needed for setting up the National Contact Point in the Ministry of the Interior was established on 3 October 2002 by an Order of the Minister of the Interior.

The legal framework of the National Contact Point is provided in the Law amending the Ministry of the Interior Act (SG No 17/21.02.2003) in force as of 25 February 2003. A new paragraph 2 has been introduced in Art. 9 which reads as follows:

*"A National Contact Point shall be established in the Ministry of the Interior under the leadership of the Chief Secretary and shall be responsible for carrying out international operational police co-operation. The National Contact Point shall act in the cases provided for under international agreements, to which the Republic of Bulgaria is a party. The organisation and structure of the National Contac Point shall be determined by the Minister of the Interior."*

The deadline for drafting amendments to the *Regulation on the implementation of the Ministry of the Interior* Act has been met (31 March 2003). The Regulation was adopted by the Council of Ministers on 10 April 2003. The amendments do not regulate the functioning of the National Contact Point.

***An Instruction on the powers and the responsibilities of the seconded police officers has been drafted (Question: when? adopted?)***

The powers and responsibilities of the seconded police officers are regulated in the Rules on the organisation of the activities of the National Contact Point, approved by the Minister of the Interior.

***Can the conclusion be drawn that the NCP has received a legal basis via the adoption of the amendments to the Ministry of the Interior Act (see above) but that it will only be fully operational after the entry into force of the amendments and the adoption of the Rules?***

The Law amending the Ministry of the Interior Act (SG No 17/21.02.2003) in force as of 25 February 2003 provides the legal basis for the National Contact Point while its functioning is regulated by the Rules on the organisation of the activities of the National Contact Point.

***In the revised Schengen Action Plan (CONF-BG….), Bulgaria also states that it intends to design a uniform digital communication system for police co-operation by 31 December 2005. Please provide information on the content and function of this system: national level for international and national police co-operation, and/or to be used for border police co-operation? Interoperable with systems in the neighbouring countries?***

This measure concerns the design of a uniform communication system for police co-operation, which shall comply with the standards and parameters of the future SIS II (foreseen to be created by 2005) and will be introduced upon full Schengen membership.

The deadline will be updated depending on the date on which Bulgaria receives the parameters of the SIS II from the EU.

***In its position paper (CONF-BG 55/02), Bulgaria states that amendments to the Penal Code are adopted by the National Assembly on 13 September 2002 (CONF-BG 55/02 ADD 22). Date entry into force?***

The *Law amending the Penal Code* was promulgated in State Gazette No 92 of 27 September 2002 and is in force as of 1 October 2002.

***As regards the Law amending the Penal code: what is the reason for making a distinction between 'homosexual acts' in order to acquire material benefits and 'any person': amendments to article 157?***

The full text of Art. 157 with the amendments introduced by the Law amending the *Penal Code* (SG No 92/2002) is as follows:

*Art. 157. (1) (Suppl., SG 28/82; amended SG 92/02) Those who carry out sexual intercourse or an act of sexual satisfaction with a person of the same sex by using force or threat or using a state of dependence or supervision, as well as with a person unable to defend himself/herself, shall be punished by imprisonment of two to eight years, as well as by public reprobation.*

*(2) (Suppl., SG 28/82; amended SG 89/86; SG 62/97; SG 92/02) The same punishment shall also be imposed on those who carry out such homosexual activities with a person under 14 years of age.*

*(3) (New, SG 89/86) The punishment under para. 1 shall also be imposed on a person of age who carries out such homosexual activities with a minor or with a person who cannot understand the nature and the meaning of the act.*

*(4) (Previous para. 3 - SG 89/86; Repealed, SG 92/02)*

*(5) (Amended, SG 28/82; previous para. 4, SG 89/86; amended, SG 10/93; Amended, SG 92/02) Those who act as procurer to homosexual activities with the purpose of acquiring property benefit and those who by providing or promising benefit persuade another person to such activities shall be punished by imprisonment of up to three years and by a fine of up to one thousand levs, and the court can also rule a probation measure not to visit a certain place, region or establishment for a certain period of time.*

As regards the specific question:

The first hypothesis of para. 5 of Art. 157 provides criminal liability for procurers, who profit form homosexual exploitation, whereas the second hypothesis criminalises persuasion to homosexual prostitution by promising benefits.

***As regards new legislation on the operation of the services in the area of public order, Bulgaria states that on 1 August 2002 amendments to the Ministry of the Interior Act passed a first reading in the National Assembly. Adoption is expected by the end of October 2002 Deadline met? Date entry into force? Or is this subject included in the amendments stated above, which were adopted on 6 February 2003?***

More precise regulation of the functions of the Ministry of the Interior services is included in the Law amending the Ministry of the Interior Act, adopted by the National Assembly on 6 February 2003 (SG No 17/21.02.2003). The amendments are in force as of 25 February 2003.

***A task force within the National Police Service has been set up in order to elaborate by the end of 2002 a community policing strategy (improvement of the contacts with the civil society) Deadline met?***

The deadline has been met. The Community Policing Strategy has been elaborated and has been approved by the Minister of the Interior (Order No. IB 907 of 30 October 2002).

***National Crime Strategy 2002-2008: on the basis of the additional it seems that 2 strategies are being drafted (Strategy of the Ministry of the Interior to Combat Crime and a National Crime Strategy). Is this a correct conclusion? If so, have the 2 strategies already been adopted? If so, what are the dates? Are the texts of the documents available in English: necessary to make an assessment. (not included in the additional information). Is there an Action Plan for the implementation? If so, what is the date of adoption and could an English version be provided?***

The National Anti-Crime Strategy was adopted by Council of Ministers Decision of 7 November 2002. The Strategy incorporates entirely the strategy of the Ministry of the Interior that has been initially developed - after the date of adoption of the National Anti-Crime Strategy the former should no longer be considered an independent document.

An Action Plan on the Implementation of the National Anti-Crime Strategy was approved by the Council of Ministers on 13 February 2003.

***The co-operation between the different police services at national level (National Police Service, National Service for Combating Organised Crime, National Gendarmerie, National Border Police Service) National Security Service, is missing in the BG additional information. Please clarify.***

The National Security Service is a specialised counter-intelligence and information service of the Ministry of the Interior responsible for the protection of national security from acts of foreign special services, organisations and individuals aimed against the national interests of the country; for the detection and neutralisation of processes threatening the state order stipulated by the Constitution, the unity of the nation, the territorial integrity and sovereignty of the state. The interaction of the National Security Service with the police services is carried out under the leadership of the Chief Secretary of the Ministry of the Interior in accordance with his functions under Art. 27 of the Ministry of the Interior Act. The National Security Service provides information and data related to the counteraction of crime, including organised crime, to the competent police services.

***Remark: on the basis of the information provided on co-operation it is not possible to assess the overlaps. No information has been given on overlaps and how these are remedied. It would be useful to provide an English version of the relevant articles (Chapter XX) of the Ministry of the Interior Act and the respective Terms of Reference of the services, including the National Security Service.***

The organisation of interaction and co-ordination between the national services is carried out in compliance with their competencies stipulated by the Ministry of the Interior Act.
Relevant provisions of the Ministry of the Interior Act are contained in the annex attached.

***In addition to the questions asked under the Schengen Action Plan on co-operation agreements: what are the competencies of foreign (police) officials on Bulgarian territory and what is the legal basis?***

Under the agreements on co-operation in the fight against crime in force and in compliance with the *Ministry of Interior Act* foreign officials have no competencies on the Bulgarian territory and cannot take part in searching activities. Foreign officers can only be present during performance of searching activities by the Bulgarian competent authorities.
In the *Regulation for the Implementation of the Ministry of Interior Act*, adopted on 10.04.2003, a new text Art. 7a has been introduced stipulating that activity of foreign officials with regard to operative co-operation in the area of cross-border surveillance and hot pursuit on the territory of the Republic of Bulgaria is allowed in case it is provided for in an international agreement ratified by law by the National Assembly, promulgated in State Gazette and having become effective.

***As regards police co-operation agreements the Implementation Report SAP also mentions Poland, which is not listed in the overview, only one from 1993. Please clarify.***

An Agreement with Poland on co-operation in the fight against crime, signed on 19 June 2002 in Warsaw, is in force. The entry into force of this Agreement terminates the effectiveness of the 1993 Agreement between the two Ministries of Interior.

***Twinning project on management of criminal information systems was finished in October 2002. It is stated that the work on the creation of an automated criminal analysis system is ongoing and an institutional model for creating an intelligence processing and analysis system has been approved. This project also played an important supportive role for the adoption of the Personal Data Protection Act and the development of the amendments to the Ministry of the Interior Act in this regard. During the implementation of this project the initial activities were extended with the development of an Automated Information System for all search activities of the Ministry of the Interior, including all data covered by the SIS, a reorganised criminal analysis, including the necessary training. Remark: has this been finalised, training foreseen in March (which year?); this in relation to the statement "ongoing" – see above. Please clarify.***

On 26 October 2002 the implementation of the 1999 Phare Project BG 9911.02 Institutional strengthening of the Bulgarian Police: updating of criminal information system and improvement of management techniques was completed. The first element of the Project aimed at building up and exploitation of a stolen vehicles information system in compliance with the Schengen requirements, as a first stage of building up a search system of the MoI for all SIS objects. As a result of the joint work with the Twinning partners a document was elaborated and approved on Planning of the information system for the search activity of the MoI, which comprises all SIS objects. On 4 October 2002 the new searched vehicles automated information system was introduced into pilot exploitation with real data. In 2002 five training courses were organised for administrators and four training courses for users.
One of the key aspects in developing the system was the adoption of the legal basis for personal data protection in automated processing and ensuring the procedure for access of citizens to the police information databases/funds. In this context the MoI initiated the adoption of the Personal data Protection Act and the ratification of EC Convention 108.
Another component of the project was related to the development of a criminal analysis system in compliance with Europol requirements and standards. The Minister of Interior endorsed an *Institutional model for the development of the operative information processing and analysis system*. In the course of its implementation the units responsible for performing the criminal analysis have been appointed. In 2002 experts from the criminal investigation service of the Spanish police held two train-the-trainer courses for analysts according to Europol methodology. AIS for the needs of the criminal analysis is in the course of pilot introduction. Training of analysts on operative analysis continues as stipulated in an Ordinance of the Minister of Interior. According to the said Ordinance 7 training courses for officers from all over the country will take place.

***Training: it is stated that an additional three-day courses for topics such as terrorism, trafficking in drugs, combating smuggling and money laundering have been organised in the 2001-2002 academic year. Question: also for the 2002-2003 academic year? In other words are these ad-hoc or compulsory training for officers of NSCOC?***
A curriculum for specialised compulsory training for NSCOC officers is elaborated annually, based on the assessment and analysis of the specific needs.
The training includes topics of international legal instruments in the respective field, including European law and a number of practical aspects. It is organised by the Qualification Improvement Centre at the MoI Academy with the participation of experts from NSCOC. The 2002-2003 programme includes training modules on financing of terrorism, trafficking in drugs, combating corruption, financial and customs fraud, the last one envisaged to be organised within the framework of OLAF Multi-country Phare project.

***In view of increasing the co-operation between the relevant law enforcement bodies in the field of trafficking of human beings, the Ministry of the Interior established in 2001 (which month?) a Human Trafficking Task Force within NSCOC.***
The Task Force has been operational since October 2001.

***Please provide more updated figures. The figures mentioned for trafficking in human beings and women in the additional information relate to the period 2001 until April 2002?***
In 2002 NSCOC identified 63 organised criminal groups /42 – trafficking in women; 14 – illegal migration; 5 – illegal employment; 2 – trade in forged documents/. 26 of the established criminal groups with the total number of 118 involved (85 Bulgarians and 33 foreigners) have been acting on an international level. 32 organised criminal groups have been deterred – 20 involved in trafficking in women for the purposes of sexual exploitation and 12 in trafficking in human beings. For 42 persons having leading functions in the groups preliminary proceedings have been initiated. 32 persons are under investigation by the investigative authorities and 10 persons are in the process of police investigation. 15 persons are being investigated for trafficking in human beings and 27 – for trading in women for the purpose of sexual exploitation. Within the framework of the operative police co-operation with the police authorities of the Czech Republic, France and Italy NSCOC has facilitated the neutralisation of 3 organised criminal groups, against whose participants investigation has been initiated in the respective countries.

According to data of IOM Bulgaria during 2002 the number of women, victims of trafficking, is 117, IOM having rendered assistance for voluntary return to the countries of origin to 47 women, victims of trafficking, 3 of them foreigners and 44 Bulgarian citizens.
In the framework of *Mirage* police operation conducted in September 2002 on the territory of the SECI member states, 1067 women involved in prostitution have been established on the territory of Bulgaria, 20 of them foreigners /from Ukraine, Russia, Romania, Macedonia and Kazakhstan/. 67 from the total number of women have described themselves as victims of trafficking. As a result of the operation, 26 police investigations and investigations carried out by magistrates have been initiated for crimes related to trafficking in women and 47 police investigations and investigations carried out by magistrates – for crimes related to illegal migration. (The data on these investigations have not been included in the statistics of the previous paragraph).
In 2002 the National Border Police Service has registered the following offences:

- 2391 foreign citizens have been detained at the state border and at the border checkpoints;
- 9828 foreign citizens were not allowed to enter, 7693 of them were violators of the passport and visa regime and 2136 attempted crimes under Art. 279 of the Penal Code;
- 2957 persons were not allowed to exit /2475 Bulgarian citizens and 482 foreign citizens/;
- 2475 Bulgarian citizens were not allowed to exit;
- 1522 persons reported for searching, have been detained, including 1435 Bulgarian and 87 foreign citizens

In 2002 the National Border Police Service has initiated 1054 police investigations under Art. 279 and Art. 280 of the Penal Code and 3 investigations under Art. 159b of the Penal Code.

***As regards already assigned liaison officers: from which Service are these officers recruited?***

With regard to its restricted budget the MoI is not able to send representatives of the separate national services – border police, criminal police, combating organised crime, etc. The adopted practice is for sending a MoI representative authorised to represent and work on the problems within the competencies of all national services of the Ministry of Interior of Bulgaria. In the course of his/her activities he/she deals not only with solving specific operative cases, but also with issues related to the implementation and development of the legal framework of international co-operation in the area of internal security, support in the course of negotiations of Bulgaria with the European Union on Chapter 24 “Justice and Home Affairs” and the membership of Bulgaria in NATO.
The nomination of the representatives is done on the basis of competition within the Ministry of Interior. After their nomination the candidates are subject to training in the MoI national services in order to get acquainted with the specific objectives and problems within their competencies. In addition, the International Co-operation Directorate provide them with information on the priorities in the development of bilateral co-operation in the area of internal security and public order with the countries they are nominated to work in, as well as data on the progress of the negotiations process on Chapter 24 “Justice and Home Affairs”, the implementation of current projects and the process of planning of future projects under Phare Programme.

# Fight against Terrorism

## First set of additional questions – 18th February 2003

***The 1999 UN Convention for the Suppression of the Financing of Terrorism: in Bulgaria's additional information it is stated that the convention was signed on 19 March 2001 and that the Government agreed with the ratification on 31 January 2002. The instrument for ratification has been submitted on 15 April 2002. However, this information differs from that in Appendix IX.1. Here it is stated that the Council of Ministers adopted ratification on 10 December 2001 and that ratification will follow in the near future. Furthermore, it is stated that an amendment to the Criminal Code and other domestic legislation as well as the adoption of new regulatory acts are intended in order to align with some provisions of the Convention. Please clarify.***

The international *Convention for the Suppression of the Financing of Terrorism* was ratified by the National Assembly on 23 January 2002 (SG No. 11/31.01.2002). The Convention has been in force for Bulgaria since 15.05.2002. The Convention was published in the State Gazette issue 70 of 19.07.2002.

On 13 September 2002 the National Assembly adopted amendments to the *Penal Code* (SG No. 92/27.09.2002), which contain special provisions criminalizing terrorism and the financing of terrorism (the latter envisage forfeiture of the assets used for financing of terrorist acts). Furthermore, the amendments to the *Penal Code* have introduced penalization for: setting up, leading and participating in a terrorist group; conspiring to terrorism; inciting explicitly towards terrorism; and threatening with terrorism. The new provisions stipulate forfeiture of part of or the whole property of terrorist offenders and of those who finance their activities.

The *Law on Measures against the Financing of Terrorism* was adopted by the National Assembly on 5 February 2003. The Law regulates the measures against the financing of terrorism, the organization and control of their implementation as well as the administrative sanctions in cases of violation (those sanctions will be imposed if the offense does not constitute a crime). The Law takes into consideration the measures under UN Resolution 1373 (2001) and the provisions of Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism.

***On 26 September 2002 the National Assembly approved at first reading the draft Law on the Measures against the Financing of Terrorism. Has this Law already entered into force? What is the state of play of the Regulations for its implementation, which will be adopted three months after enactment of the Law?***

On 05.02.2003 the National Assembly adopted at a second reading the *Law on Measures against the Financing of Terrorism*. In the course of parliamentary debate prior to the second reading the National Assembly decided that it is not necessary to adopt implementing regulations based on the motive that the regulation provided by the Law is complete and comprehensive enough.

***Directive 2001/97/EC (money laundering): amendments for full alignment to the Measures against Money Laundering Act were approved by the Council of Ministers on 9 September 2002 (in the part on fraud & corruption 19 September 2002 is mentioned): which date is correct? Deadline for adoption was envisaged for the end of 2002. Has this deadline been met? If yes, what is the date of entry into force; if not, what is the reason for delay and when will this amendment enter into force?***

The draft amendments to the *Measures against Money Laundering Act* were approved by the Council of Ministers on 19 September 2002. On 1 October 2002 the draft was submitted to the National Assembly. On 13 February 2003 it was passed at a first reading. It is expected that it will be finally adopted by the end of June 2003, at the latest.

The delay of those amendments occurred as a result of the fact that before entering plenary it had to be considered by the Budget Committee. Since the Budget Committee was entirely occupied with the *National Budget 2003 Act* (which is reviewed by that committee), the consideration of other legislation was postponed for the first sitting of parliament in 2003.

***The information provided on preparations for the implementation after accession of the EU Convention of 29 May 2000 on Mutual Assistance in Criminal Matters and its Protocol is too limited for a closure DCP. Detailed information on what kind of legislative amendments are necessary and their timetable, including provisions on hearing by videoconference and teleconference. Remark: Bulgaria's additional information refers to a Second Protocol, however this EU Convention only has one Protocol.***

The supplementary information (CONF-BG 55/02) mentions the Second additional protocol to the European Convention on Mutual Assistance in Criminal Matters, which was signed by Bulgaria on 8 November 2001 in Strasbourg on the day of its opening for signature by the Council of Europe members. **The 1959 Convention and its additional protocols of 1982 and 2001 are Council of Europe instruments and to a large degree overlap with the provisions of the EU Convention of 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and its Protocol of 2001.** By the end of 2003 Bulgaria will ratify the second additional protocol to the Council of Europe Convention and the *Penal Procedure Code* will be respectively amended in view of achieving practical implementation of the institutes and mechanisms underpinning the protocol, which introduce some new concepts in Bulgarian law: joint investigation teams, transborder hot pursuit, controlled deliveries, audio and video conferences, etc. That as well as the further elaboration and adoption by the end of 2004 of entirely new *Extradition and Legal Assistance in Criminal Matters Law* will enable Bulgaria to prepare its domestic legislation for implementation of the provisions of the 2000 Convention, too, as well as its 2001 Protocol.

# Fight against Fraud and Corruption

## First set of additional questions – 16th April 2003

***NB: additional questions on alignment with the provisions of the Convention on the European Community's Financial Interests and its Protocols are <u>not yet included</u>. These questions will follow in the beginning of the week of 14 April 2003.***

### *Co-operation with OLAF (Article 7)*

***It is stated that Bulgaria intends to establish a national structure etc. An interdepartmental Task Force was set up for identifying the necessary legal changes. What is the date of the setting up of the Task Force?***

***What is the actual situation on the intended legislation?***

A Co-ordination Council in the area of combating offences against the financial interests of the European Communities was established by Council of Ministers Decree No 18 of 4 February 2003 (SG No 13/11.02.2003). (The Decree was drafted by the above-mentioned Task Force).

The Council is chaired by the Minister of the Interior (Article 3, Paragraph 2). It includes the heads of major structural units and agencies of the Ministry of the Interior, Ministry of Finance and Ministry of Agriculture and Forests (Article 4). In the absence of the Chairman of the Council he shall be replaced by the Deputy Chairman of the Council, who is a Deputy Minister of the Interior (Article 3, Paragraph 3 and Article 6, Paragraph 2).

According to the Decree, the Council will guide, monitor and co-ordinate the activities of the public authorities aimed at thwarting and combating offences such as fraud, misappropriation, ineffective management or expenditure of funds and property owned by the European Union or granted to Bulgaria from public funds or under EU programmes (Article 2).

The Co-ordination Council will ensure the co-operation and co-ordination between the competent authorities responsible for detection and prevention of offences related to EU funds and property (Article 4(1)) and provide liaison with the judiciary (Article 4(3)).

The Council will maintain co-operation with European Anti-Fraud Office (OLAF) and the relevant competent authorities of the Member States and other countries in the area of protection of the financial interests of the European Communities (Article 4(2)). The Council Secretary will serve as contact point for OLAF and the relevant competent authorities of other countries (Article 7). /The said Council of Ministers Decree has been officially submitted to the Accession Conference on 10 April 2003/.

*Rules of Procedure of the Council* have been drafted. They regulate in detail the organization as well as the administrative, technical and expert support of its entire activity. The Rules have already been consulted among all Council members and are pending formal adoption at the next meeting of the Council by the end of April 2003.

There are two draft Common Instructions: of the Minister of the Interior, being the Chairman of the Council, and the Prosecutor General; and of the Minister of the Interior and the Director of the National Investigation Service, which will be signed by the middle of May 2003. The Instructions regulate the terms and conditions for participation of members of the prosecutor's offices and investigation services in the work of the Council. Both Instructions provide that prosecution and investigation representatives should participate in the work of the Council with the same rights as the rest of the Council members representing agencies of the executive branch.

***Please clarify the relation between the intended co-ordination structure located at the Ministry of the Interior and the Public Internal Financial Control Agency (PIFCA), mentioned on page 112 as well as the relation with the Anti-Corruption Steering Committee, mentioned on page 118. This information should include the way of exchanging information and co-ordination.***

The PIFCA Director is a member of the Co-ordination Council in the area of combating offences against the financial interests of the European Communities.

As a member of the Anti-Corruption Steering Committee, established by Council of Ministers Decision No 77 of 11 February 2002, the PIFCA Director also takes part in the review of corruption-related cases as well as in the process of collating and analysing the information related to the anti-corruption measures undertaken.
Both structures have co-ordinating functions and all issues submitted to them that are in the PIFCA's competence are duly sent to the latter**.**
The Anti-Corruption Steering Committee is authorised to dispatch all received complaints to the competent bodies for investigation. Whenever received information involves the financial interests of the European Communities it could be directly forwarded to the Co-ordination Council or that could be done by one of the members thereof taking into consideration the fact that every member is authorised to request convention of the Council.
According to Article 3, Paragraph 3 of Council of Minister Decree No 18 of 14.02.2003, the Deputy Minister of the Interior designated as Deputy Chairman of the Co-ordination Council in the area of combating offences against the financial interests of the European Communities is also a member of the Anti-Corruption Steering Committee. Thus it is ensured that there be further cohesion and co-ordination between the two structures, if necessary.

## *Money laundering*

***Have the deadline for adoption (end 2002) been met for the adoption of amendments to the Measures against Money Laundering Act, which were approved by the Council of Ministers on 19 September 2002? What is the date of entry into force? Is it also necessary to amend the Regulations for the implementation of the (again) amended Measures against Money Laundering Act?***
The Amendments to the *Measures against Money Laundering Act* (MMLA) were finally adopted by the National Assembly on 21 March 2003 (SG No 31/4.04.2003). They are in force as of 8 April 2003. The initially foreseen deadline for adoption (end of 2002) of the said amendments was postponed due to the predominant occupation of the responsible Committee at the National Assembly with the priority consideration and adoption of Budget 2003.
The elaboration of the amendments to the Regulations Implementing of MMLA is under way. Their adoption by the Council of Ministers is foreseen to take place by the end of May 2003.

***For a proper assessment of the alignment with Directive 2001/97/EC it is necessary to provide the Commission with an English version of these amendments.***
The amendments to the *Measures Against Money Laundering Act* are attached .

***Are drugs and terrorism as predicate offences included in these amendments? Does the notion of "crime" in article 253 of the Penal Code also cover fraud and corruption as predicate offences for money laundering?***
The Bulgarian legislation provides an "all-crime approach" to predicate offences for money laundering, which include "drug trafficking", "terrorist financing", "terrorism", "fraud" and "corruption". All of those are covered by the definition of crime set in Article 253 of the Penal Code.

***What is exactly the role of the supervisory financial intelligence body, i.e. Chief Inspector of Financial Intelligence?***
The Chief Inspector of Financial Intelligence is entitled to supervise the activity of the Financial Intelligence Agency. The Chief Inspector makes inspections on FIA's activities and their compliance with the law. However, the *MMLA* explicitly prohibits the Chief Inspector to give instructions to FIA's Director on how to run and manage the agency. The introduction of the supervisory financial intelligence body aims namely to establish monitoring over FIA's activities while ensuring functional independence of its Director.

## *BFI Agency*

***Equipment: in a report from the Director of BFI, handed over to our Head of Delegation, it is mentioned that "delivery and use of expedient analytical software is considered a priority" and that another main IT problem is connected with "the availability of electronic information. Establishment of connections with e.g. Dunn & Bradstreet and Lexis-Nexis is an urgent priority". Has this "problems" been tackled? Are there any further plans to upgrade the technical equipment?)***

In September 2002 the BFI Agency was provided with 4 licenses for Analyst's Notebook and appropriate training of analysts for use thereof.

Contact with Dunn & Bradstreet and Lexis-Nexis has not been established due to insufficient funding in 2002.

An IT needs assessment was made in 2002 under the Phare Preparation Facility Project. Supply of software and hardware is accordingly expected under the 2003 Phare National Programme.

***Training: what is the time schedule for the other 5 modules and what is their content within the Regional Phare Programme "Combating Money Laundering, which started on 25 February 2002?***

1. ***Template course (M7) held from 17 to 22 February 2003***

The template course, as developed by the UK anti-money laundering authorities, will be used to design, organize and implement the various activities related to Objective 2 of the project (***Objective 2:*** *to improve effective co-operation between all institutions of the money laundering chain in each CEEC)*. The main objective is to achieve the improvement of effective co-operation along the whole chain of national anti-money laundering services. The practical output will be that persons working in the field of combating money laundering in the Beneficiary countries will be instructed in their own language. This also means that after this project is finished (new) employees in the different organizations in the anti-money laundering chain can be trained. In this course the computer-based training tool will play an important role as well.

2. ***Financial analyst course (M4) held from 24 to 28 February 2003.***

The course was targeted at FIU[1] analysts and police financial investigators. The main objective was to improve the financial analysis or financial investigation capacities of the participants. During the course the participants made use of a Computer Based Training Tool.

3. ***Come-back day (M2) and MOU (M9) awareness planed for 16 and 17 April 2003***

The seminar will cover the following topics: tactical analysis and sources of information, strategic analysis, information technology improvement, data security, data protection, internal management, unexplored financial products, new types of crime, new criminal groups. The target group of these activities are the FIUs. As an outcome, the FIUs will be able to structure their activities better. They will be expected to produce standardised procedures on monitoring compliance, financial analysis, supply of information to enforcements authorities, providing feedback to partners in the chain.

4. ***FIU NET (M7) planed for May 2003***

The activities that will take place under this module are not training activities, but more a multilateral negotiation process between FIUs and Accession Countries. The module is generally focused on the exchange of information by electronic means.

5. ***Follow up law enforcement (M8) is planed for June 2003***

The objective is to promote co-operation among all agencies involved in combating money laundering in each CEEC. Furthermore the activities should help strengthen the judicial follow up through improving the structural and operational capacities of FIUs.

[1] Financial Intelligence Unit.

6. ***Workshops for Public Prosecutors and judges (M4a) are planed for September & October 2003***

The target groups of the Awareness Raising Module are public prosecutors and judges. Public prosecutors should be trained to give a proper follow-up to the investigation results of FIU and law enforcement investigations. Judges should develop an understanding of the specific problems related to money laundering cases.

***Training: any developments on training seminars of the US financial intelligence experts? What are the envisaged dates for the training workshops?***

In 2002 the US Department of Treasury organised 8 seminars. The Financial Intelligence Unit of the United States (FinCEN) organised also a number of specialised professional training events for BFI analysts (November, 2002). The seminars were attended by all BFI analysts as well as by officials from the Prosecutor General's Office, the Ministry of the Interior, the Bulgarian National Bank, the Customs and Tax Administrations.

In 2003 the following training is planned to be delivered under the Phare 2001 Twinning Project implemented in partnership with Spain:

A) Workshop for elaboration of a PR and Mass Media Communication Strategy – to be held 2-7 June 2003

B) Organisational models, practical experiences (SEPBLAC, A.E.A.T., Police, Civil Guard).

1) An introductory study visit aimed at strengthening the links and cooperation with the Institute for Fiscal Studies, SEPBLAC, Bank of Spain, Treasury, Police and Civil Guard Units and AEAT / Customs (one week, June 2003);
2) A second, conclusive study visit aimed at appraisal of project's impact (one week July, 2003).

## *Reports on suspicious transactions*

***In the annual report 2001 it was stated that 257 reports have not yet been analysed (1998 (1), 1999 (96), 2000 (70) and 2001 (90)). In 2001, 48 analyses were forwarded to the Prosecution. This means 257 – 48 = 209 reports not yet analysed. Has this backlog been remedied? Provide information on the actual state of play.***

The above calculation is not correct.

In the Annual Report 2001 it was stated that 257 reports had not yet been analysed by 11 March 2002. It was also stated that by the end of 2001 (31 December 2001) 16+48 (64 total) had been sent to the prosecution authorities. Therefore, those 48 reports are out of 257.

As at 31 December 2002, 158 of those 257 were completed. (121 were submitted to the Prosecutor's Office, whereas 37 were discontinued and forwarded to the records department).

For further details, please see the attached Annual Report 2002.

***What happened with the other 19 reports of 2001? Explanation: 140 analysed – 16 to Prosecution – 105 in working phase = 19 reports.***

The above calculation is not correct. As it was stated in the Annual Report 2001, 16 reports out of 140 had been sent to the Prosecutor's Office by the end of 2001 (31 December 2001). In the period between 31.12.2001 and 11.03.2002 another 34 of the mentioned 140 were sent to the Prosecutor's Office. So, as at 11.03.2002, 90 remained in a "working phase". Nowhere in the Annual Report is it referred to 105 reports in a "working phase".

For further details, please see the Annual Report 2002 attached.

***Has there been any progress on the 105 reports in "the working phase" and what does this mean?***

Working phase means to have an open file subject to financial intelligence analysis.

For further details, please see the Annual Report 2002 attached.

***For the period 1 January – 30 June 2002 the BFI received 105 reports and 116 were forwarded to the Prosecution. Please clarify this difference or have reports from the previous been forwarded?***
Reports submitted to the Prosecutor's Office by 30.06.2002:

- 95 reports on files opened in 1999, 2000 & 2001;
- 21 reports on cases opened in 2002.

***Please update the number of reports received for 2002 and, if possible, provide information on the first 3 months of 2003.***
In 2002, 220 STRs were submitted to the BFI and 170 operational files were opened. 50 of these 170 operational files were submitted to the prosecution authorities with confirmed suspicions of money laundering. Those are 29.4% of all opened cases amounting to 101 MEUR.
Further to that, in 2002 BFI also worked on 257 operational files opened in previous years (1 from 1998, 96 from 1999, 70 from 2000, and 90 from 2001 respectively). As of 31 December 2002, 158 of those were completed and 121 were submitted to the prosecution authorities, whereas 37 were closed and forwarded to the records department, because of non-confirmed suspicion.

***Are there already any convictions for money laundering cases?***
No.

***Is the BFI Agency currently working within the time limits set in the Penal Procedure Code. This Code requires completion of the preliminary proceedings (investigations) within nine months?***
The time limits set in the *Penal Procedure Code* concern the investigations conducted by investigators and prosecutors. These time limits do not apply to the Financial Intelligence Agency and the police.

***Is the current staff (34) to solve the amount of unfinished reports of the previous years and the analysing of incoming reports?***
Yes.

## *Co-operation of BFI Agency with other law enforcement bodies*

***When were the co-operation Instructions with the General Tax Directorate, the Customs Agency and the Supervisory Agency on Insurance and Gambling approved? Did they already entered into force?***
In November 2001 the Minister of Finance approved Co-operation Instructions between the BFI Agency and the Customs Agency and the BFI Agency and the General Tax Directorate. In view of the newly adopted amendments to the *MMLA*, new Co-operation Instructions between the said agencies are currently being drafted. It is foreseen to have them signed and subsequently approved by the Minister of Finance by the end of May 2003.
The Instructions with the Internal Financial Control Agency and the National Audit Office were signed and entered into force at the end of 2002.
The Instruction with the Supervisory Agency on Insurance entered into force in January 2003 and the Instruction with the State Commission on Gambling entered into force on 31 March 2003.

***In the previous DCP it was already stated that given the quite extensive number of the various law enforcement bodies with which the BFI Agency has to co-operate, a strong co-ordination is required. However, the requested further detailed information on the co-operation structures and the co-ordination between the BFI Agency and the various law enforcement bodies including with the judiciary has not been provided. The additional information only mentions that legal instruments for co-operation with the prosecution, investigation and Ministry of the Interior authorities has been developed. More detailed information required in which the statements of the annual report 2001 (pages 7-8) should be taken into account.***

As it is stated in the latest supplementary information, 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 February 2001. On the basis of this Instruction (Art.5) in September 2002 a liaison officer from MoI was sent to the BFI. Further to that, the Minister of the Interior appointed contact points to work with BFI in the following MoI National Services - National Service for Combating Organised Crime, National Security Service, National Police Service and National Border Police Service. The Supreme Prosecutor's Office of Cassation designated also two prosecutors to liaise with BFI officials at an operational level, thus ensuring rapid and efficient implementation of anti-money laundering measures. Since then the exchange of information has improved substantially. At present the BFI receives feedback from the prosecution authorities for each reported case regarding its movement and development.
For further details, please find enclosed the 2002 Report of the Director General of BFI (see Annexes).

## *Anti-Corruption Strategy and Action Plan*

***Has an implementation report on the Anti Corruption Strategy been drafted in December 2002, as was stated in the Action Plan?***
By the end of December 2002 all agencies involved submitted to the Anti-Corruption Commission the necessary information on the implementation of the measures set in the Action Plan to the Anti-Corruption Strategy. The Progress Report 2002 was drafted and subsequently approved by the Anti Corruption Commission in March 2003. It has been already submitted to the Council of Ministers for information. The Progress Report 2002 is attached.

***As regards the elaboration of Code of Ethics for customs, it is stated that the Code for customs is due to be approved, while the additional information states that this Code has been adopted in July 2002. Please clarify***
As it was mentioned in the supplementary information, in the section on Customs Co-operation, the Customs Officer's Code of Ethics was approved by the Director of the Customs Agency in July 2002. The Code of Ethics includes the main duties of customs officials in line with the national legislation and the principles of the Arusha Declaration of the World Customs Organisation.

***For the elaboration of the Code of Ethics for magistrates (prosecutors, judges and investigators) the Action Plan gives a deadline of June 2003, while the implementation report states that the development will be done in a Phare 2003 project. Please clarify.***
The current Code of Ethics was adopted by the Bulgarian Association of Judges in 1998. The Association of Prosecutors and the Chamber of Investigators are in a process of elaborating their own Codes of Ethics, which according to the updated Action Plan to the Judicial Reform Strategy are to be adopted by the end of the second quarter of 2003.
The PHARE 2003 projects do not provide for elaboration of Codes of Ethics for magistrates.

***In June 2002 a mission of the World Bank reviewed and assessed the work of the Secretariat and made recommendations for strengthening it. Please provide more details on the recommendations and what is the state of play of their implementation.***
As it has been mentioned repeatedly, the Anti-Corruption Steering Commission, whose functioning is supported by a Secretary and Ministry of Justice officials, was established by Council of Ministers Decision No 77/11.02.2002 and is authorised to co-ordinate and monitor the implementation of the National Anti-Corruption Strategy, to analyse and summarise the information related to the anti-corruption measures and actions taken by the government and the results thereof, as well as to make proposals to the Council of Ministers for necessary updates and supplements to the Strategy Action Plan.
The actual implementation of the measures and operative investigations on specific cases is carried out by the agencies responsible for accomplishment of the Strategy and its Action Plan.
The main function of the Secretary of the Commission and the designated MOJ officials who support the work of the Commission is to prepare the agenda and materials for the meetings, to convene the meetings and keep record of the decisions of the Commission.

The recommendations for strengthening of the Secretariat could be deemed as implemented since according to the *Rules of Procedure of the Commission* (adopted by Council of Ministers Decision of 06.06.2002) the work of the Secretary of the Commission is supported by four officials of the Ministry of Justice. Since February 2003, the Secretariat of 4 has been supported by another 2 officials from the Administrative Legal Services and Human Resources Management Directorate of the Ministry of Justice.
It should be pointed out that the Commission is not a permanently standing body and its institutionalisation is not intended, but in view of the increased paperwork in its operation it would be proposed to enlarge the staff of the Secretariat to 10 officials in the framework of the 2004 budget planning (see Annexes).

***It seems that the Ministry of the Interior has created its own implementation plan. In this context it is not clear what the role of this Steering Committee is in their role as co-ordinator of the implementation of the National Strategy. This also applies to the responsibilities in relation to "receiving, reviewing (when there is a strong public interest), forwarding for investigation and monitoring the follow-up of complaints". Please clarify.***
The implementation of the Ministry of the Interior plan, which contains specific organisational, management, operative and administrative measures, is closely linked to the accomplishment of the objectives of the Anti-Corruption Strategy and its Action Plan involving the Ministry of the Interior. The internal Steering Committee for prevention and combating internal corruption established at the Ministry of the Interior is responsible for the supervision of the effective implementation of the Plan. Therefore, it sets the strategy and working organisation for the competent units of the Ministry. The results achieved in that context are reported by the Ministry of the Interior to the Anti-Corruption Steering Commission, whose main function is to maintain strategic co-ordination and control over the implementation of the overall National Strategy and Action Plan while at the same time receiving, reviewing (only cases of significantly high public interest), forwarding[2] and monitoring the investigation of complaints and results thereof.

***Is there an obligation for the Internal Corruption Department at the Ministry of the Interior to report to the Prosecution Service that an internal investigation is ongoing or being closed without further steps towards a prosecution?***
According to the Penal Procedure Code, the Internal Corruption Department at the Ministry of the Interior is obliged always to send the files generated in the process of internal investigation to the prosecutor's office when they contain sufficient evidence that there has been committed a general crime.

***All corruption-related complaints concerning the Ministry of the Interior staff are directly forwarded to the Internal Corruption Department, which performs an initial inquiry and remains responsible for the organisation and overall control of the further investigation. What is the role of the police in this regard? What are the legal guarantees that this Department is an independent department?***
The police have the following role in the investigation of corruption-related complaints involving Ministry of the Interior officials:
All corruption-related complaints involving Ministry of the Interior officials are submitted by the police authorities to the Internal Corruption Department. Following the initial enquiry and analysis of the complaint by the Internal Corruption Department, the complaint is distributed for further investigation (both covert and overt investigation) to the competent operational police structures that have specialised officers in that area, in view of collecting evidence of possible criminal activity. According to the requirements of the *Ministry of the Interior Act*, the Inspectorate Directorate's Internal Corruption Department shall be involved in the whole process of investigation, be it covert or overt, and exercise constant supervision and provide organisational and methodological support.

[2] The Commission has no investigative authority.

The independence of the Internal Corruption Department is guaranteed by the provisions of the *Ministry of the Interior Act* (Article 125a(4)), which provides legal regulation of the competencies of the Inspectorate Directorate and, respectively, its Internal Corruption Department.

***How is the competence of the Internal Corruption Department related to the competence of the NSCOC, which according to articles 89 and 90 of the Ministry of the Interior Act has special competencies for counteracting corruption? There seems to be an overlap in competencies. Is NSCOC also competent to take action against other civil servants than those within the Ministry of the Interior bodies?***

The specialized department on internal corruption at the Ministry of the Interior Inspectorate Directorate was created at the end of 2001. In essence, this is an administrative control body[3] without policing authority. The department serves as first instance of corruption complaints involving Ministry of the Interior officials and carries out internal administrative examinations (by reviewing documents and interrogating the relevant officials) into the facts and circumstances mentioned in the complaints. If in the course of examination it becomes evident that a thorough and objective clearance of the circumstances would require implementation of special intelligence means, the department advises the Chief Secretary of the Ministry to make a decision on which operative police service should be tasked to continue the investigation and collect sufficient evidence of corruption. The National Service for Combating Organised Crime (NSCOC) receives orders to conduct further investigations into complaints where it is suspected that Ministry of the Interior officials have entered into corruption relations with organized crime syndicates or the cases could be filed under the factual and legal complexity category due to the position of the official. In that context, there is mutual complementation in the activities of the Inspectorate Directorate's specialized department and the NSCOC, which is based on their functions and powers as strictly prescribed in the Ministry of the Interior Act.

NSCOC is competent to launch individual operations related to corruption investigations into officials from the state administration.

The NSCOC perform investigations under Article 72 of the Regulations Implementing the Ministry of the Interior Act aimed at thwarting and detecting corruption in the central and local government administrations, whereby they:

1) discover, control and record the activities of central government administration officials who act at the service of criminal groups and organizations;
2) search and trace the accumulation and transformation of assets obtained through abuse of office.

In the process of conducting corruption-related investigations it is in NSCOC's authority to:

- use informants;
- use special intelligence means, under legally prescribed terms and conditions;
- perform urgent procedural investigations under conditions prescribed in the Penal Procedure Code;
- seize and make cross examination of documents.

Ministry of the Interior bodies can undertake the above actions both on their own initiative, when they have obtained data of an offence that has been or is being committed, and on the instruction of the Prosecutor's Office, in the framework of the preliminary enquiries under Article 191 of the Penal Procedure Code.

[3] Ministry of the Interior Act, Article 125a /SG No. 29/2000 / Inspectorate Directorate

When performing administrative examinations, internal control authorities in the public administration must notify[4] at once the competent prosecutor of every case, where there is data of a crime. If the prosecutor determines that there is no sufficient evidence[5], the case is returned to the police authorities, including NSCOC, for preliminary enquiries under Article 191 of the Penal Procedure Code.

***Is the competence of the Internal Corruption Department limited to staff working at the Ministry or to all the staff in the bodies subordinated to the Ministry of the Interior?***
The competence of the Internal Corruption Department covers all authorities subordinated to the Ministry of the Interior.

***Are there already any results of the 40 prosecutions of the cases of the first six months of 2002? How many convictions in 2001? Please update the numbers for the last six months of 2002 and for the first three months of 2003.***

***2002 statistics***
Between 1 January 2002 and 31 December 2002, there were 264 corruption-related complaints involving 293 officials of the Ministry of the Interior.
In 2002, the competent authorities continued to investigate the 185 complaints involving 225 officials received in 2001.
A total of 449 corruption-related complaints involving 548 officials of the Ministry of the Interior were investigated in 2002.
In 2002 the competent authorities completed the investigations concerning 312 officials of the Ministry of the Interior.

- The cases involving 100 officials were not sustained;
- The following measures were taken against 212 officials:

Disciplinary, against 104 officials:

- Dismissed: 47
- Otherwise disciplined: 57

Cases concerning 58 officials were submitted to the prosecution authorities: 14 of them were detained in custody (in the second half of 2002, cases concerning 18 officials were submitted to the prosecution authorities).
The rest of the officials were imposed administrative sanctions.
In the first quarter of 2003, cases concerning 18 officials were submitted to the prosecution authorities.
In the period covering the whole 2002 and the first 3 months of 2003 /till the end of March 2003/ the prosecution authorities opened pre-trial proceedings on 56 cases based on files received from the ministry of the interior.
Nine thereof resulted in indictments and were submitted to court.
Three of the cases were completed with effective convictions.
Three cases were terminated due to lack of sufficient evidence.
Twenty-one preliminary enquiries were filed. Opening of criminal proceedings was denied in eight of those cases due to insufficient evidence of a crime with recommendation for administrative review of the cases.
The legally prescribed procedures are underway for the remaining open cases.

[4] Penal Procedure Code - Article 174, Paragraph 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.
[5] Penal Procedure Code - Article 190. Paragraph 1 Sufficient data for instituting preliminary proceedings shall be considered to be at hand, where a justified supposition can be made that a crime has been committed.

***In the previous DCP it was stated "The process of recruitment (in NSCOC) is ongoing and it is expected that this division will reach its full operational capacity in the first half of 2002". Has the staff been increased further? With how many persons, and what is now the total number of staff? Ate there any plans for further increase?***

The specialized department in NSCOC was transformed into a division at the end of 2001 by Order of the Minister of the Interior. At a central level, the division is appointed with technical equipment, and the number of officials (as already reported as at 1 October 2002) has been doubled to amount 22 people. Currently, that number is unchanged. All available jobs have been staffed.

Each of the 28 regional units for combating organized crime includes specialized officials in the area of corruption; as at 1 October 2002 they are 34. Between 1 October 2002 and 31 March 2003 their number was increased by 24, and it currently amounts at 58 people.

A total of 80 operational officers in the field of corruption are employed at NSCOC, which constitutes 12.2 percent of the operational staff (detectives and analysts). The appointments that took place over the last 6 months in the regional units has produced the optimum number of anti-corruption officials; therefore, in the medium-term perspective, it is not envisaged to appoint any new staff.

A total of 160 officials have competencies in the area of corruption at the Ministry of the Interior; currently, there are no plans of increasing that number further on.

***What is the relation between the automated information system already established within the Internal Corruption Department and the Information System to be created under the twinning project, which will start in June 2003?***

The Automated Information System, which will be designed within the framework of a twinning project under the PHARE Programme, will replace the current system at the Internal Corruption Department.

***Remark: provided information does not mention concrete measures within the Police and the Border Police. Please provide this information, e.g. is there a telephone number or an independent authority to whom citizens can turn to in case they are being extorted by the Road or Border Police.***

Since 15 May 2000 the National Police Service Headquarters has been keeping a hotline for information and complaints from citizens. The telephone line has been advertised and publicized over the national mass media.

The official website of the National Police Service (www.dnsp.mvr.bg) was launched on 2 January 2003, including an email address: ncp@mvr.bg. The site features e-forms and instructions on how to receive messages from citizens. The aim is to ensure 24-hour continuous exchange on major issues involving the competencies of the National Police such as claims, gross violations of public order and traffic regulations, police protection of children, domestic violence, complaints against police officers, etc. So far there have been 35 messages, requests and complaints from citizens.

As regards Border Police officials, they are also subject to a series of organizational measures in terms of thwarting and curbing malpractices. Particularly, the management of Border Checkpoints, Regional Border Sectors and Border Police Headquarters maintain various forms of direct control measures whereby the performance of official duties by the staff is monitored – instantaneous and planned inspections, evaluation of performance according to preset standards, comprehensive psychological testing for service aptness of officers who have been reported as having abused their official positions, technology-based control of border police officers.

The established admission system involving ID tags for the personnel working in land border checkpoint areas makes it possible to identify an official who has compromised his/her official duties by his/her individual number and take further disciplinary measures.

Since there are 5 agencies involved at border checkpoints which are responsible for implementation of mandatory border controls, at the moment, as a test phase, the government has introduced the so called 'unified fiche' for the state revenue collected at border checkpoints. This measure is aimed at having in place a document that has the amount of money and grounds for collecting it from passengers fixed by each border control agency.

Any complaints from the performance of border control officials could be lodged on the contact lines of the Border Police Headquarters and in the mailboxes fixated at a visible place at every border checkpoint.
The National Border Police Service includes specialised units responsible for the operational and administrative aspects of counter corruption activity in the Service.
As a result of the specific measures taken in 2002, 12 border police officials (3 officers and 9 NCOs) were dismissed for corruption-related duty breaches (abuse of office and/or taking advantage of their official positions for personal benefit or the benefit of third persons).
In the first quarter of 2003, 3 officials (1 officer and 2 NOCs) were dismissed for the same reasons.

## Second set of additional questions – 24th April 2003

***What is the date of entry into force of the amendments to the Penal Code adopted on 13 September 2002?***
The *Penal Code Amending Act*, adopted on 13 September 2002, was promulgated in the State Gazette issue No 92 of 27 September 2002 and is in force as of 1 October 2002.
Only the provisions referring to introduction of probation in the Bulgarian legal system will enter into force on 1 January 2004.

***Article 209 Penal Code: which elements of the definition of fraud are covered by this Article?***
Article 209 of the Penal Code provides a general definition of 'fraud'. According to the main *proviso* of this article, a person who intentionally, with an aim of obtaining material advantage for him/herself or a third person, misleads another person or sustains another person's delusion thus causing the latter material damage is punished for fraud by up to six years imprisonment. At the same time, there are several Penal Code provisions containing specific clauses on fraud which will be dwelt on below with reference to the relevant provisions of the 1995 Convention.

***It seems that article 1 (b) of the 1995 Convention, related to revenues, is not covered by Article 209 of the Penal Code. Please clarify.***
It was mentioned under the previous question, Article 209 of the *Penal Code* provides the general provision for penalisation of fraud, which was not affected by the 2002 amendments. The elements of the definition of fraud under Article 1, Paragraph 1(b) of the *Convention on the Protection of the European Communities' Financial Interests* are provided for in other provisions of the Penal Code such as, for instance, Article 212 (document fraud).
According to the 2002 amendments to the Penal Code, document fraud affecting property from EU funds or property supplied to Bulgaria from such funds is punishable by three to ten years imprisonment. It should also be pointed out that the 2002 amendments introduced severer punishment for embezzlement of EU funds or funds supplied by the EU to Bulgaria (Article 202, Paragraph 2(3)).
Moreover, the Bulgarian *Penal Code* criminalises the following offences that may be qualified as fraud taking into account the definition in Article 1 of the 1995 Convention:

- Intentional use of false, forged incorrect documents (when the person has no criminal liability for the elaboration thereof) – Article 316 of the Penal Code;
- Confirmation of a falsehood or concealment of the truth in a written statement, electronic message or private document – Article 313, Paragraph 1 and Paragraph 3 of the Penal Code.

***It seems that in respect of expenditure, the "non-disclosure of information in violation of a specific obligation" (article 1 (1) (a) third indent) is not covered by Article 209 of the Penal Code. Please clarify.***
"Non-disclosure of information in violation of a specific obligation" under Article 1, Paragraph 1(a), bullet three of the *Convention on the Protection of the European Communities' Financial Interests*, may constitute a crime under Article 313, Paragraph 1 and Paragraph 3 of the *Penal Code* (confirmation of a falsehood or concealment of the truth in a written statement, electronic message or private document).

***It seems that "oral statements" and "incomplete documents" are also not covered by Article 209 of the Penal Code. Please clarify.***
As it was mentioned above, there are various provisions of the Penal Code, including those on fraud, document fraud and document crime, that may be applied to the offences falling under the scope of the definition in Article 1, Paragraph 1 of the Convention on the Protection of the European Communities' Financial Interests.

***Please clarify if the statement "material damage to that person or to another" in Article 209 of the Penal Code also covers the Communities financial interests.***
Damage to the European Communities' financial interests may result from the fraud subject to Article 209 of the Penal Code.

***Articles 313 and 316 do not to align with article 1 (1) of the 1995 Convention, but may be an alignment with its article 1 (3). Please clarify.***
The penal provisions in Articles 313 and 316 of the *Penal Code* include the characteristics of the definitions in Article 1, Paragraph 1 of the *Convention on the Protection of the European Communities' Financial Interests*.
The offence in Article 3, Paragraph 3 of the Convention may constitute a crime under other provisions of the Penal Code such as in Chapter IX "Document Crimes":

- Drawing up an incorrect official document or forging the content of an official document for the purpose of using such a document – Article 308;
- Drawing up, either personally or through another person, an incorrect private document or forging the contents of a private document and using it as evidence of the existence or non-existence or termination or amendment of a certain right or obligation or legal relation – Article 309;
- Drawing up and certifying in an official document by an official of incorrect circumstances or statements for the purpose of using that document as evidence of those circumstances or statements – Article 311;
- Facilitating the introduction of false circumstances or statements in an official document drawn up in accordance with the established order based on the request of an individual – Article 314;
- Drawing up a document by filling out a sheet of paper bearing the signature of the issuer, where the contents is contrary to the will of the signatory – Article 315;
- Using an official document issued to a third person for the purpose of misleading a government body or a representative of the – Article 318;
- Destroying, concealing or damaging another's document or another's partially owned document with an aim of causing damage or obtaining a benefit (personal or for a third person) – Article 319.

***Article 254 does not seem to be applicable to the Communities' financial interests and is limited only to "an official who in violation of a budget act….". Which elements of article 1 (1) of the 1995 Convention should it cover? Please clarify.***
Indeed, perpetrator of the crime in Article 254a of the *Penal Code* (administration of budget funds or target funds contrary to their expediency in violation of budget regulations) may only be an official. It should be taken into consideration that the *Penal Code* recognizes as officials private sector person, too. The provision is applicable in terms of punishing the misappropriation of funds, according to the definition in Article 1, Paragraph 1 of the Convention.

***Article 212 of the Penal Code, which is not mentioned in Bulgaria's additional information, may also be considered as covering certain elements of the definition of fraud. What is the relation of this article with Article 209 of the Penal Code?***

Indeed, Article 212 of the *Penal Code* (document fraud) is applicable in terms of punishing the offences that are within the scope of the definition in Article 1, Paragraph 1 of the Convention and, as mentioned above, it even provides a severer punishment where the crime involves funds from the budget of the European Communities or property provided to Bulgaria from such funds. The document fraud provision in Article 212 criminalises the obtainment of another's personal effects, without legal justification and with an intention of misappropriation, by means of an incorrect, false or forged document Article 1), as well as the provision of opportunity to another individual to receive such property without legal justification by means of an incorrect, false or forged document. Fraud (Article 209) and document fraud (Article 212) are included in the same section on "Fraud" in Chapter "Crimes against property" of the Penal Code.

***Criminal liability of heads of business: it does not seem to be covered by Article 285 of the Penal Code, because only "officials" are mentioned, neither by its Article 219, which does not seem to cover the Communities' financial interests. Please clarify.***

Criminal liability of heads of business is covered by Article 219 and Article 185 since the subject of each provision is every official in Article 93(1) of the *Penal Code*. According to Article 93(1), officials include people who are assigned in "managerial positions in a state-owned enterprise, co-operative, public organisation, other legal person or sole trader" and covers persons employed in the private sector.

On the other hand, Article 219, Paragraph 2 of the *Penal Code* imposes punishment on those who despite their duties have not exercise sufficient control over the work of persons assigned to manage, administer or account for public property and that has resulted in substantial damage to the enterprise or the economy. The criminal provision in Article 219 is placed under the Section on "General economic crimes" in Chapter "Crimes against economy" of the *Penal Code*. A person having control functions in the private sector may be held liable for that type of crime as well.

***Does "official" in Article 93 of the Penal Code also cover Community officials?***

Community officials are included in the definition of "foreign public official" under Article 93(15) of the *Penal Code*.

(According to Article 93(15) of the *Penal Code*, "foreign public official" is a person who:

a) works for an establishment in a foreign country;

b) performs functions assigned to him/her by a foreign country, including foreign government enterprise or organization;

c) works for or under assignment of, an international organization, as well as serves in an international parliament or international court.)

Section "Bribe" of the *Penal Code* contains provisions criminalizing the passive and active bribery of foreign public officials (Article 301, Paragraph 5 and Article 304, Paragraph 3m respectively), as well as the trade in influence involving foreign public officials (Article 304b, Paragraphs 1 and 2).

***Passive corruption: Article 301 of the Penal Code does not seem to cover the deliberate action of an official who act through an intermediary, as required by article 2 of the First Protocol to the 1995 Convention. Please clarify.***

Bulgarian criminal law and practice recognize passive and active bribery as crimes even when they are committed through an intermediary. The provision in Article 301 of the *Penal Code* mentioned in the question is general and covers all cases of passive corruption, including through an intermediary. What is more, the *Penal Code* contains a separate provision criminalizing intermediation in bribery (Article 305a). The intermediary in the process of receiving or offering a bribe is punished by up to three years imprisonment and up to 5000 levs fine, unless he/she is liable to severer punishment as an accomplice to the crime (instigator and/or accessory to the person who receives or offers the bribe). According to judicial practice, there is a crime under Article 305a only when the intermediation in the process of receiving, requesting or offering a bribe failed regardless of the reasons for that failure (i.e., when in spite of the assistance rendered the crime of bribery is not effected). In such cases the intermediary will be held liable under Article 305a of the Penal Code separately because the very act of intermediation falls under the attributes of that provision. If the crime of bribery is effected, the intermediary will be held liable as an accomplice, in line with Article 20, Paragraphs 3 and 4. The above explanation should lead to the undisputable conclusion that bribery is penalized by Bulgarian law regardless of the fact whether it is committed directly or through an intermediary.

***Active corruption: Article 304 of the Penal Code does not seem to cover non-material benefits, the deliberate action of an official who acts through an intermediary, nor third party beneficiaries, as required by article 3 of the First Protocol to the 1995 Convention. Article 306 of the Penal Code seems to establish an exoneration, which would not be in conformity with the First Protocol to the 1995 Convention. Please clarify.***

With the 2002 amendments to the *Penal Code*, both material and non-material advantages or services have become subject of the crime of passive or active bribery (Article 301 and Article 304) as well as the crime of trade in influence (Article 304b). in order to define the subject of those crimes, Bulgarian law uses the expression "gift or any other benefit" (the older text read "gift or any other material benefit").

The issue of bribery committed through an intermediary was dwelt upon in the previous paragraph. Again, we could confirm that passive and active bribery is punished regardless whether it is committed directly or through an intermediary.

It could be confirmed that active bribery is punishable even when the gift or benefit is intended for a third person, which is not explicit in the main provision in Article 304. That conclusion follows from the provision in Article 303 of the *Penal Code*, which specifically provides for penalisation of passive bribery when, with the consent of the public official/foreign public official, the gift or benefit is offered, promised or given to another person.

With regard to the so-called "protection" from punishment in active bribery, it should be pointed out that the 2002 amendments to the *Penal Code* have brought about considerable limitation of the scope of that protection and currently "a person who offered, promised or gave a bribe shall not be punished if he/she was blackmailed by the public official **and** if he/she immediately and voluntarily reported the events to the authorities", i.e. exoneration from criminal liability requires cumulative presence of both elements. Besides, that protection is not applicable in active bribery of foreign public officials but only in cases of active bribery of local officials, arbiters or experts. It is considered as a measure to encourage the people who collaborate with the authorities and to increase crime detection rate and punish the perpetrators.

## Third set of additional questions – 9th May 2003

***In the additional information it is stated that as regards the liability of legal persons, in February 2002 the Ministry of Justice established a working group for drafting proposals for amendments to the Administrative Offences and Penalties Act. The draft should be approved by the Council of Ministers by the end of 2002 and subsequently adopted by the National Assembly by the first half of 2003.***

***Questions on this statement:***

***Has the deadline been met? Is time schedule still valid?***

The working group, which was set up in February 2002 to draft amendments to the *Administrative Offences and Penalties Act (*regarding the section on "Criminal Liability of Legal Entities") was dissolved because its objective overlapped with the implementation of a UNDP project, which was aimed at making a comprehensive study of the administrative justice system in Bulgaria, resulting in a Concept for creation of an Administrative Procedure Code (APC). The APC will seek to regulate the penal administrative liability of legal entities. According to the Concept, the drafting process will be completed in 2003-2004, and the Code will be ready for presentation to Parliament by the end of 2004.

The drafting process will rely very much on the expert assistance provided under the PHARE 2002 Project "Improvement of Administrative Justice in view of the Fight against Corruption".

The project itself aims at improving the legal and organisational framework of the administrative justice system with a view to ensuring efficient prevention of corrupt practices through the introduction of a modern administrative enforcement system and establishing resourceful mechanisms for external judicial control over the work of the public administration, as well as providing efficient administrative services to citizens and companies and reinforcing their rights and protecting their interests in their contacts with the public administration.

At the moment the preparation of the Twinning Covenant together with the EU partner is under way.

***How is the deadline related to the deadline of "first quarter 2004" mentioned in the Action Plan to the updated Strategy for the Reform of the Judiciary (page 26)?***
The timeframe mentioned in the Action Plan - "first quarter of 2004" – refers only to the drafting of an *APC* by Bulgarian and EU experts under the above PHARE project. Afterwards the draft will be placed under discussion with representatives of the judiciary and the academic circles, and taking into consideration the proposals given, the draft Code will be presented to the Council of Ministers and to Parliament.

***Does Bulgaria also envisage to include in these amendments the sanctions mentioned in Article 4 of the Second Protocol to the 1995 Convention?***
The Second Protocol to the Convention on the Protection of the European Communities' Financial Interests (1995) provides for creating of liability for legal entities and making them "punishable by effective, proportionate and dissuasive sanctions" (Art. 4).
In compliance with the commitments taken by the Republic of Bulgaria with regard to harmonization of the legislation, the working group drafting the Administrative Procedure Code will define the relevant kinds of sanctions for legal entities. What will be included is effective, proportionate and dissuasive "financial" sanctions, i.e. property sanctions. The working group will consider the possibility to include in the Bulgarian legislation the other sanctions listed in Art. 4 of the Second Protocol of the 1995 Convention: exclusion from entitlement to public benefits or aid; temporary or permanent disqualification from the practice of commercial activities; placing under judicial supervision; a judicial winding-up order.

## Fourth set of additional questions – 10th June 2003

### *Money laundering*

***Has the deadline (end May 2003) for adoption of the Regulations Implementing the MMLA following the amendments of 21 March 2003 been met?***
Since the *Measures against Money Laundering Act* was adopted by the National Assembly in March 2003, the deadline for drafting and adoption of its *Implementing Regulations* had to be pushed forward to 31 July 2003.

***Any plans for 2003 or following years to establish connections with e.g. Dunn & Bradstreet and Lexis-Nexus?***
Due to budget restrictions in 2003 we are not planning to approach Dunn& Bradstreet or Lexis-Nexus. The necessary funds for that purpose are requested under Budget 2004.

***Has the deadline (end May 2003) for updating the co-operation Instructions of the FIA with the General Tax Directorate and the Customs Agency, which were necessary after the adoption the amendments to the MMLA on 21 March 2003, been met?***
The Instruction for co-operation between the Financial Intelligence Agency and the General Tax Directorate has been drafted and agreed upon. It will be signed on 16 June 2003. The co-operation Instruction with the Customs Agency has already been updated.

### *Anti-Corruption Strategy*

***The statistics provided on corruption-related complaints for the Ministry of the Interior are not yet completely clear. It is stated (page 12 of the answers to the additional questions) that a total of 449 complaints (2002, 264 and 185, 2001) involving 548 officials were investigated in 2002. However: 293 (2002) + 225 (2001) = 518. Is this a "miscalculation"?***
There is a technical mistake of mistyping the number of officials who were investigated in 2002 based on 2001 cases; it was **255**, not 225.

Here is precise information on the complaints received in 2002 and the 2001 cases which were investigated in 2002, too:

| | Number of cases | Number of officials |
|---|---|---|
| 2001 | 185 | 255 |
| 2002 | 264 | 293 |
| **Total** | **449** | **548** |

***It is also stated that in 2002 the investigations concerning 312 officials were completed. Assuming that is number is out of the 518 (see above), complaints against 206 officials still need to be completed. Is this a correct conclusion? If so what is the state of play of these 206 cases?***

Taking into account that the investigations concerning 312 officials were completed in 2002 and in view of the above clarification, the number of officials who continue to be investigated is 236, not 206.

More information on the investigations into those 236 officials is provided below.

***It is also stated that cases concerning 58 officials were submitted to the prosecution authorities: the explanation and numbers given are not clear, because "between brackets" it is stated that in the second half of 2002 cases concerning 18 officials were submitted to the prosecution service. Please clarify and clarify the exact number of "the rest".***

As mentioned in the previous supplementary information, investigations into 312 officials were completed in 2002. 100 thereof were not confirmed.

The other 212 Ministry of the Interior officials were subject to the following action:

- **104** officials were disciplined;
- The records of **58** officials were submitted to the prosecution authorities;
- **50** officials were imposed administrative sanctions..

The 18 officials whose records were submitted to the prosecution authorities in the second half of 2002 are only mentioned for the record. It means that prosecution authorities received cases concerning 40 officials of the Ministry of the Interior in the first half of 2002 and cases concerning 18 officials of the Ministry of the Interior in the second half of 2002, which makes a total of 58 officials.

***Page 14 of the answers to the additional questions: the statistics on the first quarter of 2003 (till the end of March 2003): how many corruption-related complaints have been received for the Ministry of the Interior staff, as there are already cases concerning 18 officials submitted to the prosecution service.***

In the first three months of 2003 (by the end of March 2003) the Inspectorate Directorate of the Ministry of the Interior received 34 new corruption-related complaints concerning 43 officials of the Ministry. In the same period (the first quarter of 2003) they continued the examination of complaints concerning 279 officials – 236 from 2002 and 43 from 2003.

The investigation of 91 Ministry of the Interior officials (out of those 279) was completed by the end of March 2003:

- Complaints against 47 officials were not sustained;
- The other 44 officials were subject to the following action:
    - 26 officials were disciplined (7 thereof were dismissed and 19 thereof were imposed other disciplinary sanctions)
    - The records of 18 officials were submitted to the prosecution authorities (those are the same 18 officials mentioned in the precious information). The records concerning those 18 officials, compiled and submitted in the first quarter of 2003, are a result of the investigation of the total number of 279 officials in 2002-2003.

***How are the statistics provided for the period 2002 and the first 3 months of 2003 (56 cases = officials?) related to the statistics mentioned on page 12 (cases concerning 58 officials)?***
The total number of Ministry of the Interior officials whose records were submitted to the prosecution authorities in the period 2002 and the first three months of 2003 was 76. Based on those records, the prosecution authorities opened 56 pre-trial proceedings.

***What is the total amount of "open" cases?***
Here is the progress made in terms of the 56 pre-trial proceedings in the period 2002 and the first three months of 2003:

- 9 thereof resulted in indictments and were presented in court;
- 3 thereof were completed with effective convictions;
- 21 thereof were subject to preliminary inquiries;
- 8 thereof were terminated for a lack of sufficient evidence of crime, and it was recommended to examine them on an administrative basis.
- The remaining **12** cases are still under procedure.

***On the following points mentioned for the judiciary in the Action Plan for implementation of the National Anti-Corruption Strategy information on progress/implementation is needed: points 2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.2.3 and 2.2.4.***
Information on progress/implementation of the following objectives in the Action Plan for implementation of the National Anti-Corruption Strategy:
2.1.3 Introduction of special training courses for officers from the Ministry of Interior, investigators, public prosecutors and judges on the implementation of the new penal anti-corruption legislation;
In February 2003, the Magistrates Training Centre organised a 3-day seminar as a follow up to the latest amendments to the Penal Code of 2002 (by the Penal Code Amending Act of September 2002, Bulgarian criminal law was brought in compliance with EU, Council of Europe and OECD standards on corruption). The seminar was delivered by judges from the Supreme Court of Cassation. A group of 39 prosecutors, judges and investigators were trained.
2.1.4. To develop projects for changes:

- In the Law on Publicity of High State Officials' Assets, stipulating mechanisms for verification and control of the data put in the declarations, as well as sanctions for those who have not presented their property declarations on time or have applied in declarations with incomplete or false information

Draft amendments to the Law on Publicity of High State Officials' Assets have been presented to the National Assembly. The draft proposes introduction of administrative penalties to those who do not submit asset declarations or submit incomplete or incorrect information.

- In the election laws, stipulating mechanisms for verification and control of data provided in the reports of the parties and the initiative committees participating with candidates

A draft law on political parties has been submitted to the National Assembly. Its final provisions include mechanisms to increase control over political parties' reports.
2.1.5. Elaboration of a draft law on the protection of witnesses.
An inter-agency working group was set up by virtue of an order of the Minister of Justice of 13 May 2003 for the purpose of preparing a draft Witness Protection Act by 20 December 2003.
2.1.6 Introduction of a differentiated police and court statistics on corruption related cases.
Differentiated police and court statistics on corruption-related cases has been introduced since the beginning of 2003. according to the new methodology, from 1 January 2003 differentiated statistical data is collected and processed in terms of the following cases : active and passive bribery in the private sector ; active and passive bribery of local public officials ; active and passive bribery of foreign public officials, bribery of arbiters and experts, trade in influence, malfeasance seeking benefits and extortion by a public official.
2.2.3. Development of a system of case distribution among various magistrates based on objective criteria excluding the possibility for selection of particular magistrates for specific cases.
In July 2003 starts a PHARE 2002 project on « Implementation of the Judicial Reform Strategy », which is aimed at a simultaneous introduction of an integrated IT case-tracking system covering the whole country.

The introduction will undergo the following stages:

- In the framework of the PHARE 2002 Programme, the case management project will cover all courts by the 4th quarter of 2005.
- The prosecution project is under implementation in the framework of PHARE 2001.
- The beginning of computerisation of investigation services is planned under PHARE 2003.

2.2.4. Development and introduction of automated systems of records keeping, which shall ensure quick and safe handling of cases and shall provide quick and easy access of citizens to the information needed.

A document circulation and workflow management system will be inaugurated in July 2003 in the framework of a PHARE 2002 project. The second stage of the development of record keeping IT systems is planned under PHARE 2003 "Assisting the implementation of the Judicial System Reform Strategy through introduction of information technologies".

***What is the available budget for implementing the Anti-Corruption Strategy?***

The implementation of the objectives laid down in the Action Plan for implementation of the National Anti-Corruption Strategy is funded from the budgets of the ministries and agencies whose leaders are responsible for the implementation of the respective objectives.

## Fifth set of additional questions – 13th June 2003

### *Fraud & Corruption: Convention on the Protection of the Communities' Financial Interests*

***According to the Commission, not all the elements of the definition of fraud (article 1 (1) of the 1995 Convention) are covered by the Bulgarian Penal Code. It is also unclear which is the relationship between Article 209 and Article 212: which one would apply in case that a criminal behaviour does fall under both articles?***

Article 212 of the Penal Code includes two basic provisions for the same type of crime - document fraud: Article 212, Paragraph 1 criminalises the embezzlement of property by means of incorrect, counterfeit or false documents; Article 212, Paragraph 2 criminalises the act of assisting an individual in embezzling such property by preparation of an incorrect, counterfeit or false document. According to Article 212, Paragraph 3, the above offences are punished by 3 to 10 years of imprisonment when the property originates from EU funds or has been provided to Bulgaria by the EU.

According to the Bulgarian judicial practice (item 1 of Decree No. 8/78 of the Supreme Court Plenum), the difference between document fraud and ordinary fraud under Article 209 of the Penal Code lies in the means by which fraud is perpetrated - by using incorrect, counterfeit or false documents. By "documents" the legislator understands all types of incorrect, counterfeit or false documents, including official documents within the meaning of Article 93(5) of the Penal Code as well as documents of private nature.

The following example will show the differentiation between the criminal offences under Article 209 and Article 212, Paragraph1 of the Penal Code:

If a person misleads another person orally about the grounds for obtaining certain property and manages to obtain the property thereafter presenting an incorrect document to justify the transaction, this is not considered document fraud under Article 212, Paragraph 1 of the Penal Code nor attempted document fraud; it is qualified as fraud under Article 209 of the Penal Code and the relevant documental crime. It is so because the deception did not occur as a result of the use of the document and was not obtained "by means of incorrect, counterfeit or false documents".

Article 209 Penal Code: which elements of the definition of fraud are covered by this Article? The answer received does not answer this question as it only repeats the text of the article. It would be necessary to exactly specify, which indents of Article 1 (1) a) and b) are covered by which article of the Bulgarian Penal Code (Articles 209, 212 etc.).

Depending on circumstances, the offences covered by Article1, Paragraph 1(a), first indent, and (b), first indent, of the Convention can be punished under:

- Article 316 of the Penal Code (deliberate use of false, counterfeit or incorrect documents when the user cannot be held liable for the actual preparation of the documents); or
- Article 212, Paragraph1, in connection with Paragraph 3 and 7 of the Penal Code (embezzlement of property by means of incorrect, counterfeit or false documents); or
- Article 209 of the Penal Code in **cases of false, incorrect or incomplete oral statement** (see the answer to the previous question).

The offences covered by Article 1, Paragraph 1(a), second indent, and (b), second indent, of the Convention can be punished under:

- Article 313, Paragraph 1 or 2 of the Penal Code (confirmation of false information or concealment of the truth in a written statement, electronic message or private document).

Depending on circumstances, the offences covered by Article1, Paragraph 1(a), third indent, and (b), third indent, of the Convention can be punished under:

- Article 254a of the Penal Code (administration of budget or expedient resources by a public official in violation of the budget legislation); or
- Article 202 of the Penal Code, Paragraph 2(3) (embezzlement, i.e. misapplication of EU funds or funds provided by the European Union to Bulgaria by a public official, who is in charge of the keeping or management thereof, to his/her or a third party's advantage).

However, only public officials, including certain officials in the private sector, are recognized as perpetrators under Article 254a and Article 202.

***Despite the clarification from Bulgaria as regards expenditure, the "non-disclosure of information in violation of a specific obligation" (article 1 (1) (a) third indent) the Commission still is of the opinion that this is not covered by Article 209 of the Penal Code.***

The comment is not clear. "Non-disclosure of information in violation of a specific obligation" is a provision in the second indents of Article 1, Paragraph 1(a) and (b). See also the information on the previous question.

***It also still seems that article 1 (1) b) of the 1995 Convention, related to <u>revenues</u>, is not covered by Article 209 of the Penal Code, while Article 212 only seems to cover the first indent of article 1 (1) b) of the 1995 Convention. Are there other provisions of the Bulgarian legislation (i.e. in the Customs Laws), which may cover fraud on the revenues side?***

Article 212, Paragraph 1, in relation to Article 3, of the *Penal Code* covers the criminal offences stipulated in Article 1, Paragraph 1(a), first indent, and (b), first indent, of the Convention. Article 209 applies to oral deception.

Fraud related to revenues from import or fictitious export of goods (customs fraud and VAT fraud) is criminalised under Article 242, Paragraph 1(b), in relation to Article 212, Paragraphs 1 and 2. Customs fraud violating the transit regime is criminalised under Article 242a.

See also the information above.

Acts that constitute criminal offences and are subject to criminal liability are set out in the *Penal Code*.

***Articles 313 and following provide for alignment with Article 1 (3) of the 1995 Convention. However, they cannot be considered as alignment with Article 1 (1) of this Convention, as they do not criminalize and punish all the elements of the offences described, which include the financial damage. By the way, for this reason they are not qualified as "fraud", but only as "document crimes". Conclusion: not aligned because Article 1 does require that MS define these offences as fraud and have definitions, which contain all the elements of article 1 (1) of the 1995 Convention.***

This conclusion does not take into account the provision of Article 212, Paragraph 2 (the second basic element of document fraud), which provides for punishment of people who, by drawing up an incorrect, counterfeit or false document, consciously allow another individual to obtain property without legal grounds. Pursuant to Paragraph 3 of Article 212, this offence is punished by imprisonment ranging from 3 to 10 years, when the property originates from EU funds or has been provided to Bulgaria under such funds. According to Paragraph 7 of Article 212, in the case of document fraud (the offences under Paragraph 1 and 2 of Article 212) affecting resources from EU funds, the court will adjudicate also confiscation of part or the entire property and deprivation of certain rights. Therefore, the drawing up of an incorrect, counterfeit or false document for the purpose of deception is a separate crime under the Bulgarian legislation (see comment 1.3 of the Explanatory Report on the Convention of 1995) and is punished even harder when the crime affects European Union funds.

***Despite the clarifications from Bulgaria as regards the fact "oral statements" and " incomplete documents" are covered by Article 212 of the Penal Code, the Commission is of the opinion that alignment has not been achieved. Article 212 only mentions a "document of untrue content or an untrue or false document", while Article 209 uses "evoke or maintain in somebody a misleading idea". This does not seem to cover an "incomplete document", neither an "oral statement". Please clarify.***

See the information above.

***Does an "official" as defined by Article 93 (1) potentially cover all persons employed in the private sector? Is article 219 also applicable to the Communities' Financial interests?***

The definition of "public official" provided in Article 93, Paragraph 1(b) of the Penal Code does not cover all persons employed in the private sector. It only covers persons on managerial positions and persons engaged in safeguarding or managing another's property with private legal enterprise, sole trader or private notary.

***The First Protocol requires to cover also corruption of EC officials. As regards "foreign public official", it is stated that Article 93 (15) also refers to "international organisation". Is the EU according to Bulgarian legislation considered to be an international organisation?***

The definition of "foreign public official" was introduced in the Penal Code in 1999 in connection with the OECD Convention on Bribery of Foreign Public Officials in International Business Transactions. In the Bulgarian criminal law this definition is only used for the purpose of punishing the active and passive bribery of foreign public officials and the trade in influence in which such persons are involved (Article 301, Paragraph 5, Article 304, Paragraph 3 and Article 304b, Paragraphs 1 и 2 of the Penal Code).

The definition of "foreign public official" covers also the employees of international organizations, i.e. persons performing service or task entrusted by an international organization.

In the sense of Article 93(15)(c) of the Penal Code, the European Union is an international organization.

# Drugs

## First set of additional questions – 18th February 2003

***Drugs Strategy: Has it been adopted by the Government and if so could an English translation of the final adopted version be made available to the Commission? Is the deadline for adopting the Action Plan and agreeing on the budget still March 2003? If not when is the deadline?***

The National Anti-Drugs Strategy will be adopted by the Council of Ministers on 20 February 2003. The English version will be sent after the adoption.
The deadline for adopting the Action Plan will be kept.
In accordance with the Strategy the activities for its implementation will be funded by the national budget and other donors.

***National Drugs Intelligence Unit: Has it been established? If not what is the deadline? Are there details available on the legal framework for its functioning since it was said that this would be finalised by the end of 2002?***

In the latest supplementary information (CONF-BG-55/02) it was indicated that the National Drugs Intelligence Unit (NDIU) is developed in partnership with the UK under a PHARE project. Project implementation has been extended on the request of the UK partners and the project will be completed in August 2003, which has been accepted by Bulgaria in view of taking full advantage of the expertise and experience of the UK partners as well as the EU best practices in this field.
A Plan for the organisation and functioning of the NDIU was drafted at the end of 2002 and approved by the Minister of the Interior at the beginning of 2003. Its implementation is underway. The Plan outlines the institutional and functional model according to which the NDIU will be established, and on the basis of this plan the relevant legal framework is currently being drafted. The NDIU will be set up at the Ministry of the Interior (MoI) and will be located at the National Service for Combating Organised Crime.
The main functions of the NDIU include:

- · centralisation, analysis and dissemination of information;
- · intelligence-led approach in law enforcement joint operations;

The NDIU will have the following main objectives:

- · to collect, process and analyse intelligence providing it to the relevant users;
- · to set up a unified drugs intelligence database;
- · to gather, process and analyse intelligence on persons and crime organizations involved in drug trafficking and supply;
- · to prepare strategic analyses and situation reports, which will support the decision-making process of the responsible agencies;
- · to co-operate with counterpart national drugs intelligence units abroad.

The NDIU will comprise agencies of the executive power, which play an active role in the detection and determent of drug trafficking and supply. These are the competent MoI services – the National Service for Combating Organised Crime, the National Police Service, the National Border Police and the National Security Service, as well as the Customs Agency and the Bureau of Financial Intelligence with the Ministry of Finance.
The participating services and agencies will have two representatives each – one official responsible for data processing and one expert analyst. The NDIU staff will fall into two categories:

- Seconded staff, including:

1. Head of the NDIU
2. Analysts
3. Data Processing Operators

- Support staff, including: registry, IT & financial support

***National Focal Point:***

1. ***What are the legal and/or administrative acts establishing/mandating the NFP to carry out its tasks (currently there is only a letter from the Ministry of Health to EMCDDA dated 31 August 2001).***

On 3 December 2002 the National Drugs Council adopted a Decision according to which the Focal Point will be permanently established at the National Drug Addictions Centre with the Ministry of Health. In accordance with the above Decision the Minister of Health issued an Order RD 09-74/12.02.2002 specifying the head and staff of the Focal Point and instructing on the drafting of Rules of Procedure of the Focal Point and submitting them for approval to the National Drugs Council by 30 April 2003.

2. ***How many permanent staff has been appointed and what is the specific budget allocated for the purpose of the focal points activities?***

According to Order RD 09-74/12.02.2002 of the Minister of Health the Focal Point is staffed with 6 people and the financial resources for its activities are to be covered by the Ministry of Health budget.

3. ***Could information be provided on the expert and institutional networks of data contributing institutions and their capacity to generate and provide comparable data to the (future) NFP?***

An interagency working group is responsible for collecting and generating information on drugs and drug addictions. It comprises experts from the following authorities: the Ministry of the Interior /National Police Service, National Service for Combating Organised Crime/, the Ministry of Finance /Customs Agency/, the Ministry of Health /National Narcotic Drugs Service, National Health Information Centre/, the Ministry of Economy, the Ministry of Labour and Social Policy /Employment Agency /, the Ministry of Justice, the Ministry of Education and Science, the National Statistics Institute, the National Investigation Service. Information is also provided by NGOs working in the field of drugs prevention and counteraction. This working group is entrusted with and has the necessary capacity of drafting the Annual Report on Drugs of the National Drugs Council, as well as other similar documents intended for international organisations.
The Focal Point will continue to operate on the basis of permanent expert groups following EMCDDA's five key indicators and other important issues. The groups will involve experts from various areas, institutions and regions in the country.

4. ***More details are needed on the current mandate for the secretariat of the National Drugs Council to carry out the functions of the NFP. What is the current number of staff? Furthermore, what are its potential or means to produce (i.e. to collect, analyse and distribute) objective, reliable and comparable drug information?***

The mandate of the Secretariat of the National Drugs Council to carry out temporarily the functions of an NFP was based on a Decision of the National Drugs Council. The Secretariat consists of a Secretary and 5 officials who co-ordinate the implementation of the decisions taken by the National Drugs Council and the work of the Municipal Drugs Councils. Taking into account the Secretariat's insufficient capacity to collect, analyse and disseminate drug information, on 3 December 2002 the National Drugs Council adopted a Decision to permanently establish the NFP at the National Drugs Addictions Centre.

5. ***How will be ensured that the (future) NFP (through its products) will have a direct link to the decision making process?***

The NFP supports the National Drugs Council in the implementation of its functions by regularly supplying the Council with systematised information in accordance with EMCDDA standards. According to a Council of Ministers document the NFP Director will be co-opted as an associated member of the National Drugs Council and will take part in its meetings.

***More information is needed on the overall state of play and capacity of the national drug information system.***

Art. 23. of the *Narcotic Drugs and Precursors Control Act* stipulates that the controlling authorities in the performance of their responsibilities shall co-operate and exchange information through the national drug information system. According to Chapter III of the *Narcotic Drugs and Precursors Control Act*, Art. 16 - 22, the controlling authorities are: the National Narcotic Drugs Service /Ministry of Health/, the Interagency Precursor Control Commission /Ministry of Economy, Ministry of the Interior /National Police Service, National Service for Combating Organized Crime, National Border Police Service/, the Customs Agency /the Ministry of Finance/, the Ministry of Agriculture and Forestry.

The purpose of the information system under Art. 23 of the *Narcotic Drugs and Precursors Control Act* is to ensure the exchange of information between the above-mentioned competent state authorities in view of the elaboration of the annual report to the EMCDDA and the UN statistics report. In practice the mechanism outlined in point 3 /see information above/ function in accordance with Art. 23 of the *Narcotic Drugs and Precursors Control Act* and until present were co-ordinated by the Secretariat of the National Drugs Council in its National Focal Point function. The permanent establishment of the NFP in the National Addictions Centre /Ministry of Health/ will help further enhance the national drug information system and increase its capacity to perform the functions it has been assigned.

***Has the amendment to the Ministry of Interior Act aiming at extending the powers of officers of NSCOC been finally adopted (was adopted in first reading as mentioned in previous add info). If so, when did it enter into force? If not what is the deadline for doing so?***

On 6 February 2003 the National Assembly finally adopted the *Law amending the Ministry of the Interior Act*. The extended powers of the National Service for Combating Organised Crime are stipulated in Art. 92 item 7 /new/: the National Service for Combating Organised Crime bodies /officers, sergeants and contracted employees/ “shall be assisted by and shall organise the deployment and work of undercover officials in state bodies, organisations and legal entities under the conditions stipulated by a Council of Ministers’ Regulation.”

In connection with the performance of operational and search activities under Art. 162 of the Ministry of the Interior Act, the following amendments have been introduced in para. 1: under item 16 the National Service for Combating Organised Crime bodies can also carry out “controlled purchases”.

***Has Bulgaria ratified the "Europe Agreement on illicit trafficking by sea, implementing article 17 of the UN Convention against illicit trafficking in narcotic drugs and psychotropic substances" at the end of 2002 as foreseen? If not, what is the deadline?***

An interagency working group prepared the package of documents required for signing the Agreement. The procedures for signing the Agreement will be completed by the end of March 2003, which will be followed by alignment of the national legislation and subsequent ratification.

## Second set of additional questions – 19th May 2003

***When will CAU be fully operational?***

The role and function of the unit have been defined in co-operation with the UK partners under the PHARE project BG0005.03 “Developing and Implementing a National Anti-Drugs Strategy”. The legal framework necessary for establishing the unit is currently under development. The unit is due to start functioning no later than November 2003 in order to fulfill its function of drafting the first report on the implementation of the Strategy and its Action Plan.

***What is the relation between the CAU within the framework of the Ministry of the Interior and the National Drugs Council, chaired by the Minister of Health, and its Secretariat. They are both responsible for the overall co-ordination of the implementation of the Drugs Strategy and Action Plan. Please clarify.***

In accordance with the Narcotic Drugs and Precursors Control Act, the National Drugs Council defines and co-ordinates the national anti-drugs policy by adopting a National Strategy and Action Plans on combating the abuse and illegal trafficking in drugs and precursors. In order to be able to implement this function in practice, the Council needs the support of a permanent body that has the necessary analytical capacity to produce expert evaluations and proposals in the field of strategic co-ordination. The need to set up a unit with the above competences was identified due to the fact that the Secretariat carries out organisational, administrative and technical activities to support the National Drugs Council. Therefore, the Strategy provides for the setting up of a Co-ordination and Analyses Unit to monitor Strategy implementation, produce forecasts, analyses and studies of the trends and results from the efforts in the field of drugs.
In order to monitor the implementation of the National Strategy and Action Plan, all involved agencies will submit to the Co-ordination and Analysis Unit regular reports on the implementation of the tasks provided therein. On that basis, the Unit will present a semi-annual report to the National Drugs Council, which will in turn be submitted by the Chairman of the National Drugs Council to the Council of Ministers. In practice, the Unit will be responsible for expert-level co-ordination of the work of the different agencies aimed at implementation of the two documents, whereas the National Drugs Council carries out management-level co-ordination of the anti-drugs policy and provides the direction in which this policy will be developed.

***What is the national budget allocated for 2003 for the implementation of the Drug Strategy? What is the budget allocated by "other donors"?***

As the Anti-Drugs Action Plan and the indicative financial plan for its implementation were adopted at the beginning of 2003, the financial resources necessary for carrying out the tasks and activities during the current year will be provided from the budgets of the different agencies involved. (The *National Budget Act* for each year is drafted and adopted by the end of November in the previous year).
When the Council of Ministers adopted the Anti-Drugs Action Plan on 24 April 2003, it also considered the indicative financial plan for its implementation for the period 2004 - 2008. The total sum of the funds envisaged in the financial plan is roughly 50 million EURO. The Council of Ministers adopted a Decision according to which the annual draft budgets of the different institutions and agencies should indicate the funds needed for the implementation of the Strategy and Action Plan.
The institutions/agencies involved will make assessments of whether the funds allocated from the national budget are sufficient. Based on these the need to use financial support from other donors will be identified and specific proposals will be put forward for projects supporting the implementation of the aims and tasks set out in the two documents.
In 2003, donor assistance in the field of combating drugs is provided in the framework of the PHARE project BG0005.03 "Developing and Implementing a National Anti-Drugs Strategy". In the field of supply reduction Bulgaria is implementing a project under UNODC AD/Rer/01/F35 "Strengthening the capacity for collection and analysis of criminal intelligence in South-Eastern Europe". Under this project Bulgaria will receive roughly 160,000 EURO in the form of training, exchange of experience, etc.

***What is the role of the NDIU in the co-ordination process?***

As it was pointed out in the answers to the first set of additional questions, the NDIU is responsible for collecting, processing and analysing intelligence on persons and organisations involved in drug trafficking and supply. In view of the above it will set up and use a unified drugs intelligence database for all law enforcement agencies involved in combating drugs.
The role of the NDIU in the process of operational liaison and co-ordination between the competent bodies is:

- To ensure shared use of databases kept by the law enforcement bodies of the Ministry of the Interior and the Ministry of Finance as well as timely provision of information to support the operational activities for detecting and documenting criminal activities related to drug trafficking and supply;

- To identify common interest in persons involved in drug supply and prevent duplication of efforts and resources;
- To integrate data received from various sources, target subjects, define information gaps and assign tasks to the competent authorities to collect the necessary information;
- To jointly identify persons - including with the use of information provided by foreign agencies - to be included in the monitoring system in view of performing targeted customs checks on entering or leaving the country;
- To jointly develop common models for compatible collection of information;
- To study the *modus operandi* of trafficking and, based on risk analysis, to elaborate recommendations for border and customs control;
- To co-ordinate the activities of the customs and police bodies on a national level when they participate in international operations for combating drug trafficking and to perform the function of a contact point for such operations;
- To support the activities of the specialised bodies responsible for issuing licences to operators involved in the production, trade, import, export and re-export of drugs and precursors;
- To regularly produce situation reports on drug trafficking and supply and to provide them to the Directors of the law enforcement bodies together with recommendations for managerial decisions.

***Given that the NDIU has to be operational in September 2003 (stated in the Action Plan for the implementation of the National Drug Strategy): has the necessary budget for the support staff (registry, IT and financing) been allocated in the budget for 2003?***

In view of the need to maintain high standards of personal security required under the Classified Information Protection Act, the support staff will be provided by the Ministry of the Interior. The necessary funds for the support staff have been included in the Ministry of the Interior budget for 2003 and there will be no appointment delays.

***In the updated Schengen Action Plan it is mentioned that the institutional building and strengthening of the NDIU will be achieved on 31 December 2003. Does this also mean that the number of seconded and support staff will be increased?***

In the preparation phase a need was identified to include an additional criminologist and a second official form the Financial Intelligence Agency who has experience in detecting tax offences and criminal offences related to legitimising proceeds of drug-related crimes. Six months after the NDIU starts functioning the Steering Committee will assess the first stage of NDIU operation and whether there is a need to strengthen its administrative capacity by increasing the number of seconded staff, providing further training or optimising management.

***Can a decision of the National Drug Council be considered as a legal basis for the establishment of the National Focal Point (NFP)? What is exactly the national and international mandate (tasks and responsibilities) of the NFP?***

As it was pointed out in the previous information, on 3 December 2002 the National Drugs Council adopted a Decision, according to which the Focal Point will be permanently established at the National Centre for Drug Addictions with the Ministry of Health. In accordance with the above Decision and in compliance with Article 6 of the Rules of Procedure of the Ministry of Health, the Minister of Health has issued an Order RD 09-74/12.02.2002 appointing the head and staff of the Focal Point. In this sense the administrative act of the Minister of Health is considered as a legal basis for the establishment of the Focal Point.

In accordance with the Order of the Minister of Health, the Focal Point has the following objectives:

- To update the National Annual Report on the situation with drugs and drug addictions;
- To support the information system on the activities related to demand reduction;
- To update information sources;
- To participate at a national level in the early warning system;
- To establish contacts and carry out activities at a national level in view of the implementation of the EMCDDA five key epidemiological indicators.

In order to carry out the above tasks, the Focal Point has the following responsibilities:

- To collect, process, store, analyse and disseminate the information necessary for elaboration of the National Annual Report on the situation with drugs and drug addictions;
- To participate in the activities of EMCDDA and REITOX;
- To provide methodological support and guidelines as well as ongoing co-ordination in the process of setting up and functioning of a national information network on drug abuse;
- To carry out expert-level activities in the framework of the national information network on drug abuse and to support the Co-ordination and Analysis Unit in the development of proposals for decisions;
- To provide directions and to co-ordinate the scientific and research activities covering theoretical and applied research in the field of drug abuse in Bulgaria, its social basis and consequences;
- To carry out publishing activities in view of presenting the results of studies or other sources of information, to issue methodological and expert aids in the field of information technologies, scientific research and approaches as well as other publications in the scope of its competence.

***As the Rules of Procedure of the NFP still have to be drafted, could it be concluded that the NFP is not yet operational?***

The Focal Point has in practice started functioning based on the above-mentioned Order of the Minister of Health. It is currently drafting the 2002 National Report on Drugs and Drug Addictions Problems to the EMCDDA.

Draft Rules of Procedure of the National Focal Point were submitted to the National Drugs Council on 8 April 2003. The draft rules were discussed and concrete comments and proposals for amendments were made. At its next meeting in June 2003 the National Drugs Council will consider the amended draft.

***Are the Head of the NFP and the 6 staff members already nominated and when? Have they received the necessary training?***

The composition of the Focal Point has been established on the basis of the above-mentioned Order of the Minister of Health and includes its Chairman and five officers. All officers possess extensive experience and knowledge in the field of drugs and drug addictions. They have participated in seminars and different types of training courses organised by EMCDDAA, and have contributed to the current cooperation with the Centre.

***What is exactly meant with the "Institutional strengthening of the NFP", envisaged for 31 December 2003, as mentioned in the updated Schengen Action Plan? Please clarify and specify the details.***

According to the National Schengen Action Plan, the Focal Point is to be established institutionally by the end of the year as the national body responsible for co-operation with EMCDDA. That means during this time the Focal Point will implement in practice the functions and tasks prescribed in its Rules of Procedure (see the information above). Meanwhile, the new mechanism for co-ordination and interaction with the other newly establishing bodies on drug issues will start to be applied.

Taking into account that at the moment the Focal Point is practically operating, the period until the end of 2003 is considered as sufficient to make an initial assessment of the degree of its effectiveness and, respectively, of the necessity of further institutional and administrative strengthening (additional training, management optimisation, etc.).

***What is the relation and/or difference in tasks between the NFP, the NDIU and the CAU as regards collection, analysing and distribution of data? It seems that there are a lot of bodies (still to be established) with the same task. Please clarify.***

As mentioned above, the National Drugs Intelligence Unit collects, processes and analyses law enforcement intelligence with the aim of preparing regular situation reports (semi-annual and annual) on drug trafficking and drug supply, focusing on supply reduction. Those reports are submitted on the one hand to the heads of law enforcement authorities with recommendations for managerial decisions, and on the other hand to the Coordination and Analysis Unit to use the information in the process of preparing assessment reports on drug-related risks and threats.
The Focal Point collects, processes, stores, analyses and distributes information necessary for the elaboration of the National Annual Report on the situation with drugs and drug addictions which is submitted to the EMCDDA. The Coordination and Analysis Unit makes use of the Annual Report as well as of other Focal Point target researches related to demand reduction.
The Coordination and Analysis Unit makes use of the reports, researches and other relevant information developed by the Focal Point and the NDIU in the process of preparing proposals for development of the overall drugs policy.

***Please clarify the role of the interagency work group responsible for collecting and generating of information on drugs and drugs addiction in relation to the role of the NFP (including its permanent expert groups following EMCDDA's five key indicators), CAU, NDIU. The number of agencies with the more or less the same tasks is very confusing and does not contribute to a proper assessment.***
During the time when the Secretariat of the National Drugs Council acted as a Focal Point it was assisted by an Inter-Ministerial Working Group for the elaboration of the Annual Report on the situation related to drugs and drug addictions designed for EMCDDA. That Working Group functioned as a temporary task force. Now that the Focal Point is developing as a permanent structure, the existence and functioning of such a group is not necessary.
In preparing the Annual Report for EMCDDA, as well as in performing the other activities within its competence, the Focal Point will make use of summarised information and statistical data generated by the NDIU.
The permanent expert groups on the five key benchmarks are only relevant to the activity of the Focal Point and will be instrumental in the process of introducing and developing the benchmarks in Bulgaria. At the moment the groups are in a process of establishment.

***It is stated that the Director of the NFP will be an associated member of the National Drug Council in order to create a link between the NFP and the decision making process. Have the Rules of Procedure for the Council (adopted on 17 January 2001) been amended in this regard?***
The amendments to the Rules of Procedure for the National Drugs Council are at a drafting stage.

***National drug information system: answers to the questions indicate that this already provided for by the interagency workgroup (see above), while the Action Plan on the implementation of the National Drug Strategy states that this has to be developed in the period 2003-2008. Please clarify, including a clear time schedule.***
As a tool and mechanism for information gathering and exchange between the control authorities mentioned in Chapter III of the Narcotic Drugs and Precursors Control Act[6], the National Information System is operating on the basis of the legal framework determining the competences of individual institutions and their co-operation duties stipulated in the Administration Act (Article 2, Paragraph 6(6): "State power authorities shall co-ordinate their activities to the effect of implementing a unified state policy.")

[6] National Narcotic Drugs Service (Ministry of Health), Inter-Ministerial Precursors Control Commission (Ministry of Economy), Ministry of the Interior, Customs Agency, Ministry of Agriculture and Forests (phytosanitary control in terms of growing, seed production, import/export of cannabis seeds) as well as regional-level control authorities, Regional Health Centres competent to enforce control of plants and narcotic drugs and preparations listed in Annexes a, 2 and 3 of the Narcotic Drugs and Precursors Control Act, and Regional Administrations competent in the field of precursors control.

The timescale indicated in the Action Plan implementing the National Anti-Drug Strategy (Paragraph 17a) includes the design of an effective and efficient national drugs analysis system to support the efforts of the law enforcement agencies by:

- Enhancing the technological capacity of the specialised drug laboratories operated by the National Institute of Forensic Science and Criminology and the Regional Directorates of the Interior throughout the country thorough the supply of analytical equipment and preliminary analysis tools;
- Establishing an information system for inter-laboratory exchange of data on the undergoing tests.

***The Action Plan on the implementation of the National Drug Strategy mentions amendments to the Ministry of the Interior Act, the Penal Code and the Penal Procedure Code (page 21). Can we conclude that the first issue (undercover operations and controlled deliveries) is completed with the adoption of an amendment to the Ministry of the Interior Act on 6 February 2003? Or are amendments in this regard to the Penal Code/Penal Procedure Code also necessary? Are points ii and iii respectively related to the Penal Code and the Penal Procedure Code?***

The amendments to the Ministry of the Interior Act, adopted on 6 February 2003, have laid down the legal grounds for undercover operations, including for controlled deliveries and controlled purchases. No changes in the Penal Code are required in order to implement such operations.
The amendments to the Penal Procedure Code, adopted by the National Assembly on 15 May 2003, have introduced provisions permitting the interrogation of undercover officers as witnesses in a criminal trial (new Article 98a). Testimony is given personally by the undercover officers, whose protection is ensured by keeping his/her personal identity secret and putting them under security.
Point ii and iii refer to the Penal Procedure Code.

***Has the deadline (30 March 2003) for signing the Agreement on illicit traffic by sea, implementing Article 17 of the UN Convention against illicit traffic in narcotic drugs and psychotropic substances been met?***

Yes, it has been. The Agreement on illicit traffic by sea, implementing Article 17 of the UN Convention against illicit traffic in narcotic drugs and psychotropic substances was approved by Council of Ministers Decision of 27 March 2003 based on Protocol No. 14. By the same Council of Ministers Decision, the Permanent Representative of the Republic of Bulgaria to the Council of Europe was authorised and signed the Agreement on 15 May 2003 under condition for subsequent ratification.

***Please provide details on content of the necessary alignment of the national legislation, including time schedule.***

With regard to Bulgaria's accession to the Agreement under Article 17, the Working Group established to deal with that matter has made an assessment of the national legislation in view of determining its compliance with the provisions of the Agreement under Article 17 and identifying the need of amendments, as required[7]. More specifically, the Working Group has identified the necessity to introduce amendments to the Penal Code and Penal Procedure Code, which are expected by the end of 2004.
In particular, those amendments will refer to:

- Implementation of the Penal Code with regard to foreign nationals who commit the drug-related crimes listed in the Agreement either in or outside the maritime territory of the Republic of Bulgaria in as far as the national jurisdiction of the country is not revoked by any of the merits provided for in the Agreement;
- Extending the scope of application of the penal procedure norms in terms of criminal proceedings initiated for crimes which are dealt with in international agreements signed by the Republic of Bulgaria;

[7] The Working Group included representatives of the prosecution authorities, the Ministry of Finance (Customs Agency), the Ministry of Transport and Communications, the Ministry of Justice, the Ministry of Foreign Affairs and the competent Ministry of the Interior Services.

- Extending the scope of application of the penal procedure norms in terms of foreign nationals suspected of committing crimes which are dealt with in international agreements signed by the Republic of Bulgaria;
- Introducing norms for criminal liability in the above-mentioned cases;
- The rules of evidence, prescribed in the Penal Procedure Code, in view of bringing them in line with the methods of evidence collection (taking samples of substances and physical objects, testing samples, taking photographs and photocopying documents, rerecording video films, audio recordings, CD, DVD) provided for in the Agreement under Article 17 (Article 9);
- Provisions regulating the measures for procedural constraint in view of incorporating the specific measures stipulated in the Agreement and the rules governing the competence and procedure for implementation of those measures.

***What is the envisaged date for ratification of the Agreement?***
The Republic of Bulgaria plans to ratify the Agreement after adopting the necessary changes in the national legislation mentioned above and after accession of some essential countries to the Agreement.

***Any further measures envisaged for further strengthening of the staff of the Secretariat of the Drug Council. Are 5 staff members sufficient for the overall co-ordination of the Drug Strategy on a national and regional level?***
At this stage, we do not envisage any additional measures for further strengthening of the National Drugs Council Secretariat. As mentioned above, the Secretariat has technical and administrative competences supporting the work of the Council and is not responsible for co-ordination of the National Anti-Drugs Strategy. The current number of Secretariat staff is considered sufficient for its duties.

## Third set of additional questions – 11th June 2003

***The Action Plan on the implementation of the National Drug Strategy mentioned amendments to the Penal Code in 2005 (page 21). What are these amendments going to regulate?***
The amendments to the *Ministry of the Interior Act*, the *Penal Code* and the *Penal Procedure Code*, laid down in Strategic Objective 20, are interrelated: the amendments to the *Penal Procedure Code*, which will introduce procedural rules for “undercover operations” and “controlled deliveries and purchases”, will require introduction of the respective definitions in the substantial law - Art. 93 of the *Penal Code*.
Additionally, the further improvement of the penal legislation in the field of combating drugs is related to the need to adopt a new criminal policy concept, which will make it possible to lift the sanction of imprisonment as regards persons addicted to drugs or their analogues, if they consent to enter a treatment program.
In view of the public importance of the fight against drugs, there is also a need to introduce amendments to the system of the *Penal Code*. It is considered appropriate to include in Chapter 11 a new section on “Criminal offences related to narcotic drugs and precursors”. Currently, the basic provisions (Art. 354a, Art. 354b and Art. 354c) are contained in the Section on “Criminal offences against public health” in Chapter 11.
The idea of introducing summary police proceedings for drug suppliers is related to adoption of a separate provision in the *Penal Code* treating the typical area of drug supply and dealership in small quantities carried out by and for end-users. The criminal offences under the current text of Art. 354a (production, processing, acquisition, supply, storage, keeping, transportation or transfer of drugs or their analogues without a due licence to do so), in accordance with Art. 28 of the *Penal Procedure Code*, fall under the jurisdiction of the regional courts of first instance and, therefore, they must be subject to pre-trial proceedings carried out by the investigation authorities.

This excludes the summary police proceedings as a relevant form of pre-trial proceedings. Also, summary police proceedings require capacity for fast forensic testing of narcotic substances[8] so as to prove the object of a crime.

***The Schengen Action Plan mentions on page 34 that amendments to the Penal Procedure code (regulating "controlled deliveries") in relation to accession to the* Second Additional Protocol of the European Convention on the Mutual Assistance in Criminal Matters *are foreseen for 30 June 2004. What is the relation of this amendment and the adopted amendment to the Ministry of the Interior Act on the same subject (controlled deliveries). Please clarify.***

"Controlled deliveries" provided for in Art. 92, Para 1(3) and Art. 162, Para 1(16) of the *Ministry of the Interior Act* are an operative and investigation tool for disclosing organised crime. They are carried out by the operative and investigation bodies and by the operative and technical service units of the Ministry of the Interior (police authorities).

Art. 18 of the *Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters* replicates almost entirely Article 12 of *the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union*. The purpose of this provision is to take in controlled deliveries as a form of mutual legal assistance and not to place the police or other forms of non-judicial co-operation within the scope of the Protocol. This article binds the countries to adopt either legal or practical measures to implement controlled deliveries in their respective territories. Once that obligation is met through introduction of positive regulations in the area of international legal assistance, the countries are free to accept or refuse requests to carry out controlled deliveries.

The above considerations require amendments to the Bulgarian *Penal Procedure Code*, especially in the part on international legal assistance.

Against this background, the amendments to the *Penal Procedure Code* are a further development of the legal framework on co-operation in the filed of controlled deliveries. They are not a pre-requisite for implementation of police co-operation under *the Ministry of the Interior Act*.

[8] See Objective 17 of the Action Plan.

# Customs Co-operation

## First set of additional questions – 12th March 2003

***Bulgaria states that it will make reservations to the special forms of co-operation provided for in the Convention on Mutual Assistance and Co-operation between Customs Administrations of 18 December 1997. However, are there any plans for the future on the elaboration of a legal framework (limited in scope) allowing for controlled deliveries, cross-border surveillance, hot pursuit and joint special investigation teams?***

Under the current Bulgarian legislation the customs authorities are authorised to carry out controlled deliveries jointly with the Ministry of the Interior authorities - the National Service for Combating Organised Crime. These powers of the customs authorities are regulated in Art. 15, para. 2 of the *Customs Act* and Art. 92 of the *Ministry of the Interior Act*.

The Bulgarian legislation provides also for other forms of co-operation contained in Title IV of the above Convention. The latest amendments to the *Ministry of the Interior Act* (State Gazette No. 17/21.02.2003) introduced the legal framework for carrying out undercover operations. In accordance with these amendments the competent authorities have to be assisted by state bodies, organisations and legal entities and are authorised to post undercover agents therein.

The amendments to the Rules for Implementation of the Ministry of the Interior Act, which are expected to be submitted to the Council of Ministers by March 2003, will regulate cross-border surveillance and hot pursuit as forms of international operational police co-operation.

In its supplementary information CONF 55/02 Bulgaria has already stated its intention to accede to the *Convention on Mutual Assistance and Co-operation between Customs Administrations* with reservations as regards the specific forms of co-operation under Art. 20, 21 and 23 of the Convention.

Nevertheless, Bulgaria allows for the possibility to withdraw these reservations at a later stage on a reciprocal basis depending on the practical opportunities and readiness for co-operation of the competent authorities of the states that have ratified the Convention.

***Has the deadline (end of 2002) for the adoption of amendments to the Customs Act, which are necessary for the implementation of the Road Traffic Act extending the powers of customs officials to stop and control vehicles on the roads been met?***

The deadline for adoption of amendments to the *Customs Act* has been met. The adopted amendments to the *Road Traffic Act* /State Gazette, No.76 of 6 August 2002/ introduced amendments to Art. 16 of the *Customs Act*. According to the new amendments, in the course of their official duties customs officials, when carrying out checks related to customs control and supervision of goods, vehicles and persons in border checkpoint areas and the whole customs territory in the country, are authorised to stop vehicles inland under the terms and procedures defined in the Joint Instruction of the Minister of Finance and the Minister of the Interior on the terms and procedure for co-operation between the customs authorities and the Ministry of the Interior bodies in preventing and detecting customs and currency offences.

***On the basis of the above-mentioned Act five mobile customs units started its operation on 30 August 2002, another five were envisaged for the end of 2002. Has this deadline been met? Could the first five mobile units become operational before the adoption of the necessary legislation (amendments to the Customs Act - see above)?***

According to previously provided information /CONF 55/02/, up to ten mobile customs teams were to be set up. All legislative amendments to the *Customs Act* and the *Road Traffic Act* were introduced in August 2002. As a result of the legislative changes five mobile units became operational at the end of August, and currently their number is eight. No further legislative amendments are necessary in view of ensuring the effective operation of the mobile units.

***What is the situation as regards amendments to the Penal Procedure Code to provide customs officials with powers to carry out criminal investigations for custom offences? Please provide also information on the content of these amendments.***

The draft amendments to the *Penal Procedure Code* that have been adopted at a first reading by the National Assembly envisage that customs officials specified in an Order of the Minister of Finance shall be authorised to carry out criminal investigations into offences against the customs regime under Art. 242 of the *Penal Code* /smuggling/, Art. 242a of the Penal Code /violation of the transit regime/. Currently customs officials are authorised to carry out criminal investigations also under Art. 251 of the *Penal Code* /crimes against the currency regime - import or export of levs or foreign currency in cash/.

***For the entry into force of the Classified Information Protection Act, adopted on 30 April 2002, it is stated that the Council of Ministers will adopt the relevant secondary legislation in the immediate future. What are the reasons for this secondary legislation, the content and what is meant with "immediate future"?***

On 2 December 2002 the Council of Ministers adopted Rules for implementation of the Classified Information Protection Act (Council of Ministers Decree No. 276 of 2 December 2002; State Gazette No. 115 of 10.12.2002, in force since 10 December 2002). Furthermore, secondary legislation is currently being elaborated and adopted in accordance with the above Act consisting of Regulations some of which have already been adopted, and some are in the process of co-ordination and adoption by the relevant bodies of the executive power.

More specifically, the following Regulations have been adopted in accordance with the *Classified Information Protection Act*:

- *Regulation on the order of performing checks exercising direct control on the protection of classified information*, adopted by Council of Ministers Decree No. 44/21.02.2003 (State Gazette No. 19 of 28 February 2003), in force as of 28 February 2003;
- Regulation on the general binding terms for security of automated information systems or networks used for creation, processing, storage and transfer of classified information, *adopted by the Council of Ministers on 20 February 2003;*
- Regulation on the general requirements to guarantee the industrial security of classified information, *adopted by the Council of Ministers on 20 February 2003.*

The following Draft Regulations are in the process of co-ordination and are expected to be adopted in the near future:

- Regulation on the terms and procedures for use, production and import of encryption methods and means for the protection of classified information;
- Regulation on the obligatory general conditions for security of automated information systems and networks;
- Regulation of the Minister of Health on the procedures and places for carrying out specialised medical and psychological examinations and of regular health examinations and the methods for carrying them out.

These instruments have been adopted in accordance with the *Classified Information Protection Act* and provide legal regulation on a lower level. They develop further the provisions of the Act and provide more detailed regulation thereof. In accordance with the Bulgarian legal system and practice, the *Rules for Implementation of the Classified Information Protection Act* develop the legislative provisions in a comprehensive manner while the other Regulations provide for specific issues, covering different technical and technological aspects of the protection of information. The Regulations contain detailed provisions on the technical aspects which guarantee the different levels of protection of classified information, the mechanisms for exercising control on the means and methods for protection, the interaction between the state bodies involved in this field and other specific issues addressed by the law.

***On 26 August 2002 a new Instruction for the co-operation between police and customs authorities has been adopted. It is stated that this Instruction also covers the activity of the mobile customs teams. How is this related to the statement that amendments to the Customs Act are necessary to further regulate this new power of customs officials, which are anticipated by the end of 2002? See also the related questions above.***

All legislative amendments have been introduced with the amendments to the Customs Act and the Road Traffic Act, which have entered into force /see the answer to the second question/. A new Instruction on co-operation between the customs authorities and the Ministry of the Interior bodies, which covers also the activities of the mobile teams, was adopted on 26 August 2002. All necessary pre-conditions have been met and the teams have already started operating.

***As regards internal co-operation: any developments on the preparation of the Instruction on co-operation with the tax administration?***

A draft Instruction on co-operation with the tax administration is in the process of elaboration and is expected to be adopted by the end of 2003. Further on, amendments to the Customs Act and the Tax Procedure Code envisage a possibility for the two institutions to exchange intelligence.

***In the previous DCP it was stated that the main body to co-ordinate the co-operation between border control services at national and regional level is the Interagency Council on Border Checkpoints. Is this body still existing and if so, is its legal basis also provided for in the new Regulation on Border Checkpoints, which was adopted on 20 February 2002?***

The Interagency Council on Border Checkpoints was set up in 1997 by virtue of Art. 2 of Council of Ministers Decree No. 213 of 15 May 1997 on the setting up, organisation, activities and utilisation of the border checkpoints in the Republic of Bulgaria. This provision remains in force after the amendments of the legal framework on border checkpoints, introduced in 2002 by Council of Ministers Decree No. 104 of 20 May 2002 adopting the Regulation on Border Checkpoints.

The activities of the Council and the expert-level Working Group which supports its work are organised in accordance with the Rules of Procedure of the Interagency Council on Border Checkpoints, adopted in 1998 by Council of Ministers Decree No. 70 of 27 March 1998.

The Interagency Council and the Working Group are functioning bodies responsible for co-ordination and co-operation between the agencies involved in border control on a national level as well as for accomplishment of specific goals and problem-solving in this field.

***Has the regulatory basis, tasks and organisation on the National Drugs Intelligence Unit (NDIU) been elaborated and adopted within the given deadline (end 2002)? Will the Unit be operational according to the initial time schedule (end of March 2003)?***

The National Drugs Intelligence Unit (NDIU) is being established under a Phare project implemented jointly with the UK. On the initiative of the British partners the project was extended by six months and will be completed by August 2003 when the actual operation of the NDIU will start. In the framework of the project a Plan for organisation and functioning of the NDIU was drafted and approved by the Minister of the Interior taking into account the prolongation of the project.

The Plan lays down the institutional and functional model of the NDIU and is used as a basis in the process of drafting the necessary legal framework. The major goal is to set up a unified interagency national intelligence system integrating the capacities of the different services and agencies and aimed at detecting and preventing the trafficking and distribution of drugs in Bulgaria. The basic functions and tasks of the NDIU are defined in details in the above Plan.

In accordance with the Plan the status of the NDIU has already been determined: it will be a separate unit in the National Service for Combating Organised Crime under the Director of the Service. The terms of reference for the design and setting up of the NDIU have been elaborated. The necessary basic equipment for the activities of the NDIU has already been supplied.

***In the previous DCP it was stated that the fight against organised economic crime is the improvement of co-operation between the Customs Administration and other law enforcement agencies. Info on prosecutor's offices and courts is missing in the additional information. What is the state of play on the MoU between the Customs Agency and the Ministry of Justice, which should be concluded by the end of 2002. Can any information on this be provided?***

The Judiciary in Bulgaria comprises the investigation services, the prosecution offices and the courts. While the Ministry of Justice is part of the executive power and there are no plans to conclude an agreement therewith. In this sense memoranda will not be signed between the Customs Agency and the Ministry of Justice but rather between the Customs Agency and the bodies of the judiciary. In this context on 17 September 2002 the Customs Agency concluded an Agreement for co-operation and exchange of information with the National Investigation Service. A Co-operation Agreement with the Prosecutors' Office will be concluded by the end of 2003.

***In the previous DCP specific questions were asked as regards the future Customs Police. No information on these questions has been provided. Statement in the previous DCP:***

***"As a result, a Customs Police will be established. It will comprise the following directorates:***

- ***Customs intelligence;***
- ***Drug Investigations;***
- ***Customs Investigations and;***
- ***Customs Police Inspectorate.***

***Bulgaria's additional information only mention this intention without giving details of the tasks of the various directorates, or the timetable for drafting, adopting and implementing these amendments. The EU should invite Bulgaria to provide more detailed information on this re-organisation, including a timetable. This information should also cover the number of staff, their training and Bulgaria's intentions as regards the operational and tactical approach of the future Customs Police."***

The Customs Intelligence and Investigation Directorate with the Central Customs Administration is the structure in the customs administration competent in the fight against customs crimes and offences. There are no plans to set up a separate customs police body. In previous information Bulgaria has informed the European Commission that a Mobile Customs Teams Department has been set up at the Customs Intelligence and Investigation Directorate with the Central Customs Administration, which is not customs police. This is clearly a case of terminological misconception.

***Has the Agreement with France on mutual administrative assistance already been signed? (The Council of Ministers authorised the Director of the Customs Agency on 25 July 2002).***

The preparation procedure for signing the agreement on Bulgarian side was finalised by Council of Ministers Decision of 25 July 2002. The Agreement is expected to be signed after the co-ordination procedure in France has been finalised and upon completion of the necessary preparation procedures by the French party.

***What is the exact date of endorsement for the Agreement with Iran?***

The bilateral Agreement on mutual administrative assistance for the proper application of the customs legislation and for the prevention, investigation and combating of customs offences between the Government of the Republic of Bulgaria and the Government of the Islamic Republic of Iran was signed on 15 May 2002. It was endorsed by Council of Ministers Decision No. 501 of 19 July 2002.

***In the previous DCP it was stated that Bulgaria also intended to conclude a similar agreement with Slovakia. Any developments? Are there any further plans for similar agreements?***

An Agreement with Moldova was signed on 16 January 2003 and the procedure for its approval is underway.

The text of the Agreement between the Government of the Republic of Bulgaria and the Government of the Slovak Republic on mutual administrative assistance in customs matters is currently being co-ordinated.

The expert level negotiations on a draft Agreement with Albania have been concluded.

***Clarify the purpose of the establishment of a Customs Officer Motivation Fund***

The Customs Officer Motivation Fund for combating corruption and other offences was created using EU funds in the framework the "Fight Against Corruption within the Bulgarian Customs Administration" Phare project and ended at the end of 2001. Under this project the Bulgarian government made a commitment to set up a similar motivation fund using funds from the national budget of Bulgaria. This commitment was fulfilled with the entry into force of Regulation No. 2 of the Minister of Finance of 18 December 2001 on the order of determining the individual amount of additional remuneration under Art.14 of the *Customs Act*.

***It is stated that the Customs Laboratories Strategy will be updated by the end of 2002. Has this deadline been met? What is the state of play of Phare programming 2003 for equipment and IT? Has, beside Plovdiv, any other regional/national Customs Office started a pilot project with risk analysis?***

The Customs Laboratories Strategy has been updated. The work towards approval of a Phare project on further development of the national network of customs laboratories is at a final stage. Under this project the strategy will be implemented and will continue to be updated in the following fields:

- provision of the laboratory with the necessary technical equipment;
- further institutional building of the laboratory.

The Bulgarian Customs Administration has employed the risk analysis method in the whole customs system. As regards the use of risk analysis based on IT technologies, this is planned to be introduced with the development of a specialised module in the Bulgarian Integrated Customs Information System.

## Second set of additional questions – 16th May 2003

***Have the amendments to the Rules for Implementation of the Ministry of the Interior Act, which will regulate cross-border surveillance and hot pursuit, been submitted to the Council of Ministers within the given deadline (March 2003)?***

The amendments to the *Rules for Implementation of the Ministry of the Interior Act*, which will regulate cross-border surveillance and hot pursuit, were adopted by Council of Ministers Decree No. 86 of April 17, 2003, and published in the State Gazette, issue 39 of April 25, 2003.

***It is stated that amendments to the Penal Procedure Code as regards powers for custom officers to carry out criminal investigations for custom offences, have been adopted at a first reading. What is the date? What is the envisaged deadline for its entry into force?***

The amendments to the *Penal Procedure Code* regarding customs officers' investigative powers were adopted at a second reading by Parliament on May 14, 2003; their promulgation and, respectively entering into force, is forthcoming.

***The answer on the "Customs Police" is still not clear. The text from the previous DCP reads as follows: "Bulgaria intends to amend the Rules for the organisation of the Customs Agency in order to adopt a new structure for the Agency. As a result, a Customs Police will be established. It will comprise the following directorates: Customs intelligence; Drug Investigations; Customs Investigations and; Customs Police Inspectorate". This information was based on Bulgaria's additional information CONF-BG 73/01 of 21 November 2001, page 20 and 21. On that basis the assessment of the Commission reads as follows: "Bulgaria's additional information only mention this intention without giving details of the tasks of the various directorates, or the timetable for drafting, adopting and implementing these amendments. The EU should invite Bulgaria to provide more detailed information on this re-organisation, including a timetable. This information should also cover the number of staff, their training and Bulgaria's intentions as regards the operational and tactical approach of the future Customs Police".***

***In our opinion this is not a question of "terminological misconception", because the additional information of November 2001 stated this. Therefore, once again a clarification and/or answer to the questions in the EUCP are necessary. Please provide this information.***

Once more, Bulgaria would like to emphasise that the establishment of a separate customs police unit has been not envisaged, which has been communicated previously to the European Commission. The *Rules of Procedure of the Customs Agency* were adopted by virtue of Council of Ministers Decree No. 1 of January 8, 2001. According to the aforesaid Rules, the Customs Intelligence and Investigation Directorate is the competent unit in the domain of customs and currency violations. The Directorate includes two departments on Customs Intelligence and Investigation into Smuggling and Customs Fraud; and Customs Intelligence and Investigation of Drug Trafficking. A new Mobile Customs Teams Department was added to the Directorate in 2002; currently, there are ten operational mobile teams.

According to Art. 20 of the *Rules of Procedure*, the Customs Intelligence and Investigation Directorate performs the following main functions:

- To counteract customs and currency violations and crimes;
- To counteract the illegal trafficking in drugs and precursors;
- To detect administrative violations and impose administrative sanctions;
- To investigate crimes as prescribed in the Penal Procedure Code;
- To exercise control of foreign trade in arms and dual use goods and technologies;
- To implement communication with Ministry of the Interior bodies and the judicial authorities (prosecution, investigation and court);
- To exchange information and communicate with the relevant foreign agencies and international organisations;
- To organise and conduct inland inspections through the Mobile Customs Teams.

The Inspectorate is set up as a separate internal control unit in the structure of the Customs Administration, and, according to Art. 12 of the *Rules of Procedure*, it is directly subordinated to the Director of the Customs Agency. The Inspectorate has the following main functions:

- To carry out comprehensive, specific and targeted checks for proper implementation of the customs legislation;
- To report to the Director of the Customs Agency its findings and propose measures for elimination of malpractices;
- To disclose and fight against corruption in the Customs Administration.

***How does the Customs Officer Motivation Fund operates: what is its mechanism? What is its purpose? (in short: when and on what grounds payments are done from this Fund and what is the level of payments).***

The functioning of the Customs Officer Motivation Fund is defined in Minister of Finance Regulation No. 2 of December 18, 2001, on the order of determining individual rates of the additional remuneration under Art. 14 of the *Customs Act*. The Regulation incorporates three categories of customs officials performance allowances:

- Performance allowances for fight against corruption;
- Performance allowances for officials involved in the fight against customs and currency offences and against drugs trafficking; and
- Additional remuneration for all customs officials.

The total amount of the funds allocated under the three performance allowances categories per year produces a sum amounting to 25 percent of the salary funds for the respective year.

Expenditure from that part of the fund which is designated for customs officials motivation for anti-corruption achievements is regulated by a special Instruction. Those resources are designated for stimulation of Inspectorate's officials, as well as other customs officials for results achieved in the fight against corruption and/or other customs offences. The particular rate of additional remuneration is calculated on the basis of the contribution made by the respective official and obeying certain criteria. The latter take into account customs officials' creativity in making proposals for preventative measures to restrict corruption and/or other illegal acts; unified implementation of customs legislation; amendments to the laws in force or development of new legislation aimed at reducing subjectivity in decision-making and eliminating corruption-breeding factors. Increased efficiency is also subject to consideration, too.

The performance allowances for officials involved in the fight against customs and currency violations and drug trafficking are a way of motivation for customs officials to increase detection rates. The allowances are to be calculated individually, according to an official's contribution in combating offences subject to specific criteria: number of detected customs and currency violations and crimes; degree of participation; type of enforced customs control; type and quantity of seized drugs; participation in controlled deliveries or international drug enforcement operations. The individual rate of additional remuneration is proposed for approval to the Minister of Finance by the Director of the Customs Agency, based on a written report by the Customs Intelligence and Investigation Director.

All customs officials are entitled to additional remuneration, which is a form of motivation that should achieve quality performance. The remuneration scheme is based on detailed assessment (attestation) of each customs official by his/her manager. Under the assessment criteria fall the increased volume and scope of work, improved quality and more complexity of the work, creativity, extra tasks, etc.

Proposals for stimulation under the three additional remuneration categories are made after the end of each quarter.

The final rate of the additional remuneration is subject to approval by the Minister of Finance based on the proposal of the Director of the Customs Agency.

***What is the amount allocated from the national budget allocated to this Fund in 2002 and how much is envisaged for 2003?***

The resources allocated by the national budget for the Fund in 2002 amounted to 3,654,381 BGN, and for the first quarter of 2003 they were 957,470 BGN.

# Judicial Co-operation in Civil and Criminal Matters

## First set of additional questions – 12th March 2003

***In the previous additional information (CONF-BG 73/01) Bulgaria stated that the working group, set up in October 2001, would also (beside amendments for ratification of certain Conventions in criminal matters) elaborate proposals for amendments to the Penal Procedure Code, which aim to improve the procedure of the pre-judicial phase. Please provide detailed information what has happened with these plans.***

In his letter of 4 February 2003 the Bulgarian Minister of Justice informed Mr. Eneko Landaburu, Director General of DG Enlargement, about the existing problems in the pre-trial phase of criminal proceedings, the role and place of the Bulgarian investigation services and the need to make radical reforms in this field. Bulgaria has taken a number of steps to improve the current legal framework in response to the current situation.

According to Art.128 of the Bulgarian Constitution, the Investigation Service is part of the Judiciary. It is responsible for the implementation of pre-trial proceedings. The pre-trial phase of criminal proceedings can be organised either as pre-trial proceedings where the responsible authorities are the investigators or police proceedings where the responsible authorities are the police investigators of the Ministry of the Interior.

The pre-trial phase is organised as pre-trial proceedings in the cases explicitly listed in the *Penal Procedure Code*. In all other cases it is organised as police proceedings (Chapter XX, Section III of the *Penal Procedure Code*).

At present police proceedings cover 70 % of the criminal cases. The general proceedings rules and those of the pre-trial proceedings (Art. 414 of the *Penal Procedure Code*) are also applicable in terms of police proceedings.

A draft Law amending the *Penal Procedure Code* has been submitted to the National Assembly. The proposed amendments are seeking to streamline police proceedings and enhance their effectiveness. Also, the types of crimes requiring preliminary proceedings conducted by investigators will be decreased.

The following amendments will lead to speeding up the criminal proceedings:

- In view of speeding up the procedures, achieving economy and facilitating the work of the prosecution, the amendments to the Penal Code in force as of 1 October 2002 provide that for some criminal offences of a general nature – which are rendered with a lesser degree of public risk and respectively are subject to lighter punishment – the proceedings shall be instituted upon a complaint of the aggrieved to the Prosecution Office. These proceedings, however, have a general nature and are not be terminable on the request of the aggrieved. This private public provision is traditionally used in Bulgarian legislation and has been in use since the country achieved its independence in 1878 (Art. 44a of the *Penal Procedure Code*).
- In order to ensure that criminal proceedings are carried out within reasonable timeframes within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms, the amendments provide the possibility for the defendant to request a hearing of his/her case before the relevant first instance court following a post-indictment period of three years for serious crimes and two yeas for all other cases (Art. 239a).
- The scarce nature of some new decisions of the legislator has generated certain obscurity for law enforcement authorities and contradictions in practice, which has justified the need to restore some repealed regulations such as the interdiction to challenge at cassation level the rulings of the appellate court on legal custody in the pre-trial phase (Art. 152a).
- It is suggested to repeal the provisions that impede the implementation of plea bargaining (Art. 414g, Art. 414h). Plea-bargains were introduced as an important legislative step towards relieving the system and achieving quick solutions in substantive law relations between the state and the defendant.

- The amendments in the area of police proceedings have resulted in their over-formalisation and created conditions for malpractice and, thus, have slowed it down, which is in contradiction to the traditional understanding of the Bulgarian legislator for a speedy and effective police investigation. Therefore, these amendments should be repealed (Art. 409, Art. 411 and Art. 412).
- Some amendments motivated by the practice in criminal cases have been proposed. The most important proposal in this respect is the repealing of the possibility to file a civil claim in the pre-trial phase of criminal proceedings. There is no change, however, in respect of the right to request from and be granted by the relevant first instance court a guarantee for a possible future claim in the criminal proceedings under the Civil Procedure Code.

In practice under the acting Constitution the number of criminal proceedings conducted by investigators will be decreased and thus the pre-trial phase in penal cases will be mostly concentrated in the Ministry of the Interior system. This fact will facilitate the setting up of a criminal police, which will find further legal basis for regulation in the imminent constitutional amendments.

The main policing structures in the Ministry of the Interior will include new units that will take charge of police investigations. To that end, the Council of Ministers will adopt by 20 March 2003 a Decree allocating the necessary financial resources to appoint 1100 police officers in 2003 and another 900 in 2004.

The necessity of recruiting highly qualified staff in the police investigation system has imposed the introduction of legislative changes with the aim of increasing the quality and effectiveness of police investigation. Along these lines, amendments were introduced in the *Judicial System Act* (State Gazette, No. 74 of 2002) so that according to Art.127, para.5 the service of persons holding a law degree as police investigators in the Ministry of the Interior system shall be recognised as juridical practice.

The introduced amendments as well as those to be implemented in the immediate future allow for a smooth transition to the judicial reform. As a result of the political, institutional and professional meetings carried out recently a parliamentary task force is being set up with a view to drafting amendments in the Constitution. The draft will be debated throughout the 2003 session of the National Assembly.

Taking into consideration the above and in view of solving the problems and improving considerably the work in the pre-trial phase of criminal proceedings, the Ministry of Justice has adopted the following Action Plan:

**First phase**

1) Transform the current police investigation system of the Ministry of the Interior into a team of officials with legal background who are specialists in the field of criminal investigation.
2) Recruit and provide on-the-job training for specialists on criminal investigations.
3) Adopt amendments to the *Penal Procedure Code* decreasing the complexity of criminal proceedings, increasing their effectiveness and speed, as well as improving the interaction with the Prosecutor's Office. Limit the possibilities for the court to return cases for further investigation only to the hypothesis of restriction of the defendant's right of legal defence in the pre-trial proceedings and affirm the decisiveness of court proceedings. The amendments to the *Penal Procedure Code* mentioned above, which were accepted at a first reading on 20 February 2003, are aimed exactly at achieving those objectives in the framework of the current Constitution.

**Second phase**

1) Hold consultations with the Supreme Judicial Council (SJC) on limiting the appointment of investigators so that their functions may be taken over by the criminal investigation teams set up at the Ministry of Interior.
2) Elaborate amendments to the existing substantive and procedural penal legislation defining the set of crimes which will be examined by investigators during the pre-trial phase. The idea is that the investigators should investigate only certain type of crimes (e.g. "crimes against the Republic", "crimes against peace and humanity"), as well as crimes committed by a certain category of people (e.g. senior civil servants, magistrates, party officials, etc.)

**Third phase**

1) Adopt amendments to the Constitution of the Republic of Bulgaria, including the Judiciary Chapter, which preclude the possibility for absolute immunity of judges, prosecutors and investigators and define constitutionally the place and role of the investigation services.
2) Adopt an entirely new Penal Procedure Code and bring the Penal Code in compliance with European standards.

The work on the elaboration of an entirely new *Penal Procedure Code* is among the priorities in the reform of the Bulgarian judiciary.

***Information provided in Bulgaria's position paper (CONF-BG 9/01) stated that further amendments to the Penal Code and the Penal Procedure Code, scheduled for the end of 2001, would enable BG to ratify 4 Conventions in criminal matters (see first question of previous DCP). The current additional information refers only to 2 of the mentioned Conventions. What about the European Convention on the Transfer of Foreign Criminal Sentences and the Convention on Simplified Extradition Procedures. Please clarify.***

EU Conventions can only be ratified by EU Member States and hence Bulgaria has made a commitment to ratify them after accession; the necessary legislative amendments for their implementation will be introduced before that time. Accession to the Council of Europe Conventions, which are accepted as part of the *acquis,* is a priority for Bulgaria in the period leading up to accession.

As it was pointed out in the previous supplementary information and in accordance with the NPAA, Bulgaria has made the commitment to accede by the end of 2003 to the following Council of Europe instruments:

1) European Convention on the Transfer of Foreign Criminal Sentences (Strasbourg, 15.5.1972);
2) European Convention on the International Validity of Criminal Judgements (Hague, 28.5.1970)
3) Additional Protocol to the Council of Europe Convention on the Transfer of Sentenced Persons (Strasbourg, 18. 12. 1997).
4) Second Additional Protocol to the Convention on Mutual Assistance in Criminal Matters between the EU Member States (Strasbourg, 8.11.2001)

The indicated deadline will be met.

The simplified/quick extradition procedure in accordance with the *Convention on Simplified Extradition Procedures (1995)* will be introduced by amendments to the Penal Procedure Code, which are being drafted by a working group with the Ministry of Justice and which will be finalised by mid-March 2003. It is expected that the amendments will be adopted by Parliament by the middle of 2003. Thus, on accession Bulgaria will be ready to ratify the *Convention on Simplified Extradition Procedures (1995).*

***In Bulgaria's previous additional information (CONF-BG 9/01 and 19/01) it was stated that ratification of 2 Convention in civil matters was envisaged for the end of 2001. In the current additional information this is changed into by the end of 2002. Please clarify: the delay in ratification; whether the (changed) deadline of by the end of 2002 has been met; the state of play of the amendments to the Civil Procedure Code and Family Code; BG position toward the Convention on Civil Procedure (1954).***

On 21 February 2003 the National Assembly ratified the Hague Convention on the Civil Aspects of International Child Abduction and the European Convention on the Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children. Amendments to the Family Code related to the ratification of the above conventions were adopted at a first reading on the same date. The amendments to the Family Code and the Civil Procedure Code (submitted to the National Assembly on 14 January 2003), which will allow the Bulgarian judicial authorities and administration to implement the Conventions, will be adopted by the middle of 2003.

As it was pointed out in CONF-BG-46/02, p.1 concerning the *Hague Convention on Civil Procedure (1954)* Bulgaria has acceded to the three more recent Conventions of the Hague Conference on Private International Law /*Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters* (1965); *Convention on the Taking of Evidence Abroad in Civil, or Commercial Matters* (1970); *Convention on International Access to Justice*, (1980)/, which provide a more up-to-date regulation of the methods for mutual legal assistance in civil matters. Bulgaria has concluded bilateral agreements for mutual legal assistance in civil matters with the countries that are not parties to the 1954 Convention. These agreements are in full compliance with the Hague Conventions and are successful tools for implementation of mutual legal assistance in civil matters.
In view of the above arguments Bulgaria believes that it is not necessary to accede to the *Hague Convention on Civil Procedure (1954)*.

***Adoption of amendments to the Penal Procedure Code, in order to align with the Convention on Simplified Extradition Procedure between the Member States of the European Union (1995), where envisaged by the end of October 2002. Has this deadline been met? If so: date of entry into force. If not: reasons for the delay. NB: this question partially overlaps with the question under the first bullet point.***
The need of more detailed elaboration of the planned amendments has taken a longer period of time. The working group with the Ministry of Justice has worked on a number of amendments to the *Penal Procedure Code*, which have been drafted and submitted to the National Assembly, but the more complex international procedure under the *Convention on Simplified Extradition Procedure between the Member States of the European Union* (1995) required further work on this aspect of the *Penal Procedure Code* amendments. The amendments are expected to be adopted by Parliament by the middle of 2003.

***In the previous DCP the following statement was mentioned: "In order to align its legislation with the Schengen provisions on the transfer and enforcement of criminal judgements, Bulgaria states that it will accede to the Additional Protocol to the Convention on Transfer of Sentenced Persons (1997) by the end of 2003". Is this statement still valid?***
Yes: The signing of the *Additional Protocol to the Convention on Transfer of Sentenced Persons (1997)* is included in the Government Working Plan for the second quarter of 2003. In the period following the signing of the Protocol the necessary analysis of the legislation will be made in view of identifying possible needs for amendments and their implementation. This way the deadline for ratifying the Protocol (the end of 2003) will be met. The Ministry of Justice is the institution responsible for carrying out the above procedures.

***Bulgaria has provided detailed information on the seminars and training for magistrates in 2001 and 2002. Are there any plans for 2003? Please clarify whether the language training has improved the (international) contacts between judicial authorities and are there any plans for the future?***
Currently the Magistrates Training Centre is carrying out a number of training programs for newly appointed magistrates as well as qualification programs for all judges, prosecutors and investigators. The main areas in which training is provided cover various aspects of civil and criminal substantive and procedural law, including in relation to the new legislation, as well as specialised training on human rights and EC legislation, etc.
In 2002 the Magistrates Training Centre carried out English training in EU *acquis* terminology in two courses attended by 20 magistrates.
Detailed information on planned seminars is contained in the annexed Magistrates Training Centre timetable for the period September 2002-June 2003.
A magistrate training institution /National Justice Institute/ has been created according to the latest amendments to the *Judicial System Act* and in compliance with EC recommendations. Art. 35(f) of the *Judicial System Act* regulates the status and functions of the National Justice Institute, which will be responsible for the training and qualification not only of magistrates but also of court staff. Rules regulating in detail the activities of the Institute are currently being drafted.

On 12 February 2003 the Supreme Judicial Council adopted a decision according to which the National Justice Institute will be set up by succeeding the current Magistrates Training Centre, whose scope of activity will be extended. The existing training programs implemented by the Centre will be used and further developed by the National Justice Institute, which will also become a party to the existing projects and programs of the Magistrates Training Centre. The Institute will use the property and technical equipment of the Centre. Currently the Centre carries out its activities using facilities and equipment provided by the Ministry of Justice. Talks are held with the Council of Ministers for the provision and reconstruction of suitable facilities to locate the National Justice Institute.

The necessary funds for guarantying smooth functioning and ensuring financial independence of the Institute have been provided and allocated from the national budget.

The selection of lecturers and drafting of curricula for magistrates training will be supported and further developed in the framework of the System for Career Development and Professional Qualification of Magistrates and Clerical Staff Project under the Phare 2001 Programme, which includes sub projects on elaborating a National Strategy for Magistrates Training in Bulgaria and conducting pilot training in some priority fields, including EU legislation and human rights.

***Have all the short-term measures for upgrading equipment at the courts, prosecution's offices and investigation service been met. Deadline foreseen was end 2002.***

In implementation of the short-term measures contained in the Strategy for Reform of the Judiciary in Bulgaria and the Action Plan for its implementation, as well as in accordance with the responsibilities of the Ministry of Justice under the Judicial System Act, the Ministry of Justice, through its new Rules of Procedure, has set up an Information Services and Technologies Directorate staffed with 12 officials. Currently the Directorate consists of two units - Property Register and Technological Services and Unified Crime Information System.

The responsibilities of the Information Services and Technologies Directorate as regards the judiciary include: formulating the strategy and priorities for introduction, maintenance and use of the unified information system of the judiciary; introducing the Unified Crime Information System - the software has been developed /Council of Ministers Decree on the financing of the Unified Crime Information System adopted in compliance with §107 of the transitional and final provisions of the Judicial System Amending Act/; assisting the Interagency Council on the Unified Crime Information System under Art.35(k) of the Judicial System Act; ensuring compliance of the information system of the judiciary with EU requirements; researching the information needs of the judiciary, analysing and proposing solutions related to the provision of software and hardware; providing technical and methodological assistance to courts on issues related to information technologies; carrying out design and development activities in respect of software products and computer technologies introduced in the Ministry of Justice and in the courts.

The Directorate is also responsible for the proper allocation and effective spending of funds provided for the achievement of its objectives in view of avoiding duplicate financing in the field of information technologies in the judicial system.

1. Development of standards for information exchange between the different sub-systems in the judiciary

A project for elaboration of an Information Strategy for the Bulgarian law enforcement authorities has started and a team of IT experts has been set up using Phare Project funds.

The Strategy was elaborated on the basis of completed study on the condition of available hardware, network infrastructure, standard software licences, and IT human resources in the judiciary. The Strategy was submitted for review to the Supreme Judicial Council. It presents a comprehensive concept for introduction of information technologies in the judiciary as well as their subsequent maintenance and development.

A project has been developed under Phare 2002 including the initial development and introduction of Data Warehouse (DWH) and Management Information System (MIS). This is related to the general objective of collecting data and statistics (short-term priority) and consolidation of information/data (long-tem priority). The necessary hardware will be purchased with Phare 2002 funds.

In the context of combating crime (in connection with the Unified Crime Information System) technological, information and communication standards have been developed and approved. They will apply not only to the judiciary but also to the executive authorities working in this field - Ministry of the Interior, Ministry of Defence, Ministry of Justice and Ministry of Finance.
2. Elaboration of a comprehensive program for development of compatible automated system for tracking the movement of cases in courts, investigation services and the prosecution offices
The developed Information Strategy will help draft the technical specifications for the project on the Unified Case Management System.
Plans for aligning case management activities are being elaborated under the Twinning Covenant of the Phare 2002 Project "Implementation of the Strategy for Reform of the Judiciary in Bulgaria".
A forthcoming Phare 2002 project is aimed at introducing an automated case management system in all courts in the country.
The system will be introduced as follows:
The case management system will cover all courts by the 4th quarter of 2005 under a Phare 2002 project.
The Prosecutor's Office Project is being implemented under Phare 2000. The project has a twinning component on institutional building and an investment component aimed at the provision of computers to the Prosecutor's Office. Most of the activities envisaged under the institutional building component have been completed. Under the investment component two agreements have been concluded on the provision of computers, development of an information system and provision of equipment for its development. Most of the equipment has been supplied and the development of the information system is forthcoming. The investment component will be completed by August 2003.
The development of a project for computerisation of the investigation services is planned.
3. Gradual computerisation of the judiciary
The District, Regional and Appellate courts in Sofia were provided with computer hardware under Phare 1999.
A study was made in 2001 of the current condition of hardware, network infrastructure, standard software licences and IT human resources in the judiciary.
Eleven courts in the country were provided with computer hardware under a USAID pilot project (Varna, Plovdiv, Blagoevgrad, etc.).
Under Phare 2002 it is planned to purchase hardware in order to satisfy the requirements for interconnectivity. Case management will be extended to all courts by the 4th quarter of 2005 under the same project.
4. Development of a competent management system on a national level
A Commission for Judiciary Automation Strategy will be set up in March 2003 and will comprise senior management officials from the Ministry of Justice and the Supreme Judicial Council. The Commission will make sure that appropriate functional and technical decisions are made concerning the computerisation of the judiciary.

***What is the exact state of play of the new Law on Illegal Trafficking in Human Beings, which has been approved by the Council of Ministers on 29 August 2002 and scheduled for final adoption by the National Assembly at the end of 2002?***
On 10 October 2002 the National Assembly adopted at a first reading the Law on Illegal Trafficking in Human Beings. Final adoption of the Law is expected by the end of April 2003.

***What is the current state of play of the plans for the technical strengthening and training of the International Legal Co-operation and Human Rights Directorate.***
As it was pointed out in the previous supplementary information, in June 2001 the International Legal Co-operation and Human Rights Directorate of the Ministry of Justice was split into two units: International Legal Co-operation and Human Rights (9 officials) and International Legal Assistance (7 officials). The experts working in the above units have the necessary theoretical knowledge for carrying out international legal co-operation and assistance and they also take part in ongoing training.

The following institutional strengthening measures have been taken with regard to the above Directorate:
A new software product has been introduced for registering requests for legal assistance and extradition and transfer in order to maintain accurate statistical data on the above. The officials have undergone training on using the product.
The structure of the International Legal Assistance Unit of the Ministry of Justice has been improved by a strict differentiation of the functions of the different officials. There has not been an increase in the number of officials.
The officials working in this unit regularly receive training in view of improving their qualifications:
Officials from the International Legal Assistance Unit took part in training on "Extradition, mutual legal assistance in criminal matters and transfer" (June and September 2002 in Bonn, Germany) in the framework of the BG 99/IB/JH/04 twinning project implemented in partnership with Greece and Germany. A seminar on the same subject and with the same trainers was organised in October 2002 in Sofia and was attended by 50 judges and experts from the Ministry of Justice.
Under the above-mentioned BG 99/IB/JH/04 twinning project two experts from the International Legal Assistance Unit visited the Ministry of Justice of Greece in order to exchange experience in the implementation of the Hague civil law conventions to which both countries are parties.

## Second set of additional questions – 23rd May 2003

***Question as regards European Convention on the Enforcement of Foreign Criminal Sentences (1991) is still not answered (see previous EUCP).***

***The scope of application of the Convention between the Member States of the European Communities on the Enforcement of Foreign Criminal Sentences (Brussels, 13 November 1991) supplements the European Convention on the International Validity of Criminal Judgments (Hague, 28 May 1970) and facilitates the application of the principles contained in it. By the end of 2003 Bulgaria will ratify the European Convention on the International Validity of Criminal Judgments (Hague, 28 May 1970). The necessary legislative amendments in compliance with the latter Convention will allow Bulgarian authorities to also implement the Convention between the Member States of the European Communities on the Enforcement of Foreign Criminal Sentences (Brussels, 13 November 1991) before the date of accession.***

***For acceding to the Convention on Simplified Extradition Procedures between the Member States of the EU (1995) it is stated that amendments to the Penal Procedure Code are necessary. Has the deadline set (mid-March 2003) for finalisation been met?***
On May 14th 2003 the Parliament adopted amendments to the *Penal Procedure Code*. Article 440b provides for a simplified extradition procedure, which is in compliance with the requirements of the *Convention on Simplified Extradition Procedures between the Member States of the EU* (1995).

***In additional information (CONF-BG 55/02) it is stated that Bulgaria has by the end of 2002 plans to: 1) partial amend the declaration to Article 6 of the European Convention on Extradition, determining the nationality of the person and 2) withdraw its reservations on the European Convention on Mutual Assistance in Criminal Matters regarding the dual criminality condition and the motives to refuse legal assistance. Has this been done?***
No. Bulgaria will amend the declaration to Article 6 of the European Convention on Extradition by the end of 2003. The delay does not affect the practical implementation of Art. 6 of the Convention since over the last few years there have been no cases of granting Bulgarian citizenship to foreign citizens before the final court order for extradition.
With the ratification of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters by the end of 2003 Bulgaria will take the opportunity provided in Art. 33 of the Protocol and will withdraw the reservation to Art. 2 of the main Convention regarding dual criminality.

***The additional information (CONF-BG 55/02) mentions that it is planned to draft an Extradition Act by the end of 2003 while the updated Schengen Action Plan mentions 31 December 2004. Please clarify.***

The extension of the deadline for adoption of a new *Extradition Act* was required in view of the forthcoming ratification of new international acts of the Council of Europe in the field of legal cooperation in criminal matters (*Second Additional Protocol to the MLA Convention*; Additional *Protocol to the Transfer of Sentenced Persons Convention*; *European Convention on transfer of criminal proceedings and European Convention on International Validity of Criminals Judgements*) and because of the need to take into account the EU acts in the field (incl. The Council Framework Decision on the European Arrest Warrant and the surrender procedures between Member States from 13 June 2002). This requires additional analysis from the Working group on the implementation of these instruments and assessment how their standards will affect the whole process of judicial cooperation in criminal matters.

***Final adoption of Law on Illegal Trafficking in Human Beings according to updated SAP on 31 May 2003 and according to answers to additional question by the end of April 2003. Please clarify.***

On May 7th, 2003 the *Law on Trafficking in Human Beings* was adopted by the Parliament.

***It is stated (CONF-BG 55/02) that funding for technical strengthening of the International Legal Co-operation and Human Rights Directorate is foreseen under the Phare 2003 programme and for training within the bilateral co-operation with Germany and the Netherlands. The question asked in the additional questions was related to these statements. Please provide information on these plans.***

With PHARE assistance new software for registration of MLA, extradition and transfer requests was installed in 2002. It maintains reliable statistical data on incoming and outgoing requests. The specialists in the MLA Department of the Ministry of Justice have been trained to use this software and to work with Windows 2000.

Within the framework of the Cooperation Program with the German IRZ Foundation a number of activities have been and will be carried out, with the active participation of experts from the International Legal Co-Operation and International Legal Assistance Directorate of the Ministry of Justice:

- Training in “Implementation of the European Conventions in criminal matters – extradition, transfer of sentenced persons and MLA” was held in Bonn, Germany, from 22 to 29 September 2002. 3 experts and a specialist from the Ministry of Justice and 4 judges from the Sofia City Court and the Varna City Court took part in the seminar.
- Training in the same topic as the above was held on 18 October 2002 in Sofia, with the participation of experts from the Ministry of Justice and 100 judges from all courts in Bulgaria
- Seminar in “Private international law aspects of child protection” – European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Luxembourg, 20 May 1980) and Convention on the Civil Aspects of International Child Abduction (The Hague, 25 October 1980) will take place on 2-3 June 2003 in Sofia. 50 magistrates and experts from MOJ, MOI and State Agency for Child Protection will participate.
- Training in the same area will be held in Bonn from 24 to 29 June 2003 with the participation of 8 judges, prosecutors and MOJ officials.

# Annexes

## Annexes to sector “Reform of the Judiciary”

**Annex No 1: Declaration on the Main Guidelines for a Reform of the Bulgarian Judiciary**

# DECLARATION
# ON THE MAIN GUIDELINES FOR A REFORM
# OF THE BULGARIAN JUDICIARY

**We, the representatives of the Parliamentary-presented political forces in the Republic of Bulgaria,**

**Having regard to the need of reforming the Bulgarian judiciary in view of improving its operation,**

**Having considered the need of conducting this reform on the basis of consensus among the political forces,**

**Having regard to the spiritual and moral heritage of the Bulgarian people and our historical belonging to Europe,**

**Having based on the universal and eternal values: human dignity, freedom, equality, solidarity and justice,**

**Sharing the principles of democracy and the rule of law,**

**And having considered the need of involving all the judiciary authorities into the practical implementation of the reform,**

**DECLARE OUR CONSENSUS ON:**

**THE MAIN OBJECTIVES OF THE JUDICIAL REFORM, in view of achieving the high standards of jurisdiction needed for the Bulgarian society, and meeting the challenges of the European future for Bulgaria, as a full member of the EU and NATO, namely:**

**Fair, speedy, effective, accessible and transparent jurisdiction;**

**Independence, impartiality, competence and responsibility of the magistrates, effective separation of powers and mutual control;**

**Promoting the public confidence in the judiciary**

**AND THE PRINCIPLES ON WHICH THEY HAVE BEEN BASED:**

- **Rule of law;**
- **Compliance with the best international rules and European practices;**
- **National identity and traditions;**
- **Strategic vision directed to future;**
- **Continuity and stability;**

**Having considered the urgency and significance of a comprehensive and effective reform of the judiciary in the Republic of Bulgaria and expressing consent on the necessary amendments of the current Constitution in the course of the reform, we agree on the following**

**MAIN GUIDELINES FOR THE REFORM OF THE BULGARIAN JUDICIARY:**

- **Clear definition of the functions of the Supreme Judicial Council and of the Minister of Justice;**
- **Structural and functional changes in the judicial system;**
- **Improvement of the coordinating mechanisms among the Prosecutor's Office, the Investigation Service and the Executive power in the counteract against crime;**
- **Improvement of the law enforcement capacity of the judiciary and strengthening the activity of its administrative capacity;**
- **Developing the standard equipment and facilities for the judiciary;**

**AND THE METHODS TO ACHIEVE THEM:**

- **Amendments of the Constitution related to the improvement of the structure, the powers and the responsibilities of the judiciary, including immunity, irremovability, mandate;**
- **Amendments in the statutory, substantive and procedural legislation;**
- **Establishing guaranties for recruitment, training and career development of the magistrates;**
- **Implementation of information technologies in the operation of the judiciary, and development of an integrated information system in stages;**
- **Providing adequate budget for the judiciary.**

**The present Declaration was adopted and signed on 02.04, 2003.**

**Plamen Panayotov**

**Leader of the Parliamentary Group of the National movement Simeon the Second**

**Nadezdha Mihailova**

**President of The Union of Democratic Forces Leader of the Parliamentary Union of the United Democratic Forces**

**Sergey Stanishev**

**President of the Supreme Council of the Bulgarian Socialist Party Leader of the Parliamentary Group of the Coalition for Bulgaria**

**Ahmed Dogan**

**President of the Movement for rights and freedoms Leader of the Parliamentary Group of the Movement for rights and freedoms**

**Nikola Nikolov**

**Leader of the Parliamentary group of the National Ideal For Unity**

**Annex No 2: Decision of the National Assembly**

# T H E  R E P U B L I C  O F  B U L G A R I A

## THIRTY NINTH NATIONAL ASSEMBLY

---

## DECISION

## establishing an Ad-hoc Committee on drafting proposals for amendments in the Constitution of the Republic of Bulgaria

The National Assembly, pursuant to Article 79, Paragraph 1 of the Constitution of the Republic of Bulgaria, and Article 31 of the Rules of procedure and activity of the National Assembly,

**HAS DECIDED:**

1. to establish an Ad-hoc Committee for discussion and drafting of proposals for amendments in the Constitution of the Republic of Bulgaria, relating to the reform of the judiciary and the Republic of Bulgaria's membership into the European Union and NATO.
2. The Committee will be comprised of 17 MPs, 5 of them will be from the Parliamentary group of the National Movement "Simeon the Second", 4 – from the Parliamentary Union of the United Democratic Forces, 4 - from the Parliamentary group of the Coalition for Bulgaria, 3 – from the Parliamentary group of the Movement for Rights and Freedoms, and 1 – from the Parliamentary group of the National Ideal for Unity.
3. to nominate a Chairperson and members, of the Ad-hoc Committee, as follows:

**Chairperson: Kamelia Metodieva Kasabova**

Members:

**Anelia Yordanova Mingova**
**Vladimir Mihaylov Donchev**
**Borislav Nikolov Ralchev**
**Konstantin Lyubenov Penchev**
**Ekaterina Ivanova Mihaylova**
**Eliana Stoimenova Masseva**
**Dimitar Ivanov Abadjiev**
**Anastasia Georgieva Dimitrova – Mozer**
**Lyuben Andonov Kornezov**
**Yanaki Boyanov Stoilov**
**Mihail Raykov Mikov**
**Ginyo Gochev Ganev**
**Lyutvi Ahmed Mestan**
**Remzi Durmush Osman**
**Tchetin Hussein Kazak**
**Marianna Borisova Asenova**

1. The decisions of the Ad-hoc Committee shall be adopted by a two-thirds majority of all the members.
2. The Ad-hoc Committee is established for the term of 3 months.

This Decision has been taken by the XXXIX National Assembly, on 23 April 2003, and has been affixed with the official seal of the National Assembly.

**PRESIDENT OF THE**
**NATIONAL ASSEMBLY: Ognyan Gerdjikov**
**(signed)**

True:

**HEAD OF THE GENERAL OFFICE**
**SERVICES DEPARTMENT:**
**(Michaela Russeva)**

**Annex No 3: Decree No 73 of 31 March 2003**

# DECREE No. 73

## of 31 March 2003

## on the provision of additional resources through the central budget for 2003 to the budget of the Ministry of Interior for the establishment of specialised police investigation structures

(Published, SG No. 32 of 8 April 2003)

THE COUNCIL OF MINISTERS
HAS DECREED:

Article 1. The Minister of Interior shall provide the required organisation for the establishment of police investigation structures within the Ministry of Interior.

Article 2. The Minister of Finance, pursuant to Article 34 (1) of the Law on the Structure of the State Budget, shall provide, through the central budget for 2003, additional resources to the budget of the Ministry of Interior at the amount of up to BGN 8,000,000 intended for a gradual recruitment of up to total 1,100 officers within the Ministry of Interior.

Article 3. The resources referred to Article 2 shall be provided by restructuring the other expenses covered by the central budget for 2003.

Article 4. The specific amount and the frequency of providing the resources shall be determined in accordance with the number of the officers appointed.

Article 5. The Minister of Finance shall be responsible for the amendments of the budget of the Ministry of Interior for 2003 evolving from the provisions of Article 2.

Article 6. When preparing the draft budget of the Ministry of Interior for 2004 BGN 8,370,000 should be provided for a gradual recruitment of total 900 officers within the Ministry of Interior.

FINAL PROVISIONS

§1. This Decree has been adopted pursuant to Article 28 (1) of the Law on the Structure of the State Budget.

§2. The implementation of this Decree shall be entrusted to the Minister of Finance and the Ministry of Interior.

## Annex No 4: Court Officers Need Assessment Report

### Court officers need assessment report

The survey covered officers from the Courts of Appeal, the Courts Martial of Appeal, District Courts, and Regional Courts.

The number of respondents was 938 officers from 62 courts countrywide.

The respondents were mainly experienced court officers, 65% of them having a total professional experience of more than 7 years.

The share of the respondents featuring the most extensive experience between 7 and 12 years accounted for one fourth of all those interviewed.

87.3% of the court officers interviewed had no knowledge of foreign languages.

Only 5.65% of the court officers interviewed had attended computer training courses.

COMPUTER TECNOLOGIES
Computer technologies have been ranked first, among the three topics suggested, by the court officers interviewed. Basic computer training was considered useful.

GENERAL OFFICE WORK

More than one half of the court officers interviewed highly ranked the topics of Communication Skills and Customer Service. Respondents have given great importance also to the topics of *How to Handle Difficult Customers* and *How to Reduce Stress*.

*WORK PROCESSESS* Streamlining workflow processes

**Annex No 5: Budget Comparative Table**

## COMPARATIVE TABLE

## FOR THE BUDGET OF THE JUDICIARY VIS-À-VIS THE STATE BUDGET

| | STATE BUDGET | BUDGET OF THE JUDICIARY | RATIO OF THE BUDGET OF THE JUDICIARY VIS-À-VIS THE STATE BUDGET |
|---|---|---|---|
| 2001 | 7230284,2 | 158727,9 | 2,19% |
| 2002 | 7650030,9 | 198969,8 | 2,60% |
| 2003 | 8160500,9 | 216767,3 | 2,66% |

**Annex No 6: Structural Regulation of the Ministry of Justice**

# STRUCTURAL REGULATION OF THE MINISTRY OF JUSTICE

Published. SG. 83/30 August 2002

…….

## Section VI.
## General administration

…….

Art. 22. Directorate Information Servicing and Technologies shall:

1. In connection with the activity for creating of the Unified Information System for Counteraction to Crime (UISCC):

a) Form the strategy and the priorities for introduction, maintenance and exploitation of the Unified Information System of the Judicial Power as integral part of UISCC;

b) Support the Interdepartmental Council of art. 35k of the Judicial System Act;

c) Ensure the compliance of the information system of the judicial power with the requirements of the European Union;

d) Ensure the integration of the information systems of the Ministry with the information systems of the other units of the state administration;

e) Investigate the information needs of the judicial power, implement analyses and propose solutions for the software and hardware computer supply;

f) Implement technical and methodical support to the courts on the issues of the information technologies;

g) Implement design and development activity for the software and hardware, which is introduced in the ministry and the courts;

h) Participate in the conducting of competitions or tenders for computer hardware;

i) Organise and conduct the training of the employees in computer literacy;

j) Organise the maintenance of automated information infrastructure of the Ministry – local networks, communication equipment, computers;

k) Introduce and maintain optimal software with objective increase of the efficiency at fulfillment of the managerial tasks of the Ministry;

l) Organise and implement the computer software and hardware supply at the Ministry;

2. In connection with the property register:

a) Organise the activities for the preparing and the maintenance of the property register under the Law on the cadastre and the property register;

b) Ensure co-ordination of the activities for the property register with the other state institutions and the Agency for cadastre.

……

## Section VII.
## Specialised administration

Art. 24. The specialised administration shall be organised in:

1. Directorate Court Activity;
2. Directorate Council for Legislation;
3. Directorate European Legal Integration;
4.Directorate International legal co-operation and international legal assistance;
5. Directorate Bulgarian citizenship and adoption;
6. Directorate Guarding.

Art. 25. Directorate Court Activity shall:
1. With regard to the court cadres:
a) Prepare proposals for the number, the court districts and the headquarters of the district, the regional, the military and the appeal courts as well as the number of the judges, the prosecutors and the investigators in the courts, the prosecutor's offices and the investigation services;
b) Prepare proposals for appointing, promotion, reduction in rank, movement and discharge from position of judges, prosecutors and investigators;
c) Prepare orders in implementation of cadre decisions of the Supreme Judicial Council for the chairpersons, the deputy chairpersons and the judges in the district, the regional, the military and the appeal courts;
d) Prepare the appointing, the discharge from position, the permissions for detention and formation of punitive persecution, removal from position, promotion in rank and salary and imposing of disciplinary penalties of bailiffs and judges for entering;
e) Prepare the statement of the Minister of Justice under art. 30, par 1 of the Judicial System Act
f) Keep and preserve the cadre dossiers of the judges, the prosecutors and the investigators;
2. With regard to the activity of central bureau Conviction:
a) Accept applications and issue certificates for previous conviction to citizens, born abroad or with unknown place of birth;
b) Prepare information about previous conviction, required for official purposes by the court, the Prosecutor's office, the bodies of Ministry of Interior (MI), the Investigation, the places for deprivation from liberty, the departments etc.;
c) Receive the bulletins, sent by the courts, which shall be registered in alphabetical control register and preserve them together with the cards, prepared in the card-index;
d) Accept documents, designated for use abroad, which should be certified in the ministry;
e) Certify the authenticity of the respective signatures of judges, notaries and bailiffs;
3. With regard to the activity of the Central Register of the non profit corporate bodies, determined for implementing activity for public benefit:
a) Accept and process the applications for entering into the register;
b) Ensure the introduction of the information in the register;
c) Ensure the preservation of the information in the register;
d) Prepare the messages to the court at the location of the non-profit corporate body and to the bodies of the tax administration about the refusals for entering, entered into force;
e) Issue information or excerpts from the contents of the register about the information, which is subject to access;
f) Organise maintenance, the preservation and the development of the register;
g) Issue monthly bulletin, in which are published the entered non profit corporate bodies for implementing activities for public benefit, the refusals and the deleted entries, as well as information according to the Regulation for the structure and the activity of the central register of the non profit corporate bodies for activity for public benefit at the Ministry of Justice (SG 4/01);
h) Support the Minister in implementing his authorities under art. 45, par 3 and 4, art. 46, par 3, art. 47 and art. 48, par 1 of the Law on the Non Profit Corporate Bodies;
3. With regard to the court statistics:
a) Prepare and send to the District, the Regional, the Military and the Appeal courts updated statistical forms as well as methodical instructions for the way of fulfillment;
b) Implement control in the courts about the timely and high quality accounting of the statistical indices;
c) Process, summarise and analyse the statistical information, received from the courts;
d) Implement analyses of the final results after finishing the periodic processing of the information;
e) Prepare statistical information and accounts;
4. With regards to the Council for Criminological Studies established with the Minister of Justice according to article 35 n of the Judicial System Act:
Makes criminological researches;
Cooperate for the implementation of this researches in the practice;

Study the status and the reasons for the criminality and makes criminological analyses and forecasts;
Cooperate for the introduction of legal and other measures aiming at fight against crime and the establishment of modern policy for punishment and prevention.
5. Implement also other tasks, assigned by the Supreme Judicial Council, connected with the bodies of the judicial power.
…….

## Decree N 311 of December 20, 2002 on the financing of the Unified Information System for Counteraction to Crime (UISCC) and on the terms and conditions for submission to the Ministry of Justice by the National Statistic Institute of the results of the tasks implementation, included in the schedule for the UISCC building, approved by Decision N 664/2000 of the Council of Ministers.

Published. SG. 120/29 December 2002

**The Council of Ministers stated:**

Art. 1(1) Shall provide funds of the amount of BGN 2100 from the State budget to the National Statistic Institute (NSI) in order to undertake the expenses for the UISCC development.
(2) The Minister of Finances pursuant to Art. 34 (1) or Art. 35 (2) of the Law on the Structure of the State Budget shall implement the relevant amendments to the NSI 2002 budget.
Art. 2. The tasks on the elaboration and introduction of the UISCC- first stage, shall be distribute for implementation between NSI and the Ministry of Justice (MoJ), as follows:

1. development of UISCC-NSI;
2. legal regulation of the UISCC functioning- MoJ;
3. training of specialists from the judicial authorities for work with UISCC-MoJ;
4. introduction in regular exploitation of the UISCC-MoJ.

Art. 3. In tree months period from the date of the funds under Art. 1 have been provided, the Chairperson of NSI shall inform the Minister of Justice for the results of the tasks implementation, included in the schedule for the UISCC building, approved by Decision N 664/2000 of the Council of Ministers, as follows:

1. the terms of reference for the UISCC building-first stage, together with the reports from the initial research of the institutions for counteracting to crime-on technical and paper carrier.
2. the systematic project for UISCC elaboration with the entire relevant documentation -on technical and paper carrier.
3. the UISCC software applied-first stage-on technical carrier(server) and all documents for the system exploitation.

CONCLUDING PROVISIONS:
§ 1. This Decree is adopted pursuant § 107 of the Transitional and final provisions of the Judicial System Act in connection with Art. 28 (1) of the Law on the Structure of the State Budget.
§ 2. The implementation of this Decree is assigned to the Minister of Finances, the Minister of Justice and the NSI Chairperson.

**Annex No 7: Trainings**

| Training | 2002 | | April 2003 | |
|---|---|---|---|---|
| | Courses | Attendees | Courses | Attendees |
| Training of Trainers | | | | |
| Basic | 6 | 35 | 0 | |
| Advanced | 1 | 6 | 1 | 6 |
| Subtotal TOT | 7 | 41 | 1 | 6 |
| New Judge Training | | | | |
| Level One | 5 | 86 | 2 | 18 |
| Level Two | 6 | 92 | 2 | 21 |
| Level Three | 14 | 249 | 2 | 19 |
| Subtotal NJ | 25 | 427 | 6 | 58 |
| | | | | |
| Continuing Judge Training | 5 | 245 | 2 | 76 |
| EU Law Training | | | | |
| EU Law | 6 | 185 | 4 | 92 |
| ECHR | 4 | 192 | 1 | 28 |
| TOT EU Law | 4 | 19 | 1 | 14 |
| EU LAW | 14 | 396 | 6 | 134 |
| | | | | |
| TOTAL: | 51 | 1109 | 15 | 274 |

# Annex to sector “Police Cooperation”

## Annex No 1: Law on the Ministry of the Interior /extract/

### LAW ON THE MINISTRY OF THE INTERIOR

Promulgated in SG No 122/19.12.1997; Decision No 3 of the Constitutional Court - SG No 29/13.031998; amended SG N 70 /19.06.1998, SG No 73/26.06.1998, SG No 153/23.12.1998, in force as of 01.01.1999, amended SG No 30/02.04.1999, in force as of 03.10.1999, SG No 110/17.12.1999 in force as of 01.01.2000, SG No 1 of 4 January 2000, amended SG No 29/07.04.2000, SG No 28/23.03.2001, SG No 45/30.04.2002, SG No 19/27.12.2002 in force as of 01.01.2003, amended SG No 17/21.02.2003, SG No 26/21.03.2003 in force as of 01.01.2003 .

- extract -

CHAPTER TWENTY
Co-operation within the System of the Ministry of the Interior

Art. 188. (Amended - SG No 29/2000) The organisation of co-operation and co-ordination between the services and directorates in the process fulfilment of their functions stipulated by law as well as the co-operation and co-ordination within them, is aimed at:

1. more effective and appropriate achievement of the assigned tasks;
2. efficient utilisation of resources;
3. avoidance of duplication or difficulties and obstructions in their activities;

Art. 189. The interaction is based on the principles of centralism, compliance with the law, conspiracy, independence and equal footing.

Art. 190. (1) (Amended – SG No 29/2000) The co-operation and co-ordination activities within the Ministry of the Interior shall be managed and controlled by the Deputy Ministers, the Chief Secretary and the directors of the services and directorates.
(2) The Chief Secretary shall carry out general and direct management and control of the co-operation and co-ordination between the services.
(3) (Amended – SG No 29/2000) The Deputy Ministers shall organise the co-operation and co-ordination of the activities of the services in respect to the management functions assigned to them by the Minister.
(4) (Amended – SG No 29/2000) The directors of the services and directorates shall organise and carry out direct and immediate management and co-ordination of the interaction between the structural units established in their respective services and directorates.

Art. 191. (Amended - SG No 29/2000) The co-operation and co-ordination between the services and directorates shall be carried out in the following main directions:

1. exchange of information;
2. use of information database of the services;
3. operational and technical assistance through co-ordinated activities on reports and fulfilment of tasks within their functional competence.

….

# PART TWO

# TASKS, ACTIVITIES, POWERS AND BODIES OF THE MAIN STRUCTURAL UNITS OF THE MINISTRY OF THE INTERIOR

## CHAPTER SIX
## National Security Service

### Section I
### Tasks and Activities

Art. 44. The National Security Service is a specialised counter-intelligence and information service of the Ministry of the Interior for protection of the national security against acts of foreign special services, organisations and individuals against the national interests; for detection and neutralising processes threatening the state order stipulated by Constitution, the unity of the nation, territorial integrity and sovereignty of the state.

Art. 45. The National Security Service shall carry out counter-intelligence, informational, analytical and forecasting as well as control, co-ordination and methodological activities.

Art. 46. (1) The National Security Service shall carry out counter-intelligence activities independently or in co-ordination with other state authorities for the purpose of supervision, detection, counteraction, prevention and interception of planned, prepared or performed encroachments against the national security, related to:

1. intelligence activities in favour of foreign powers;
2. threat to the integrity of the nation, the territorial integrity, or the sovereignty of the state;
3. anti-Constitutional activities;
4. use of force or other means of general threat for political purposes;
5. threat to the economic and financial security with the participation of foreign services or organisations;
6. threat to environmental safety;
7. (Amended - SG No 45/2002) obstructions to the functioning of the national system for protection of classified information, which constitutes state or official secret;
8. threat to the security of strategic sites and activities;
9. corruption and other threats to the security of the system of state authorities, connected with foreign services or organisations;
10. international terrorism and extremism;
11. illegal international trade in weapons;
12. illegal manufacturing and dissemination of means of general threat or strategic raw materials, narcotic drugs and psychotropic substances, supported, organised or carried out by foreign services or organisations;
13. illegal migration threatening national security.

(2) The National Security Service shall perform counter-intelligence activities in relation to foreign special services, foreign organisations and individuals performing activities threatening the national security.

Art. 47. The information activities of the National Security Service shall include:

1. analysis and forecasting activities through collecting, processing and storage of information, important for the national security and national interests, aimed at satisfying the needs of the government and in relation to the management and performance of its own duties;

2. elaboration of counter-intelligence evaluations of national security status, based on its own information and on information received from other state authorities, specialised in the field of protection of national security and public order;
3. informing the supreme government bodies on the status, risk and potential threats to the national security;
4. elaboration of information materials of general reference, analytical or forecast nature and their provision to other state authorities, organisations or individuals according to the legislative procedure thereupon.

Art. 48. (1) Other activities of the National Security Service:
1. protection of activities and sites of strategic importance to the country, carried out independently or in co-operation with other specialised bodies;
2. methodological guidance, assistance and control over the regional security units in exercising their functions on protection of the national security;

(2) The National Security Service shall pursuant to the international obligations of the Republic of Bulgaria and in the name of national security co-ordinate and co-operate with foreign special services in the counteraction of international terrorism and other forms of international organised crime.
(3) The National Security Service shall co-operate with other state authorities within the scope of their competencies.

## CHAPTER SEVEN
## National Police Service

### Section I
### Tasks and Activities of the National Police

Art.59. (1) The National Police Service is a specialised operational, search and guard service of the Ministry of the Interior for protection of public order, prevention, detection and participation in the investigations of criminal offences.
(2) The National Police shall carry out its activities independently and in co-operation with other state authorities, organisations and citizens.

Art. 60. (1). (Former Art. 60 - SG No 29/2000) The National Police shall carry out the following activities in implementation of its tasks under Art. 59:
1. organise and carry out protection of public order;
2. prevent and detect criminal offences and other violations of public order and participate in the investigation of criminal offences;
3. protect the rights and freedoms of citizens and assist in their exercising;
4. protect the property of citizens, state, municipalities and organisations;
5. organise and carry out security activities in respect of institutions and sites;
6. (Amended - SG No 17/2003) control the safety of road traffic, technical status of motor vehicles and organise registration of motor vehicles, drivers, and traffic incidents;
7. grant permission and control activities involving means of general threat;
8. (Amended - SG No 29/2000) grant permission and control the activities of legal and natural persons who carry out security-related activities;
9. (Amended - SG No 29/2000) issue identity documents, residence permits for foreign nationals, and carry out administrative control;
10. Pursue suspects, defendants and accused evading criminal proceedings, sentenced persons evading execution of the sentence, as well as missing persons and other individuals, as provided by law;
11. organise and carry out escort of individuals in the country and abroad

12. assist and take all necessary measures to ensure compliance with the law and orders issued by state bodies;
13. study and analyse the reasons and conditions of the state of criminality;
14. collect, process, use and provide information on the status of public order, fight against crime and road traffic safety;
15. carry out methodological guidance, assistance and control of the respective activities of the territorial units;
16. (Amended - SG No 29/2000) carry out operational and other activities related to state security protection independently or jointly with other services and directorates of the Ministry and with other empowered state bodies;
17. attract citizens for voluntary co-operation in the protection of the public order, and the property of persons, state and enterprises;
18. carry out prevention activities through investigation and analysis of the reasons and conditions favouring the commission of crimes and other offences, as well as warning functions in respect of natural and legal persons aimed at removing those reasons;
19. (New - SG No 29/2000) carry out activities related to the identification of individuals;
20. (New - SG No 17/2003) participate in the establishment, functioning and guard of special facilities for foreign nationals subject to compulsory escort to the border or to expulsion jointly with local authorities;
21. (New - SG No 17/2003) carry out international police co-operation.

(2) (New - SG No 29/2000) the institutions and bodies who have assigned the escort under para. 1, item 11 shall provide the documents and financial resources necessary for carrying out the convoying activities.

## CHAPTER EIGHT
## NATIONAL SERVICE FOR COMBATING ORGANISED CRIME

### Section I
### Tasks and activities

Art. 89. The National Service for Combating Organised Crime is a specialised police service of the Ministry of the interior with operational and search functions, established to counteract and dismantle the criminal activities of local and trans-national criminal structures.

Art. 90.(1) In the process of implementation of the tasks under Art. 89 the National Service for Combating Organised Crime shall carry out independently or in co-operation with other specialised bodies operational, search, information and organisational activities for the purpose of combating organised crime, related to:

1. (Amended - SG No 17/2003) property, customs regime, currency, credit, financial, tax and insurance systems;
2. (Amended - SG No 17/2003) terrorist activities;
3. (Amended - SG No 17/2003) corruption
4. (Amended - SG No 17/2003) illegal trafficking in human beings;
5. (Amended - SG No 17/2003) illegal trafficking in plants containing narcotics, of narcotic drugs, precursors and their analogues;
6. (Amended - SG No 17/2003) illegal trafficking in explosives, firearms, chemical, biological and nuclear weapons and ammunitions, of nuclear materials, nuclear equipment and other ionising radiation sources, toxic and chemical substances and their precursors, biological agents and toxins as well as excise goods and goods and technologies with possible dual use;
7. (Amended - SG No 17/2003) computer crimes;
8. (Amended - SG No 17/2003) intellectual property;

9. (Amended - SG No 17/2003) participation in a criminal organisation or group using force or threat to conclude transactions or derive benefits;
10. (Amended - SG No 17/2003) organisation or participation in illegal gambling;

(2) For the purposes of its activities the Combating Organised Crime Directorate shall establish information databases.

(3) The Combating Organised Crime Directorate shall carry out methodological guidance, assistance and control of the activities of the regional units for combating organised crime.

## CHAPTER NINE

## National Border Police Service

### Section I
### Goals and Activities

Art. 94. The National Border Police Service is a specialised police service of the Ministry of the Interior with guarding, operational and search functions for protection of the state border and control of the compliance with the border regime, carrying out its activities within the border area, the area of the border checkpoints, international airports and ports, internal maritime area, the territorial sea, the adjoining zone, the continental shelf, the Bulgarian part of the Danube river, as well as all other border rivers and water areas.

Art. 95. (1) The Border Police shall carry out the following activities in implementation of its tasks:
1. guard the state border and other areas and sites, specified in Art. 94;
2. detect and detain individuals, illegally crossing the state border, wanted persons and transportation vehicles and deliver the them to the competent authorities, prevent individuals with prohibition to enter or leave the country from crossing at border checkpoints;
3. carry out border regime and control of individuals and motor vehicles crossing the state border including in the areas and sites under Art. 94 individually or in co-operation with other state bodies;
4. prevent, detect and participate in the investigation of crimes and other violations within the areas and sites under Art. 94 in all cases provided by law independently and in co-operation with other government authorities;
5. inspect individuals and motor vehicles for weapons, explosives and other means of general thread upon crossing the state border and on flights of the civil aviation;
6. collect, process, use, store and provide to other state bodies - in accordance with their competencies - information on violations of the state border and border crossing regime of the country, related to the national security;
7. investigate and analyse the reasons and conditions of violations of the state border and propose measures for their elimination;
8. install and maintain border signs, mark the border line of the state border and prevent the destruction, removal or other activities against the territorial integrity of the Republic of Bulgaria;
9. implement the international treaties and agreements to which the Republic of Bulgaria is a party independently and in co-operation with other state bodies and handle violations and accidents on the state border;
10. control the compliance of Bulgarian and foreign ships and vessels with the regulations on floating and stay in the territorial waters, internal maritime area and the Bulgarian part of the Danube river;
11. participate in activities for the protection of public order, rights and freedoms of citizens and their property in the border area, the area of the border checkpoint, international airports and ports jointly with other state bodies;

12. notify local administrative authorities on activities carried out in complicated circumstances within the border regions and co-ordinate mutual activities aimed at protection of the state border;
13. counteract armed or other provocative acts at the state border individually and together with the Bulgarian army;
14. assist the specialised state bodies responsible for the implementation of the regulations on environmental protection, as well as on protection of the life and health of the population within the areas and sites under Art. 94;
15. co-operate with border guard authorities of other countries in the process of carrying out its tasks.

(2) The bodies of the state and municipal administration shall provide assistance and co-operation to the border police authorities in the fulfilment of the tasks under para.1.

## CHAPTER TEN
## National Gendarmerie Service

### Section I
### Tasks and Activities of the National Gendarmerie

Art. 104. (1) The National Gendarmerie Service is a specialised guarding, operational and search police service of the Ministry of the Interior for protection of strategic areas and sites of outstanding importance, fight against terrorist and sabotage groups, protection of public order and fight against crime.

(2) The strategic areas and sites of outstanding importance under para. 1 shall be specified by the Council of Ministers.

Art. 105. The National Gendarmerie shall carry out independently and in co-operation with other Ministry of the Interior services the following functions in implementation of its tasks under Art. 104:

1. organise and protect strategic areas and sites of outstanding importance;
2. defuse terrorist and sabotage groups;
3. participate in the organisation of public order protection outside the population centres;
4. participate in prevention, detecting and investigation of crimes and other violations of public order outside the population centres;
5. trace and detain individuals in the circumstances provided by law;
6. collect, process, use and provide information, acquired in the course of the fulfilment of its duties;
7. detect and remove the reasons and conditions for commitment of crimes and other violations of public order according to its competence and assist the citizens in the protection of their lives, health and property, as well as other civil rights and interests conferred by law;
8. assist other state authorities and officials in the cases where their activities are illegally obstructed;
9. undertake all necessary measures within its competence if there are data on a criminal offence or another violation of public order;
10. assist the victims of crimes and other violations of public order as well as in the cases of accidents, calamities and incidents and helpless individuals;

(2) The Minister of the Interior shall authorise the use of the National Gendarmerie for protection of public order in population centres together with other services of the Ministry by a written order on a case-by-case basis.

….

Art. 27. (1) The position of the Chief Secretary is the highest professional position in the Ministry of the Interior.
(2) The Chief Secretary shall:
1. organise, co-ordinate and control the operative, search, agent and security activities;
2. organise the interaction between the services in the Ministry;
3. co-ordinate the mutual activities with the respective services in other countries and international bodies and organisations;
4. issue orders in connection with his functions.

## Annexes to sector “Fight against Fraud and Corruption”

### Annex No 1: Measures against Money Laundering Act

# MEASURES AGAINST MONEY LAUNDERING ACT

Unofficial Translation from Bulgarian

Prom. SG, issue 85 of 24.7.1998, amended and supplemented iss.1 of 02.01.2001, amm. iss. 102 of 27.11.2001, in force since 01.01.2002,
Amended and supplemented, **iss. 31 of 04.4. 2003,** vol.8/98, p. 50; vol. 2/2001, p.42, it.8, r.1, no. 54

## Chapter one
## General Provisions

Article 1

1) This law shall determine the measures against money laundering as well as the organization and control over their implementation.
2) The objective of the law is to prevent money laundering and to detect actions of natural and legal persons aimed at money laundering.

Article 2

(1) Money laundering is the preparation, carrying out and acceptance of the results of actions through which money or other property, as well as anything derived there from, becomes the possession of a given person through or in connection with a crime and is introduced into the economic turnover.

(2) Money laundering also exists in the cases of:

1. The transformation or transfer of property acquired through or in connection with a crime;
2. (repealed SG 1 of 2001)
3. Concealing or camouflaging of the nature, source, location, disposal, movement, or rights concerning properties acquired through or in relation to a crime;
4. Acquisition, possession, or use of properties with the awareness at the time of acquisition that these were acquired through, or in relation to a crime;

(3) Money laundering shall also be present when the Bulgarian Penal Code is not applied to the original crime.

Article 3

(1) Measures for the prevention and exposure of money laundering actions shall include the identification of persons as well as the collection, preservation and disclosure of information concerning operations and deals.

(2) The measures under Section (1) shall be compulsory for:

1. Bulgarian National Bank; banks; foreign banks licensed by the Bulgarian National Bank to conduct banking activity in Bulgaria through a branch; financial houses; bureaus of exchange; and persons providing services related to money transfers from Bulgaria to other countries and vice versa, when acting in their own name or on behalf of a third party;
2. insurers and foreign insurers licensed by the Insurance Supervision Commission to perform insurance and reinsurance services in Bulgaria through a branch;
3. investment partnerships, investment intermediaries and managing companies;
4. pension funds
5. privatization bodies;
6. persons who organize public procurement orders assignment;

7. persons who organize and conduct games of chance;
8. legal persons to which mutual-aid funds are attached;
9. persons who grant monetary loans in exchange for the deposit of assets;
10. postal services that accept or receive money or other valuables;
11. public notaries;
12. stock market, stock market dealers and persons who organize unofficial stock markets;
13. leasing partnerships;
14. state and municipal bodies concluding concession contracts;
15. political parties;
16. professional unions and organizations;
17. non-profit legal entities;
18. licensed accountants and specialized auditing enterprises
19. tax bodies;
20. customs bodies;
21. merchants who sell automobiles by occupation, when payment is made in cash and in an amount greater than BGL 30 000 or its equivalent in foreign currency;
22. sports organizations;
23. the Central Depository;
24. persons dealing by profession in high value goods like precious metal, precious stones and gems, works of art and goods with historic, archaeological, numismatic, ethnographic, art and antiquarian value and natural samples, as well as persons who organize auctions for such goods, when the payment is made in cash and in amount greater than BGL 30 000 or its equivalent in foreign currency.
25. dealers in weapon, petroleum and petroleum products;
26. persons who by profession provide consultancy in tax matter;
27. whole sale merchants.
28. persons who by profession provide legal consultancy when they:
    a) participate in planning or implementing of operation or deal of their client regarding:
    b) buying and selling of real property and selling of business entities;
    c) managing money, securities or other financial assets;
    d) opening or managing of bank accounts or securities accounts;
    e) collection of initial business capital, increasing of business capital, lending and any other forms of collection of money for conducting of business of their client (third party);
    f) establishment, organizing activity or managing of off- shore companies, trusts or other such structures;
    g) act on behalf of and for their client (third party) in any financial or real estate transaction.

29. (new item) real estate agents

(3) The measures under Paragraph (1) are compulsory also for the persons under Paragraph (2) in the cases where these are declared bankrupt or liquidated.
(4) The measures shall also be applied to branches of the persons stated under Paragraphs (2) and (3) that are registered abroad as well as registered in Bulgaria branches of foreign entities, included in Paragraphs 2 and 3.
(5) (new) The measures under Paragraph 1 are compulsory for the persons under Paragraph 2, Section 28, in the cases where the person:
1. is aware that the legal consultancy is to be used with the purpose of money laundering;
2. is aware that his client aspires to legal consultancy with the purpose of money laundering.

(6) (new) The measures under Paragraph 1 shall not be obligatory for the persons under Paragraph 2, Section 28, where information is provided for the completion of legal representation or for the completion of legal analysis for a client. The information, revealed during or with regard to participation in legal proceedings, which are pending, imminent or have already been completed, as well as the information pursuant to the exercise of legal defence rights under Article 56 of the Constitution of the Republic of Bulgaria.

Article 3a.
(1) Supervisory bodies of the persons under Article 3, Paragraphs 2 and 3 shall be obliged to provide information to the Financial Intelligence Agencyif they find operations and transactions rising suspicion for money laundering or encounter non-compliance with the obligations under Article 11a while performing their supervisory functions.
(2) The performed by the supervisory bodies under Paragraph 1 checks on the spot include check of the implementation of the present law requirements from entities which are inspected. If the supervisory bodies establish an infraction they shall notify the Agency of Financial Intelligence by sending an extract of findings act in its respective part.

## Chapter two
## IDENTIFICATION OF CUSTOMERS, COLLECTION, STORING AND DISCLOSURE OF INFORMATION

### Division 1
### Identification of clients

Article 4
(1) The persons under Article 3, Section 2 and 3 shall be obliged to identify their clients when they establish long-term commercial relations, including cases of opening bank accounts or securities accounts, as well as when they conduct operations or transactions in an amount greater than BGL 30,000 or its equivalent in foreign currency; persons under Article 3, Section 2, Item 1, shall be obliged to identify their clients also when they conduct operations in cash in an amount greater than BGL 10,000 or its equivalent in foreign currency.
(2) Paragraph (1) shall also apply to the cases where more than one operation or transaction is carried out, each of them not exceeding 30 thousand BGL, or the equivalent amount in foreign currency, respectively 10 thousand BGL, or the equivalent amount in foreign currency, but there are data that such operations or transactions are linked.
(3) The persons under Article 3, Paragraph (2), Item (7) must identify their customers pursuant to the order established in Article 6 of this Law at the time of registration under Article 72, Paragraph (2) of the Law on Gambling.
(4) Persons under Article 3 Section 2 and 3 shall be obliged to refuse to conduct operations or transactions, when it is impossible to identify clients according to the requirements of this law or a declaration under Article 7.
(5)Persons under Article 3, Section 2 and 3 shall be obliged to undertake necessary measures to ensure a client's identity is determined when establishing long-term commercial relations or when conducting operations or transactions through electronic statements, electronic documents, electronic signatures or other non-face-to-face operations. Such measures shall include verification of the documents submitted; requiring additional documents; or certifying the identification by other persons under Article 3, Section 2 and 3 or by a person, obliged to implement measures against money laundering in a member state of the European Union; or establishing requirements that the first payment in the operation or transaction is to be carried out through an account, opened in the name of the client in a Bulgarian commercial bank, a branch of a foreign bank, being granted license by the Bulgarian National Bank to operate in the country through a branch, or a bank from an EU member state.

(6) The measures under Paragraph 5 are to be implemented in the internal regulations under Article 16.
(7) Persons, conducting operations or transactions through or with a person under Article 3, Paragraphs 2 and 3 in an amount greater than BGL 30,000 or its equivalent in foreign currency; respectively in an amount greater than BGL 10,000 or its equivalent in foreign currency, shall be obliged to declare the source of their funds when payments in cash are carried out. Persons under Article 3, Section 2 and 3 shall be required to demand such declaration before conducting the operation or transaction.
(8) The structure of the declaration under Article 7 and Article 6, Section 5 Item 3, rules and conditions for its submittal as well as the rules and conditions for exempting from obligation to declare shall be regulated by the Rules on Implementation of the Law.
(9) Identification requirements under Paragraph 1 are not mandatory and a declaration under Paragraph 7 shall not be filled in cases of the client being a Bulgarian bank; a branch of a foreign bank licensed in Bulgaria; a bank of a Member State of the European Union; or a bank, included in a special list approved pursuant to a joint ordinance issued by the Minister of Finance and the Governor of the Bulgarian National Bank.
(10) The special list referenced in Section 9 shall include foreign states with legislation containing requirements equivalent to the requirements of this law. The list shall be published in State Gazette.
(11) In cases where the value of the transaction or deal cannot be determined by the time of its performing, on account of the nature of transaction or deal, the persons under Article 3 Sections 2 and 3 shall be obliged to verify their clients as soon as the value of the transaction or deal could be determined, if the value is greater than BGL 30,000 or its equivalent in foreign currency; or respectively greater than BGL 10,000 or its equivalent in foreign currency. This case does not exclude the obligation to verification when establishing long-term commercial relations.
(12) The Persons under Article 3 Sections 2 and 3 shall identify their clients when concluding insurance contract pursuant to the Division I of the Enclosure No. 1 to Article 6, Section 2 of the Law on Insurance, where the gross amount of the regular premiums or instalments provided for in the insurance contract is greater than BGL 2 000 annually or the premium or payment is single and amounting to more than 5,000 BGL.
(13) The Persons under Article 3, Section 2 and 3 shell be obligated to identify their clients in addition to the cases provided for in the foregoing sections wherever money laundering is suspected.

## Article 5

(1) Where the operation or transaction is carried out through a representative, the persons under Article 3, Paragraphs 2 and 3 must require evidence of the power of attorney and identify the representative and the person represented.
(2) Where the operation or transaction is carried out on behalf of a third party without authorization or through a third person – bearer of documents for carrying out of the operation or transaction, the persons under article 3 paragraphs 2 and 3 must identify the third party in favour of which the operation or transaction is carried out, the person who has carried out the operation or transaction and the bearer.
(3) (new) Where suspicion exists that a person, conducting the operation or transaction, acts on behalf of someone else or at his expense, the persons under Article 3, Paragraphs 2 and 3 shall report pursuant to Article 11 and take whatever measures appropriate for the gathering of information for identification of the person, on whose behalf the operation or transaction is carried out. The measures shall be defined by the Rules on Implementation of the Law.

Article 6

(1) Identification of customers shall be done as follows:

1. In the case of legal persons - by furnishing an official excerpt about their present status from the respective register, and where such person is not subject to registration - by furnishing a certified transcript of the document of incorporation and registration of the name, seat, address and the representative.

2. In the case of natural persons - by furnishing an official identity document and registration of its type, number and issuer, as well as the name, address, personal number and for natural persons having the capacity of sole merchants – also by furnishing the documents under item 1.

(2) Persons bound by law to have tax registration shall present a copy of their tax registration.

(3) (new) Copies of the documents under Paragraph 1, Items 1 and 2 are taken excluding the cases where except when the data contained therein is precisely specified in other documents written by the persons under Article 3, Section 2 and 3 and saved under the terms of Article 8.

(4) In the cases where a certain activity is to obtain a license, permission or registration, the persons carrying out transactions and operations connected with this activity, furnish a copy of the corresponding license, permission or certificate of registration.

(5) Persons under Article 3, Paragraph 2, items 1, 2, 3, 4, 5, 6, 7, 10, 12, 14, 18, 19 and 20 shall set up specialized services for customers identification which shall:

1. collect, process, store and disclose information about the concrete operations or transactions;
2. gather evidence as to the ownership of the property subject to transfer;
3. request information about the origin of the money or valuables which form the subject of such operations or transactions; the origin of that money or valuables shall be certified by declaration;
4. collect information about their customers and maintain accurate and detailed documents for their operations involving money or valuables;
5. wherever there is suspicion of money laundering, provide the collected information under items 1, 2, 3 and 4 of this paragraph to **the Agency of Financial Intelligence** in accordance with Article 11.

(6) Where it is not possible to set up a specialized unit, the persons under Article 3, Paragraph 2, items 1, 2, 3, 4, 5, 6, 7, 10, 12, 14, 18, 19 and 20 shall carry out their duties **under this Law** personally.

(7) All the persons under Article 3, Paragraphs 2 and 3 carry out their duties under Article 6, independently of the fact whether they set up a specialized service or not.”

## Division II
## Gathering of information

Article 7

(1) Wherever suspicion of money laundering arises, the persons under Article 3, Paragraphs (2) and (3), are under the obligation to collect information about the essential elements and the amounts of the operation or transaction, the respective documents and the other identifying data.

(2) The data collected shall be used for the purposes of this law only.

## Division III
## Storing of information

Article 8
In the cases under arts. 4 - 7 the persons under Article 3, Paragraphs (2) and (3), are under the obligation to store for a period of 5 years the data about the customers and the documents for the transactions and operations carried out. With respect to the customers, the time limit shall run from the beginning of the calendar year following the year in which the relationship is terminated and with respect to the transactions and operations - from the beginning of the calendar year following the year of their performance.

Article 9
When demanded the data and documents under Article 8 shall be forwarded to the **Financial Intelligence Agency** in the original or as officially certified copies. The order, deadlines and periodicity shall be determined in the Regulations on the Implementation of the Law on Measures against Money Laundering.

## Division IV
## Disclosure of information

Article 10
(1) The Financial Intelligence Agency shall be an administrative body to the Minister of Finance, responsible for receiving, storing, surveying, analysing and disclosing information, gathered in accordance with the conditions and rules of this Law.
(2) The Agency under Paragraph 1 is a legal person on state budget support with a seat in Sofia.
(3) The structure, organization of activity and the number of employees of the Agency are determined by an Organic Regulation issued by the Council of Ministers.
(4) The Agency of Financial Intelligence is to be represented and run by a director, appointed by the Minister of Finance, with the approval of the Prime Minister for a five-year term without any limitations as to the number of terms.
(5) The director of the Agency shall be a person who:
1. Holds a Master's Degree in Law or Economics and has professional experience of at least 5 years in the respective profession.
2. Has not been convicted and been subject to effective sentence for deliberate offences.
3. Is not a sole trader, unlimitedly responsible associate in a commercial vehicle, manager or executive officer of a commercial vehicle, commercial proxy or procurator.
4. Has not been declared bankrupt as a sole trader or unlimitedly responsible associate in a commercial vehicle.
5. Has not been member of an executive or control body of a commercial vehicle, respectively cooperation, liquidated because of insolvency during the two years prior to the date of appointment in case there are unmet creditors' demands.
(6) The director of the Agency shall not carry out other activity for pay excluding scientific or teaching, or as a member of an international organization in accordance with the activity of the Agency.
(7) The circumstances under Paragraph 5, Items 3, 4 and 5 and Paragraph 6 are certified by declaration.

(8) The director of the Agency can be removed from office before the end of the term pursuant to Paragraph 1 by the Minister of Finance, with the approval of the Prime Minister in the following cases:
1. Written application by the director.
2. Objective incapability to perform his duties longer than 6 months.
3. In the case of a conviction for a deliberate offence having entered into force or denial of right to the office through court decision.
4. In the case of flagrant or systematic violation of this Law or the regulations on its implementation.
(9) The Minister of Finance shall charge the Deputy Minister of Finance with responsibility as Chief Inspector for Financial Intelligence to perform functions defined by LMML or other related laws.
(10) The Chief Inspector for Financial Intelligence has the right to conduct inspections of the Agency for Financial Intelligence, or require report from the Director of the Agency for Financial Intelligence. The Director of the Financial Intelligence Agency is obliged to respond in the time limits specified by the Chief Inspector for Financial Intelligence.
(11) The Chief Inspector for Financial Intelligence shall not make decisions or give directions concerning issues, which are within the competency of the Director of the Financial Intelligence Agency or related to performing of functions of the Agency.
(12) The Minister of Finance shall approve the annual activity report of the Agency for Financial Intelligence, prepared by the Director of the Agency.
(13) The Financial Intelligence Agency may attract as experts representatives of the Bulgarian National Bank, the Ministry of Interior, the Ministry of Justice, the bodies of the judiciary as well as other specialists.
(14) The interaction between the Financial Intelligence Agency and Bulgarian National Bank; the Ministry of the Interior national agencies; National Investigation Service; and the Prosecutor's Office shall be regulated by instructions, issued by the Minister of Finance and the Governor of the Bulgarian National Bank; the Minister of the Interior; the Minister of Defence, the Director of the National Intelligence Service; the Director of the National Investigation Service and the Prosecutor General.
(15) The interaction between the Financial Intelligence Agency and the administrative structures at the Minister of Finance shall be carried out in accordance with a procedure set by the Minister of Finance.

Article 11
(1) Wherever there is suspicion of money laundering, the persons under Article 3, paragraphs (2) and (3), shall be under the obligation to notify forthwith the Financial Intelligence Agency prior to carrying out the operation or transaction, holding up its realization within the period admissible under the legal acts that regulate the corresponding kind of activity.
(2) In the cases where the delay of the operation or transaction is objectively impossible, the person under Article 3 Paragraphs 2 and 3 shall notify the Agency for immediately after its performance.
(3) The notification of the Agency may be done also by employees of the persons under Article 3 Paragraphs 2 and 3 that are not responsible for the application of the measures against money laundering. The Agency shall keep the anonymity of these employees.

Article 11a
(new; to enter into force January 1, 2004) (1) Persons under Art 3, Section 2 and 3 shall notify the Financial Intelligence Agency of each payment made in cash, amounting to more than BGL 30,000 or its equivalent in foreign currency, conducted by or for their client.

(2) The Financial Intelligence Agency shall keep a register of payments under Section 1. The register can be used only for the purposes of combating money laundering.
(3) The Regulation for the Implementation of the LMML shall govern the terms and procedures for providing information under Section 1.

Article 11b (new)
(1) The Customs Agency shall be obliged to provide information on commercial credits by export or import, financial leasing between domestic and foreign persons and export and import of BGL or foreign currency in cash from the customs database to the Financial Intelligence Agency under procedures and terms of the Currency Law.

(2) The Minister of Finance shall define the procedures under Section 1.

Article 11c (new) (1) The Financial Intelligence Agency and the Ministry of the Interior national agencies shall exchange classified information related to their respective legal functions. Decisions regarding the scope of information to be shared shall be made on a case-by-case basis by the Director of the Financial Intelligence Agency and the respective director of the Ministry of the Interior national agencies.

(2) The procedures and conditions for information exchange, as well as the measures for protection are to be specified in the joint instructions under Article 10, Paragraph 14.

Article 12.
(1) In the cases under Article 11 Paragraph. 1 the Minister of Finance upon a proposal by the Director of the Financial Intelligence Agency may suspend by an order in writing a certain operation or transaction for a period of up to three workdays, considered from the day following the day of issuing the order. If no preventive measure, distrait or foreclosure is undertaken until the expiration of that time limit, the persons under Article 3, Paragraphs 2 and 3 may proceed with the operation or transaction.
(2) The Financial Intelligence Agency shall immediately notify the Prosecutor's Office about the suspension of the operation or transaction while submitting all the necessary information keeping the anonymity of the person under Article 3, Paragraphs. 2 and 3, that has made the notification under Article 11 or 18.
(3) The Prosecutor may impose a preventive measure or place a request before the corresponding court for imposing of distrait or foreclosure. The court is to pass a statement on the request within 24 hours as from the moment of its entering.
(4) Wherever there are data for a committed crime, **the Financial Intelligence Agency** shall notify the Prosecutor's Office keeping the anonymity of the person under Article 3, Paragraphs. 2 and 3, that has made the notification under Article 11 or 18 or the respective security agencies and public order agencies.

Article 13
(1) In the cases of notification under Articles 11 or 18 the Financial Intelligence Agency may demand from the persons under Article 3, Paragraphs 2 and 3, excluding the Bulgarian National Bank, the banks and the foreign banks licensed by the Bulgarian National Bank to perform activities through a branch**,** information concerning suspicious operations, transactions or customers. The demanded information shall be delivered within the defined by the Agency time limits.
(2) Wherever there is a written notification under Articles 11 or 18 made by a person under Article 3, Paragraph. 2, items 1, 2, 5 and 23 as well as a Request for Information under Article 22 the Financial Intelligence Agency may demand from the Bulgarian National Bank, the banks and the foreign banks licensed by the Bulgarian National Bank to perform activities through a branch information about suspicious operations, transactions or customers. The demanded information shall be delivered within the defined by the Agency time limits.
(3) The Financial Intelligence Agency may demand from the government and municipal bodies information under the conditions of Paragraph. 1 and that information cannot be refused. The demanded information must be delivered within the defined by the Agency time limits.
(4) When defining the time limits under Paragraphs. 1 – 3 the Agency shall take into consideration the volume and the contents of the information demanded.

(5) For the purposes of the analysis the Financial Intelligence Agency shall receive from the Bulgarian National Bank statistical information collected under the Foreign Exchange Law.
(6) The Financial Intelligence Agency shall have the right of gratuitous access to the information registers built up and maintained by state budget funds.
(7) The submission of the information under Paragraphs 1 – 6 could not be denied or limited for reasons of professional, banking or commercial secrecy.

Article 14
The persons under Article 3, Paragraphs (2) and (3), the persons managing or representing them, as well as their employees shall not be allowed to notify their customer or any third party of the disclosure of information in the cases under arts 9, 11, 11a, 13, 17 and 18.

Article 15
The disclosure of information in the cases under Articles 9, 11, 11a, 13, 17 and 18 shall not give rise to liability for breach of other laws.

## Division V
## Protection of the Information

Article 15a
(1) The Financial Intelligence Agency may use the information that is official, banking or commercial secrecy as well as the protected personal information received under the conditions and order of Articles 9, 11, 11a, 13, 17 and 18 only for the purposes of this law.
(2) The employees of the Financial Intelligence Agency, the Chief Inspector for the Financial Intelligence, the inspectors obliged under Article 10 Paragraph 10 and the experts under Article 10, Paragraph. 13 cannot announce, use for personal favour or in favour of persons related to them, pieces of information and facts, that are official, banking or commercial secrecy, which have become known to them while exercising their official duties.
(3) The employees of the agency, the Chief Inspector for the Financial Intelligence, the inspectors obliged under Article 10 Paragraph 10 and the experts under Article 10, Paragraph. 13 as well as the experts under Article 10, Paragraph. 3 shall sign a declaration for keeping the secrecy under Paragraph. 2.
(4) The provision of Paragraph. 2 shall be referred also to the cases where the mentioned persons are off duty or the performance of the task for which they had been drawn in under Article 10, Paragraphs. 10 and 13 has ended.

# Chapter Three
# INTERNAL ORGANISATION AND CONTROL

Article 16
(1) The persons under Article 3, Paragraphs (2) and (3) shall adopt within 4 months as from the coming into force of this law or as from their registration, internal rules for control and preventing money laundering which rules shall be approved by the Director of the Financial Intelligence Agency
(2) The internal rules under Paragraph (1) shall lay down clear criteria in view of discerning suspicious operations or transactions and customers, the procedure for training of the employees and the use of the technical means for prevention and detection of money laundering.
(3) The internal rules under Paragraph 1 shall be sent to the Director of the Financial Intelligence Agency for affirmation within time period of 14 days as from the date of their adoption.

(4) (new) The professional organizations and associations of the persons under Article 3, Paragraphs 2 and 3, with the approval of the Agency for Financial Intelligence, can adopt unitary internal rules for control and prevention of money laundering, joined by the members of the organizations or associations by declaration in accordance with the time limits under Paragraph 1.

Article 17
(1) The control over the implementation of this law shall be exercised by the Minister of Finance and the Director of the Financial Intelligence Agency.
(2) The controlling bodies of the "Bureau of Financial Intelligence" Agency shall carry out checks on the spot on the persons under Article 3, Paragraphs 2 and 3 in connection with the implementation of the measures for prevention and disclosure of money laundering as well as where suspicion of money laundering exists.
(3) Controlling bodies of the "Bureau of Financial Intelligence" Agency shall be the nominated by the Director officials from the staff of the agency.
(4) The checks under Article 1 may be carried out in cooperation with the bodies that are entrusted by a special law to exercise control over the persons under Article 3, Paragraphs 2 and 3.
(5) The checks shall be carried out on the basis of an order in writing by the Minister of Finance or the Director of the "Bureau of Financial Intelligence" Agency. The purpose, the time and the place of the check, the name of the person checked as well as the name and the position of the checking persons shall be pointed out in the order.
(6) The persons under Article 3, Paragraphs 2 and 3, the government bodies, the authorities of local self-government and their officials are obliged to render assistance to the control authorities of the "Bureau of Financial Intelligence" Agency when the latter are exercising their official duties.
(7) When carrying out checks on the spot the controlling bodies under Paragraph 3 shall have the right to free access to the official premises of the persons under Article 3, Paragraphs 2 and 3 as well as to require documents and collect data in connection with the performance of the task entrusted to them."

Article 17 a
(1) The Minister of Finance on a proposal by the Director of the "Bureau of Financial Intelligence" Agency shall define the officials which shall have the right to additional payment for work within the system of financial intelligence as well as the individual rate for each official.
(2) The funds under Paragraph 1 shall be defined at the rate of 25 per cents of the annual amount of the funds for salaries in the budget of the "Bureau of Financial Intelligence" Agency for the corresponding year and shall be included in the Law on the State Budget for the same year.
(3) The funds at the rate of 30 percent collected from sanctions imposed under this law shall flow as revenues into the budget of the "Bureau of Financial Intelligence" Agency and shall be used for capital investments for improvement of the equipment, training and participation in international events.
(4) The order of calculation and expense of the funds under Paragraph 3 shall be determined by an ordinance of the Minister of Finance.
(5) The officials of the "Bureau of Financial Intelligence" Agency shall be obliged to insure against accident and have "Life Insurance".

Article 18
(1) Where the persons under Article 3, Paragraphs (2) and (3) find out data about money laundering, they shall forthwith notify the "Bureau of Financial Intelligence" Agency.
(2) The "Bureau of Financial Intelligence" Agency may receive data concerning money laundering besides from the entities under Paragraph. 1 also from government bodies or through the international exchange.

Article 19
Where a person under Article 3, Paragraphs (2) and (3), fails to carry out his duties under this law, the Minister of Finance may:
1. oblige such person to undertake specific measures necessary to remove the offences;
2. revoke the license issued, where the Minister has issued the license himself, or require such revocation from the authority which has issued the license to pursue the corresponding activities.

Article 20
The acts under Article 19, item 2, may be appealed in accordance with the Law on the Supreme Administrative Court.

## Chapter Four
## INTERNATIONAL COOPERATION

Article 21
(1) The “Bureau of Financial Intelligence” Agency via the bodies of the judiciary and the Ministry of Justice shall apprise the competent authorities abroad of the data received by it concerning the initial crimes and the crimes related thereto in respect of money laundering, to which the Bulgarian Criminal Code does not apply.
(2) In the cases where data about initial crimes on money laundering have been received in the course of prejudicial or judicial proceedings and the Ministry of Justice apprises the competent authorities abroad, a copy of the notification shall be sent to inform the “Bureau of Financial Intelligence” Agency.

Article 22
(1) The Financial Intelligence Agency on its own initiative or at request for information shall exchange information about cases related to suspicion of money laundering with the corresponding international authorities and authorities of other countries on the basis of international acts and bilateral agreements.
(2) The Director of the Financial Intelligence Agency shall sign, amend and denounce international agreements for operation exchange of information on cases, related to money laundering under the procedure and conditions of Bulgarian Law Governing International Treaties.

## Chapter Five
## ADMINISTRATIVE AND PENAL PROVISIONS

Article 23
(1) Any person who commits or admits the commission of an offence under Article 4, 5, 6, 7, 8, 9, 13 and 15a, Article 17, Paragraphs 6 and 7 or refuses cooperation, submittal of documents and information under Article 17, Paragraph 7 shall be punished by a fine of 500 to 10 000 BGL, if the act does not constitute a crime.
(2) Any person who commits or admits the commission of an offence under Article11, 11a, 14 and 18 shall be punished by a fine of 5 000 to 20 000 BGL, if the act does not constitute a crime.
(3) Any person who commits or admits the commission of an offence under Article16, shall be punished by a fine of 200 to 2 000 BGL, if the act does not constitute a crime.
(4) Where the offence under Paragraphs (1), (2) and (3) is committed by a legal person, the latter shall be liable to a sanction of 2 000 to 50 000 BGL.

Article 24
(1) The acts establishing the offence shall be drawn up by the controlling bodies of the Financial Intelligence Agency and the penalty warrants shall be issued by the Minister of Finance.
(2) The drawing up of the acts and the issuing, appealing and execution of the penalty warrants shall be carried out under the order of the Law on Administrative Offences and Penalties.

## ADDITIONAL PROVISION

§ 1. Within the meaning of this Law:
1. “Property acquired through a crime” within the meaning of arts. 1 and 2 shall be the property derived from the commitment of a crime.
2. “Property acquired in connection with a crime” within the meaning of arts. 1 and 2 shall be the property received for the purpose of commitment, or because of the commitment of a crime.
3. “Initial crime” shall be any crime the proceeds of which form the subject of money laundering.
4. (new) “Security agencies” shall be National Intelligence Agency, National Security Agency within the Ministry of the Interior, Directorate for Protection of the Means of Communication within the Ministry of the Interior and Security – Military Police and Military Counterintelligence Agency within the Ministry of Defense.
5. (new) “Public order agencies” shall be National Agency Police within the Ministry of the Interior, National Agency Combating Organized Crime within the Ministry of the Interior and National Agency Border Police within the Ministry of the Interior.
6. (new) “Supervisory body” shall be any governmental body entitled by law or regulations to exercise general supervision over the activity of the persons under Article 3, Section 2 and 3.

## TEMPORARY AND CONCLUDING PROVISIONS

§ 2.This law shall repeal the Law on Measures against Money Laundering of 1996 (State Gazette, Issue 48 of 1996).
§ 3.The persons under Article 3, Paragraphs (2) and (3) shall be under the obligation to submit to the Financial Intelligence Agency within 3 months time limit as from the entering of this Law into force, any available information concerning money laundering.
§ 4. The persons under Article 3, Paragraph. (2), items 1, 2, 3, 4, 5, 9, 11, 13 and 18 shall be under the obligation to bring their organization and activities in compliance with the requirements of this Law and to submit their internal rules under Article16 to the Minister of Finance, within 5 months time limit as from the entering of this Law into force.
§ 5. In Article 10 from the Law on Administrative Offences and Penalties (promulgated in State Gazette, Issue 92 of 1969; amended, Issue 54 of 1978, Issue 28 of 1982, Issues 28 and 101 of 1983, Issue 89 of 1986, Issue 24 of 1987, Issue 94 of 1990, Issue 105 of 1991, Issue 59 of 1992, Issue 102 of 1995, Issues 12 and 110 of 1996 and Issues 11, 15 and 59 of 1998) after the words “persons who conceal” a comma shall be inserted and the words “as well as persons who admit the commission thereof” shall be added.

§ 6. The enforcement of this Law shall be entrusted to the Council of Ministers and the Council of Ministers shall adopt a Regulation on Implementation of the Law within 2 months as from the entering of the Law into force.

## TEMPORARY AND CONCLUDING PROVISIONS

To the Law on Denomination of Bulgarian Lev (State Gazette, Issue 20 of 1999, amended, Issue 65 of 1999, in force since 5.07.1999)
……

§ 4 (1) By coming into force of the Law all numbers in old BGL, included in the laws, which have come into force before July 5, 1999 shall be replaced by 1 000 times denominated numbers in new BGL. The replacement of all numbers in old BGL by 1 000 times denominated numbers in new BGL shall be implemented for all laws, adopted before July 5, 1999, which have come or shall come into force after July 5, 1999.
(2) The agencies which have adopted or issued regulations, coming into force before July 5, 1999, involving numbers in BGL, shall undertake the necessary according to this Law amendments so that the amendments are implemented with the coming into force of this Law.
……..
§ The Law comes into force on July 5, 1999

## TEMPORARY AND CONCLUDING PROVISIONS

To the Law on Amendment and Complementation of the Law on the Measures against Money Laundering. (State Gazette, Issue 1 of 2001, amendments, Issue 102 of 2001, into force since 1.01.2002).

§ 24 Throughout the text the phrase '"Bureau for Financial Intelligence"' is replaced by '"Bureau for Financial Intelligence" Agency'.
…….

§ 28 (Repealed – State Gazette, Issue 102, 2001)
§ 29 (Repealed – State Gazette, Issue 102, 2001)
Law on Amendment and Complementation of the Law on the Measures against Money Laundering (State Gazette, Issue 31, 2003)
…….

Complementary provision

§ 19 Throughout the text the phrase '"Bureau for Financial Intelligence" Agency' is replaced by 'Agency for Financial Intelligence'.

Temporary and Concluding Provisions

§ 20 (1) Persons under Article 3, Paragraphs 2 and 3, obliged to implement measures against money laundering prior to the adoption of this Law, shall ensure compliance of their internal rules pursuant to Article 16 with the requirements of the Law and shall submit those rules to the Financial Intelligence Agency within 4-month time limit after following the coming into force of this Law.
(2) Persons under Article 3, Paragraphs 2 and 3, obliged under the provisions of this Law to implement measures against money laundering, shall adopt and submit to the Financial Intelligence Agency internal rules under Article 16 within the time limit in Section 1.
……..
§ 28 (1) The assets, liabilities, archive, as well as the other rights and obligations of the "Bureau for Financial Intelligence" Agency shall be assumed by the Agency for Financial Intelligence.
(2) The established state of affairs concerning the labour and official relations shall not be cancelled; Article 123 of the Labour Code shall be applied.
§ 29 §7 shall come into force on January 1, 2004.

**Annex No 2: Annual Report for 2002 of the Bureau of Financial Intelligence Agency**

REPUBLIC OF BULGARIA
MINISTER OF FINANCE
BUREAU OF FINANCIAL INTELLIGENCE AGENCY

---

# ANNUAL REPORT
# 2002

Unofficial translation from Bulgarian

**Adopted by the Minister of Finance, Mr Milen Velchev**
**Prepared by the Director of BFI Agency, Dr Vasil Kirov**

**SOFIA**
**JANUARY, 2003**

## CONTENTS



## 1. BFI: A General Overview

The Bureau of Financial Intelligence Agency (BFI Agency) was set up in 2001 further to amendments to the Law on Measures against Money Laundering that came into force on 6 January 2001.

Under the relevant provisions, BFI Agency receives, stores, inquires into, analyses and provides information connected with suspicions of money laundering, exchange such information with the competent authorities of other countries and with international bodies, and monitor the compliance by the reporting entities listed in s. 3(1) and (2) with their obligations deriving from the Law on Measures against Money Laundering. By virtue of Ordinance No. 3 of the Minister of Finance of 17 April 2002, BFI Agency now also keeps the register of foreign exchange offices and makes any entries therein.

As of 31 December 2002, BFI had 34 officials working in three directorates: Directorate of Administrative and Accounting Services (general administration), Directorate of Information and Analyses, and Directorate of Co-ordination and Control (both specialised administration). The functions of each directorate are laid down in BFI's Rules of Organisation adopted with Regulation No. 33 of the Council of Ministers of 21 Feb 2001 (State Gazette, issue 16 of 20 Feb 2001).

In general, the operation of BFI Agency can be rated as very good.

In the beginning of 2002, BFI Agency had to cope with some urgent tasks and in particular to overcome its somewhat chaotic work, to improve the quality of the end product it provides and to reinforce its overall administrative capacity. To fulfil those tasks, the following specific steps were undertaken:

- implementation of analytical software products;
- improving the qualification of the staff;
- hiring new officials on the basis of competition;
- restructuring BFI Agency internally;
- introducing stringent rules of procedure to be observed in the process of work;
- establishing strict internal supervision and control rules.

As a result, BFI's administrative capacity strengthened and that immediately impacted on the number of files - a far larger number of files, as compared to 2001, were completed and submitted to the public prosecution authorities. In addition, complex money laundering schemes were detected, seven financial operations were posponded and the laundering of the funds involved in those operations was prevented. The postponding of the financial operations was possible due to the efficient co-operation with the Ministry of Interior and the public prosecution that BFI managed to attain in 2002.

## 2. Legislative Framework

In 2002, BFI Agency operated on the basis of a number of legislative instruments, including the Law on Measures against Money Laundering (as amended in 2001), the Rules Implementing the Law on Measures against Money Laundering, the Rules of Organisation of BFI Agency, and Ordinance No. 3 of the Minister of Finance of 17 April 2002. In the course of BFI's operations, some defficiencies were identified in the existing legal framework which objectively impaired the effectiveness of the preventative anti-money laundering system in Bulgaria. The main problem concerned the limited legal possibilities for the exchange of information between BFI Agency and the security and law-enforcement services. That problem was identified already in BFI's 2001 Annual Report. In July 2002, the Standing Parliamentary Committee on Homeland Security and Public Order held a meeting where the Director of BFI Agency and the Director of the National Service for Combating Organised Crime were invited to report. The Committee discussed the possible measures, including legislative ones, to overcome the stand-alone operation of those two agencies. The indispensable parliamentary support was thus ensured for future legislative amendments. In December 2002, a second directive to combat money laundering was adopted in the European Union (Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 Amending Council Directive 91/308/EEC on the Prevention of the Use of the Financial System for the Purposes of Money Laundering). The second directive introduced in EC law new requirements and standards with regard to the fight against money laundering and put EU Member States and the accession countries under an obligation to implement those standards in their domestic laws and give them full effect by June 2003. Therefore, in July 2002, the Minister of Finance formed a task force to prepare draft amendments to the Law on Measures against Money Laundering. The group consisted of experts from the Ministry of Finance (BFI Agency), the Bulgarian National Bank (Special Supervision Department) and the Ministry of Interior (National

Service for Combating Organised Crime). The draft was submitted to the Association of Commercial Banks, the Supreme Bar Council and the public prosecution and their opinions were sought. The Government approved of the draft at the end of September 2002, while taking into consideration the views of the Association of Commercial Banks and of the public prosecution authorities, and then presented the draft to Parliament. The future provisions should remove the legislative obstacles to the exchange of financial intelligence data between BFI Agency and the law enforcement and public order services, and align Bulgarian preventative legislation with the standards of the second EU anti-money laundering directive. Before they were presented to Parliament, the draft amendments were informally consulted with the European Commission (Directorate General Internal Market, Financial Services Unit). In 2002, the Government adopted and proposed to the National Assembly a Draft Law on Measures against the Financing of Terrorism. The Ministry of Finance (BFI Agency) was actively involved in the drafting process, along with the Ministry of Interior and the Ministry of Justice. The law would endow BFI Agency with supplementary powers to monitor the financial flows so as to identify the operations that nurture suspicions of financing terrorism.
The drafts are expected to be finally adopted by the Parliament and enter into force during the first half of 2003.

### 3. Interaction with Reporting Entities under s. 3(1) and (2) of the Law on Measures against Money Laundering and with Supervision

In 2002, BFI Agency preserved and built on its good co-operation with the commercial banks. BFI Agency representatives attended seminars organised by various commercial banks for their officials where anti money-laundering measures in the banking sector were discussed. A number of meetings with representatives of bank compliance units took place at BFI Agency. Numerous practical aspects of the co-operation between BFI Agency and the corresponding commercial banks were discussed. The interaction between BFI Agency and the Association of Commercial Banks can be referred to as very good. A meeting was held between the Director of BFI Agency and Mrs V. Vassileva, President of the Association of Commercial Banks and CEO of the Municipal Bank, and Mrs I. Martseva, Secretary General of the Association of Commercial Banks. A number of issues were discussed that had been raised by different commercial banks throughout the years, and ways were sought to overcome the problems. The necessary steps included the draft amendments to the Law on Measures against Money Laundering proposed by the Government (see above) for which the Association of Commercial Banks advanced specific suggestions. In 2002, BFI Agency participated in presentations of a software product designed for the banks. Its implementation would enable the automatic identification of operations involving suspicions of money laundering, on the one hand, and a more in-depth inquiry into those operations by bank compliance units, on the other hand. The implementation of such products, however, requires investment that is currently not affordable for some Bulgarian banks. Nonetheless, BFI Agency has encouraged strongly, and will encourage the commercial banks to implement such products as they are very helpful and efficient and would enable banks to more frequently detect money laundering operations. BFI Agency shares the understanding that if money-laundering operations are detected more frequently, that would help reduce the number of cases where the banks are used for such purposes, a result that would be quite beneficial to the banks themselves.

Some banks have put in place a very good administrative and logistic structure to ensure the successful work of their compliance units. In some banks, those units are structured as separate services whereas in others they form part of the in-house control or risk management units. Given the specificity of the work of compliance officers, BFI Agency recognises how important it is to ensure the confidentiality of their work not only externally but also within the bank itself and *vis-à-vis* the other bank officials. The meeting of the Money Laundering Contact Committee of the European Commission (Directorate General Internal Market, Banking Services) on 16 December 2002 in Brussels, at which the Director of BFI Agency was invited together with a representative of the Bulgarian National Bank, highlighted the need to safeguard the bank officers involved in combating money laundering. In-house confidentiality was identified as an important measure to that effect. The next step is to preserve the anonymity of those bank officers who have reported on suspicious transactions. Regretfully, in 2002 again there were instances of transgressing the requirement of anonymity in the course of preliminary police inquiries or in investigation proceedings. BFI Agency was put to notice by the affected commercial banks and contacted the competent bodies of the Ministry of Interior and the investigation authorities so as to avoid any such cases in future.

A persisting problem concerns the feedback to be provided to commercial banks in relation to the reports they have submitted to BFI Agency.

In 2002, BFI continued its fruitful co-operation with the Bulgarian National Bank, in particular its Banking Supervision Department.

Joint on-site inspections were conducted in the commercial banks to find out their level of compliance with the Law on Measures against Money-Laundering. Those inspections took the form of on-site visits, including visits to bank branches and offices. The inspections reconfirmed that the individual banks had good systems to prevent their being used for purposes of money laundering. In some cases, shortcomings were found out as well and the necessary instructions were given to eliminate them. BFI Agency and the Banking Supervision Department of BNB carried out several consecutive inspections throughout the banking system to identify operations channelled through the Bulgarian financial system and possibly conducted by individuals suspected of terrorism or of financing terrorism and included in the lists provided to Bulgaria by the Governments of the US, Italy and Spain, and by the European Union. Over 500 individuals were checked. In view of the technical difficulties involved in those inspections, BFI Agency appreciates the high level of co-operation and accuracy demonstrated by the commercial banks.

In 2002, steps were made to improve the contacts with non-bank financial institutions (*e.g.* insurers; organisers of games of chance; change bureaux; investment companies and investment intermediaries; pension funds; persons providing money transfer services from Bulgaria to foreign countries or *vice versa*). Those efforts resulted in the receipt of the first suspicious transaction reports from institutions that had never reported before 2002, and of more reports from institutions that had reported earlier. It is noteworthy, however, that the co-operation between BFI Agency and some of those institutions remained unsatisfactory even in 2002 (*e.g.* organisers of games of chance; pension funds; persons providing money transfer services from Bulgaria to foreign countries or *vice versa*; pawn houses). Therefore, BFI Agency identified as one of its key priorities for 2003 the improvement of its interaction with such entities.

During the second semester of 2002, measures were launched along these lines, jointly with the supervision authorities. Several meetings were held with the directors of the Insurance Supervision Agency and the State Commission for Gambling, accordingly, at which collective measures were identified to combat money laundering in the respective industries. Preliminary conversations took place and working meetings are to be held with the directors of the State Agency for Social Security Supervision, and the State Commission for Securities, respectively. A problem to be resolved in 2003 is the lack of legal rules on pawn houses, and the lack of a register and supervisory authority for them.

In 2002, the control exercised by BFI consisted in 459 inspections of reporting entities under s. 3(2) and (3) of the Law on Measures against Money Laundering. Of those, 20 inspections were conducted on site and 4 resulted in finding out infringements of the law for which the Minister of Finance issued penalty orders and imposed fines and penalty payments.

In 2003, the number of joint inspections should be increased and their scope should be extended to cover insurance, gambling, the social security funds, trade in securities.

In 2002, the reporting entities under s. 3(2) and (3) of the Law on Measures against Money Laundering submitted 220 suspicious operation/transaction reports representing a total of EUR 292 816 552.[9] The conclusion can be drawn that in 2002 the trend identified already in 2000 and 2001, *viz*. to have a decreasing number of reports, persisted. Two important features have to be mentioned, however:

a) **the sums covered by suspicious operation/transaction reports have risen substantially**. In 2001, the total amount was USD 80 226 072, whereas in 2002 it was EUR 292 816 552, which represented more than a three-fold increase. This is clear evidence of the **substantially improved internal organisation of the financial institutions and in other reporting entities under s. 3(2) and (3) of the Law aimed at detecting suspicious cases**. This finding is supported by the **enhanced quality of the reports submitted by those entities**. The reports now outline well enough the schemes of money laundering possibly used in each particular case, thus serving as a test for the level of professionalism of the compliance officers working in those entities. In addition, the initial reports are accompanied by the required supporting documents (selected based on the assessment of the compliance officer in charge), and their opinion has become more professional and accurate, thus facilitating the financial intelligence analysis and reducing the time needed therefor.

b) **the number of persons reported on, *i.e.* persons with respect to which there were suspicions of money laundering, increased**. The 220 reports submitted to BFI by reporting entities under s. 3(2) and (3) of the Law resulted in the opening of 170 operational files.[10] For the sake of comparison, in 2001 140 operational files were opened as a result of 301 reports submitted to BFI. In other words, the suspicious transaction reports filed in 2001 were more but concerned fewer persons than the reports filed in 2002.

The filings by commercial banks amounted to 67 per cent of all the filings in 2002. There were many more reports filed by the tax authorities (8 per cent). More filings were also made by authorities competent in the field of privatisation and by persons required to organise public procurement procedures. The level of reporting by notaries and by non-profit legal entities remained the same. The customs authorities made fewer filings in 2002 (4 per cent in 2002 compared to 7 per cent in 2001). That decrease is attributed to the fact that, as of 2002, the customs authorities already provide BFI with data from the customs registers on a monthly basis. Reports were also received from sporting organisations, investment intermediaries, arms and oil merchants and other reporting entities none of which had made any filings to BFI in 2001.

As of 31 December 2002, 50 of the 170 operational files opened in 2002 (29.4 per cent representing a total of ca EUR 101 mio) were closed and submitted to the public prosecution authorities with confirmed suspicions of money laundering in the same year. To compare, just 16 (11.4 per cent representing a total of ca EUR 8 mio) of the 140 operational files opened in 2001 were closed and submitted to public prosecutors in the same year. Hence, in 2002 the number of files opened and closed by BFI within the same year and submitted to the public prosecution was three times higher than in 2001.

---

[9] Amount exclusive of several reports that concerned attempts for bank frauds worth a total of EUR 721 652 631. Those reports were immediately forwarded to the public prosecution authorities. The joint efforts of BFI Agency, the National Service for Combating Organised Crime and the Supreme Prosecution Office of Cassation made it possible to prevent the attempted bank fraud, thus sparing a substantial damage to individual commercial banks and to the whole financial system. The amount is mentioned in a footnote as the case did not involve money laundering.

[10] In the event of a link (same subject or same object of presumed criminal activity) several reports from entities under s. 3(2) and (3) of the Law may be joined in one operational file. Therefore, the number of reports does not equal the number of operational files.

Besides those files, in 2002 BFI Agency also worked on 257 operational files opened in previous years (1 from 1998, 96 from 1999, 70 from 2000, and 90 from 2001 respectively). As of 31 December 2002, 158 of those were completed and 121 of them were submitted to the public prosecution, whereas 37 were closed and forwarded to the records department. As of 1 January 2003, an in-house commission was set up by an order of the Director of BFI Agency to monitor the discontinuance of operational files and their forwarding to the records department. The commission is empowered to assess as an independent internal body any proposal to discontinue and forward a file to the records department made by the expert analyst in charge of the file. The officials having worked on the file in question cannot be members of the commission. This is a way to avoid any personal bias and introduce several levels of inspection and control, thus providing additional safeguards for the lawfulness of any decision to discontinue the work on a particular case.

In 2002, 171 operational files were submitted to the public prosecution authorities through 138 BFI Agency reports under s. 12(4) of the Law on Measures against Money Laundering (representing a total of EUR 274 705 115).[11] These were divided as follows:

- 121 operational files opened in 1999, 2000, and 2001, for a total of EUR 173 327 344;
- 50 operational files opened in 2002 and representing a total of EUR 101 377 771.[12]

For comparison, in 2001 BFI Agency reports to the public prosecution authorities stood at USD 97 715 235, and the BFI Agency reports based on operational files opened in the same year (2001) represented a total of USD 7 459 600. In other words, in 2002 the total sum under the BFI Agency reports to public prosecution with confirmed suspicion of money laundering saw an almost three-fold increase, whereas the sum under BFI Agency reports to the public prosecution made in the year in which BFI Agency got the information from the reporting entities increased more than 13 times in absolute terms. In 2001, the sums under BFI Agency reports submitted to public prosecution in the same year amounted to 9 per cent of the total amount of the suspicious transactions reported to BFI Agency in that year, whereas in 2002 that proportion was 34 per cent. BFI Agency perceives that result as an objective indicator of its enhanced administrative capacity in 2002, its newly-implemented organisation of work that enables stricter control on the movement of the files, the related new structure of the Directorate of Information and Analyses, the better qualification of BFI Agency officials and the new criteria for recruitment.

## 4. Interaction with Law Enforcement and Other Government Agencies

In 2002, the relations of BFI Agency with the national services of the Ministry of Interior (MoI) and the public prosecution had a serious impetus. In September 2002, a liaison officer of MoI to the BFI Agency was appointed by the Minister of Interior, as well as contact officers at the national services of MoI (*i.e.* National Service for Combating Organised Crime, National Security Service, National Police Service Directorate and National Border Police Service) were appointed by the Directors of these servicies. The Supreme Prosecution Office of Cassation appointed two of its prosecutors to support liason with BFI Agency. So BFI Agency officials can contact prosecutors at operational level in specific cases, thus ensuring the swift and efficient implementation of anti-money laundering measures. The exchange of information has improved substantially: now BFI Agency receives feedback from the public prosecution authorities about the movement of the prosecution files opened as a result of BFI Agency reports. Thus, the work of BFI Agency on an individual case does not end with referring the matter to the public prosecutor. What BFI Agency attempts to attain is a spirit of team work in each specific case where financial intelligence, the police, investigators and prosecutors are involved. The interaction between BFI Agency, the police, the investigation and the public prosecution improved extensively after the Bulgarian-American Financial Crimes and Counterfeiting Task Force was set up in june 2002. The task force has representatives of Secret Service and the US Department of Treasury, whereas Bulgaria is represented by the services of the Ministry of Interior (National Service for Combating Organised Crime, National

[11] Total amount exclusive of EUR 721 652 631 under a report submitted to the public prosecution that concerned an attempted bank fraud prevented by the financial intelligence, the police and the public prosecution before the attempt had been completed.

[12] Total amount exclusive of USD 721 652 631 under a report submitted to the public prosecution that concerned an attempted bank fraud prevented by the financial intelligence, the police and the public prosecution before the attempt had been completed.

Security Service, National Police Service Directorate and National Border Police Service), some agencies with the Minister of Finance (BFI Agency, Customs Agency, General Tax Directorate), the National Investigation Service and the Supreme Prosecution Office of Cassation. UK Embassy Police Liason officer and Republic of France Embassy Police liason officer also participe in some of the Task-force meetings. The task force is accommodated by the BFI Agency.
The enhanced co-operation involving all above-mentioned agencies has already produced its first results: in the last quarter of 2002 the Minister of Finance froze, for suspicion of money laundering, seven operations worth a total of some EUR 1 mio. As far as BFI Agency is aware, in 2002 the Supreme Prosecution Office of Cassation ordered 138 preliminary police inquiries in relation to suspected money laundering. In 29 cases, the public prosecution refused to institute pre-trial proceedings, and BFI appealed against 90 per cent of those refusals before the competent superior prosecution office. 60 per cent of BFI's appeals were granted whereas 40 per cent of the refusals were confirmed. In 2002, the National Investigation Service opened 17 investigation cases in relation to money laundering, and 5 of them were completed. In 2002 again, co-operation agreements were made between BFI Agency and the Audit Office and between BFI Agency and the Agency for State Internal Financial Control. In January 2003, such an agreement was drafted and concluded with the Insurance Supervision Agency. The existence of such agreements confirms the willingness of the institutions involved to co-operate and puts in place the schemes that might speed up and facilitate their co-operation in implementation of their respective functions.

## 5. Interaction with Foreign FIUs

For BFI Agency, the reporting year was another period of fruitful co-operation with the financial intelligence units of the Member States of the European Union and with those in the accession countries. The co-operation with the US financial intelligence authority was upheld and deepened. Co-operation was established with the US Secret Service. The co-operation established with the financial intelligence unit of the Russian Federation was another welcome development in 2002. BFI Agency was actively involved in the workings of the EGMONT Group.[13] The Director of the BFI Agency is a member of the Legal Working Group of that international organisation.
The good work of BFI Agency and its professional improvement were recognised internationally, as in 2002 the Director of BFI Agency was invited to speak on anti-money laundering measures before representatives of CIS countries at an event co-organised by the World Bank and the International Monetary Fund (Moscow, December 2002), and at a similar event for representatives of African countries organised by the United Nations (Tanzania, January 2003).
The quite pro-active attitude of the Bulgarian FIU in the exchange of financial intelligence data for operational purposes in 2002 was confirmed by the recognition of the Italian FIU, in its 2002 Annual Report, that BFI Agency had been one of 15 FIUs with which the Italian unit had had the most active exchange of information during the year.
In 2002, BFI Agency submitted 130 requests for information to foreign FIUs and received 79 replies. It also received 46 requests from foreign FIUs and replied to all of them.
In 2002, BFI Agency received 23 requests for information from other services, some of them accompanied with requests for assistance for the international exchange of data, and replied to all those requests.
If these data are compared with the ones for 2002, BFI Agency apparently sought more information from sources abroad (the number of its requests to foreign FIUs more than doubled). The number of requests submitted to BFI Agency by foreign FIUs also increased more than twice. These facts come to confirm the wider confidence of the international financial intelligence community in their Bulgarian counterpart. In 2002 BFI conducted, jointly with the Banking Supervision Department of BNB, 10 inspections in all commercial banks in relation to requests from foreign FIUs to assist with the identification of financial operations by persons suspected of financing terrorism.

[13] An international organisation of FIUs. The last meeting of the heads of FIUs was held in June 2002 in Monaco and 69 FIUs were reported as members of the organisation world-wide.

In 2002, an electronic data exchange network was launched involving the FIUs of EU Member States (FIUNET). In 2002 again, steps were made by the accession countries, including Bulgaria, to join the system of FIUs. The costs for participation in that network will be fully covered by the European Union.

## 6. Information Resources and Equipment

In 2002, the British Embassy provided BFI Agency, free of charge, with a specialised analytical software (*Analyst's Notebook*). This helped overcome to a large extent a major drawback in the working of BFI Agency mentioned in its 2001 Annual Report, *viz.* **the complete lack of any analytical software**. The implementation of the product will improve considerably the quality of the financial intelligence analysis. Despite that clear progress (from a complete lack of analytical software to the implementation and use of a product) **the problem with the software needed for analytical purposes is still on the agenda**. BFI Agency has applied for EU funding through a project that would enable the supply and implementation of software products **automating the administration of data bases**. That would entail the automation of the analytical process, thus avoiding the omission, in the course of the analytical work, of information that is available in BFI's information arrays. In 2002, a French expert seconded at the expense of the European Commission assessed the IT capacity and needs of BFI Agency. The assessment will be used for the future participation in an investment project of the European Commission. A drawback in that respect was the delayed accession by BFI Agency to the secured web-site for information exchange supported by the EGMONT Group (ESW). It appeared that BFI had had the classified password for access already in the beginning of 2001 but no steps had been made to join the network. Therefore, instructions were given to immediately undertake the requisite steps to accede to the network.

## 7. Staff and Training

In 2002, there were sustained efforts to improve the qualification, the professional skills and abilities of BFI's officials. After interviews in which the advisor from the US Department of Treasury took part, officials were recruited and appointed who had a high level of professional qualification. During the interviews, the professional capacity and the foreign language fluency of the applicants were assessed, as were their analytical abilities. A series of seminars organised by the US Department of Treasury took place, as well as specific professional training events for BFI Agency analysts organised by the financial intelligence unit of the United States (FinCEN). The seminars were attended by all BFI Agency analysts and officials of some partner institutions were invited as well, *e.g.* the public prosecution, the Ministry of Interior, the Bulgarian National Bank, the customs authorities, the tax administration.

The British Embassy to Sofia kindly provided specialised training for BFI analysts to enable them to use the Analyst's Notebook. The seminar was attended by all BFI analysts. In addition, BFI Agency officials attended various seminars in Liechtenstein and Cyprus (organised by the Council of Europe), Romania, Greece, the Netherlands, Luxembourg, Slovenia and Italy (organised and funded by the European Commission), and in the Russian Federation (organised and funded by the World Bank and IMF). As a whole, the training events were attended by more than 70 per cent of the analysts at BFI Agency which is perceived as a very good result.

The setting up of a Anti-Money Laundering Training Centre is well under way. The idea is for that Centre to draft and implement curricula for MoI officials, financial intelligence officers and compliance officers of the reporting entities under s. 3(2) and (3) of the Law on Measures against Money Laundering. The Centre should be located within the Police Academy in Sofia. The concept was approved at a meeting at the end of 2002 among the Director of BFI Agency, a representative of the European Commission, and General K. Taushanov, Rector of the Police Academy. A lecturer was appointed by the Academy to be trained under a special programme of the European Commission with a view to the organisation and management of the future Centre.

In 2002, the negotiations were finalised on an agreement to grant EUR 1.2 mio under a two-year programme to strengthen the anti-money laundering system in Bulgaria. The programme envisages training, in Bulgaria and in EU Member States, of financial intelligence officers, BNB and MoI officials, prosecutors and investigators. Spain is Bulgaria's key partner under the programme. BFI is extremely satisfied with the support provided by the FIUs in France, Italy and Denmark that agreed to participate with their experts as supporting partners and to welcome Bulgarian experts for training in their countries. BFI Agency is the major Bulgarian institution involved in the programme. The final draft of the programme was approved by the European Commission and it is to be launched in March 2003.

## Annex No 3: Report on the Implementation of the National Anti-Corruption Strategy for 2002

# REPORT
# on the Implementation of the National Anti-Corruption Strategy

## 2002

Unofficial translation

The National Anti-Corruption Strategy, adopted with the Council of Ministers Decision N 671 of 2001, and the government programme for its implementation represent the major organizational-management instrument for realization of the government policy. They account for the gained national experience, the conclusions, evaluations and recommendations of the competent authorities of the European Union (EU), the World Bank and the International Monetary Fund, of the national and international NGOs, the experience and recommendations of the international organizations for combat against corruption with the UNO, OECD, the Council of Europe (EAC).
The programme for implementation of the national strategy covers the period of 2002-2003, during which the legal, organizational and public conditions for achievement of the major objectives of the national strategy must be provided. By the end of this period, the country must have adopted the principles and the greater part of the European Community standards in the area of counteracting corruption; the frameworks of the institutional and information environment must have been established, the significant presence of the NGOs must have become evident in regulating the processes provoking corruption, the needed public climate of intolerance must have been established.
In 2002, the Bulgarian government confirmed counteracting corruption as on of the priority activities in its operation. In the country significant efforts have been laid for placing the issues, related to combating corruption into the centre of public attention, and of the main authorities activity.
The established methodological and the organization principles are supported by UNDP, with the assistance the World Bank, USAID, and the OECD.
The governmental evaluation shows that the government activity has been based on the following principal evaluations, established in the National Anti-Corruption Strategy and the programme for its implementation, namely:

- in its essence, the corruption issue refers to the need of change in the attitude between the citizens (the public society) and the state from such, that the citizens serve the state needs and interests towards such an attitude, where the state is responsible for its acts before the citizens. The first and major responsibility of the state is to protect the rights of its citizens and to provide them with effective service;
- the corruption during the latest years turned into a global threat not only for the economic development, and for the international relations between the countries, but also, for the world economy and policy, on the whole;
- the corruption is a complex phenomenon, denial of the fair competition in the economic area, a factor, demotivating the entrepreneurship and stimulating the grey economy and the economy crime;
- the corruption increases the gap between the poor and the rich, during the transitional period towards market economy, and turns into a direct threat for the democratic bases of society.

Major objective of the government activity has been the increasing of the state responsibility before the society through a permanent control over the administration activities, and through transformation of the state functions into right protection and service of the citizens needs.
The Bulgarian government has developed a system of measures for combating corruption on three basic principles – **openness (transparency), responsibility of the state before the civil society and providing effective services to citizens.**
The practical manifestation of the **transparency** principle is the strife for accessibility of the public to the process of development and decision taking. (The citizens' participation in the government is basic characteristic for a good government, because it is not only a government objective, but also one of the major mechanisms, which commits the citizens to the objectives and efforts of the governing people). For its achievement, efforts have been laid for institutionalisation of the mechanisms for citizens' participation and to get feed back in these processes, through clear and fair legal and regulative provisions in the area of legislation, customs, privatisation, licensing, authorization issuing, etc., as well as competitive market conditions.
**The responsibility** being a leading principle of the organization and activity of the state administration in the process of servicing citizens expresses into the strife for a strict implementation of the legal provisions.
The executive power has been lead by the understanding that the laws must limit the state power in favour of protection and promoting the civil rights.
The elements in the government activity for counteracting corruption, referring to the financial and taxation control, to the improvement of legislation, to the reforms in the civil service and the judiciary have been directed to defining mechanisms for internal and external supervision and control in view to overcoming arbitrariness and corruption in the administration and protection of citizens' rights.
The third principle – **provision of effective, resultant services for citizens** has been expressed in a complex of measures for establishing an effective state administration - an important condition and basis for the combating corruption.
The executive power structures direct more and more their efforts to the process of effective realization of the administrative service for citizens, to develop the financial and administrative capacity of local authorities in the process of service provided to citizens, as well as abolishing the existing institutional barriers with a view to realization of reforms in this direction.
At the same time, the government in its activity has taken account of the complexity of the set up objectives, which realization will be a turning point in the public opinion and behaviour.
The reported data by 30. 12.2002 and the conducted check- ups show that the main part of the measures and activities on the Programme for implementation of the national strategy are implemented within the envisaged terms. The main efforts have been directed predominantly towards building up organizational bases for counteracting corruption, improvement of the legal basis for combating corruption, improvement of the administration activity as an important condition for prevention from corruption.
The government, for the first time has established a specialized structure for organization and coordination of the combating corruption. With the Council of Ministers Decision N 77 of 11.02.2002, a Commission for coordination of the activity for combat with corruption, chaired by the Minister of Justice. The Commission has been one of the basic units of the established organization for implementation of the government programme. It has analysed and summarized the information for the taken anti-corruption measures, has coordinated the activity and exercised control over the work on the implementation of the National Ant-Corruption Strategy and the programme for its implementation. It has also developed and proposed measures for promotion the effectiveness of the combating corruption.
A Secretariat to the Commission has been set up, operating under the direct authority of its chairman. Assisted by experts from the World Bank, concrete measures for the organizational strengthening of the commission and its secretariat have been developed and implemented, and their transformation into an action factor for organization and coordination of the efforts of all the executive power structures, under the direct supervision and control on behalf of the media and the public society.

In the ministries, agencies and the local government administrations have been developed and adopted plans, programmes and other organizational documents connected with counteract to corruption. Plans and action plans for the implementation of the national documents tasks have been developed, and an ongoing systematic work for their implementation has started. They have been oriented towards promotion the statute of the units, working on the counteract to corruption, improvement of the inter-institutional control, the interrelation between the specialized structures and state control authorities.

During this period, concrete steps for **establishment of professional, reliable, effective and responsible state administration** at all levels, which should give opportunity to Bulgaria to participate effectively in the EU political processes, respond to its administrative norms and be in state to apply and implement the *acquis.*

A review was made for implementation of the Strategy for establishment of a modern administrative system in the Republic of Bulgaria, adopted in 1997. After the analyses of the implementation, a Strategy of the modernization of the state administration – from accession – to integration has been adopted. The objectives of the Strategy are:

- Modernization of the state administration in compliance with the norms of the rule of law, market economy and human rights;
- Strengthening the capacity for planning, coordination and implementation of the pre-accession processes;
- Preparation of the state administration for full functioning in the EU, immediately after the accession.

Taking account for the need of institutionalisation of a mechanism for monitoring of the administrative capacity for the implementation of the *acquis,* a new work group N 31 has been set up on the issues of the administrative capacity.

Implementing the Law on the Administration, all the heads of administrative structures submitted their reports for the state of the corresponding administration. Based on these reports, two summarized reports were developed and adopted by the government on the state of the administration, and on the state and development of the administrative structures. the data base contained in the reports gives opportunity for constant monitoring of the state of the administration, human resources, personnel flow in the administration, the level of professional qualification and training in the 112 structures of the central administration, 28 regional administration, and 263 municipal administrations. The reports contain also data for the implementation of the Law on the Access to Public Information, and the Law on the Administrative Service of Natural and Legal Persons.

The problems detected at structuring and effective management of the state administration are basis for development of a system of indicators for internal administrative audit of the effectiveness (the national policies should be developed on the bases of clear objectives and analyses of the immediate needs and the expected impact) and the effectiveness (government, which sustains good correlation between the used resources and results attained) in the administration operation. The World bank provides assistance for their development. As a result of realization of these projects, a packet of indicators for measuring the results of the administration activities is expected to be submitted to the heads of the administrations.

An administration information database has been built up through:

- Register for the administrative structures and acts of the executive power authorities with registered 37623 visitors through 5027 e-addresses;
- Register for the civil servants – for internal use;
- Register for the public procurement with registered 29773 visitors in 2002;
- 4773 e-addresses.

Pursuant to the provisions of the Civil servant act the interdiction of the status of civil servants in the public administration has been continuing. In 385 out of 401 bodies of central, district and municipal public administration the status of civil servant was introduced by 31 December 2001. All the conditions necessary for the implementation of the amended Council of Ministers Decree No 35 of December 2001, as well as, the Law on the Administration, providing for so called "opening" of the administration to individuals having their careers outside of state administration are available. Clearly has been defined the level of the political accountability for the governance of the public administration. The administrative bodies entrusted with making sector policies and bearing political responsibility for the governance have no status of civil servants.

The establishment of a system for performance appraisal is under way and it is especially designed to evaluate employees in the administration in respect of their personal achievements when perform their duties. This process has been supported by a project funded by the Department of Foreign International Development of the UK. Whilst its implementation the Council of Ministers adopted an Ordinance on the conditions and organization of the assessment of employees in the State administration. The pilot projects have started within the Ministry of Transport and Communication, Ministry of Finance and Ministry of Regional Development and Public Works. The number of training courses for heads of administrative units for human recourses management were organized by the end of June 2002. The procedure for elaboration and updating of job descriptions were developed and approved by the Minister of State Administration. It is designed to establish a common practice within the administration for developing of job descriptions for the employees and civil servants.

The statutory established Institute of Public Administration and European Integration (IPAEI) had been continuing its activities through 2002. The IPAEI had trained under specific programs 1873 servants in form of seminars.

With Council of Ministers Decision N 85 a Strategy for training the administration staff was adopted, which defines the forms of funding for training, regulates the general development system of the professional skills of the state administrations staff and combines qualification promotion with the career rise. Its implementation started in April in 2003. Together with the training held in the Institute, the training practice on the EU programmes – PHARE, ISPA, SAPARD, TEMPUS, TAIEX, on projects of DFID, the ILO, USAID, the bilateral cooperation, regional programmes continued.

Creating an evaluation system for the employee performance in the state administration and a system for their training is a prerequisite for establishment a general system for HR management, which will be performed through PHARE programme 2002.

An important place in the combat with corruption had the actions undertaken for a reform in the judiciary and improvement of the legal basis for counteract.

Implementing the National Anti-Corruption Strategy, respectively the obligations taken by the state on certain international anti-corruption instruments, and these of the *acquis* into the Law on the Amendment and Supplement of a New Penal Code 2002, a thorough connectional comprehensive development of the corruption crimes has been provided. The new development fully corresponds to the standards of the anti-corruption instruments of the Council of Europe (Criminal Law Convention on Corruption – ratified), OECD (Convention on Combating bribery of foreign public officials in International business transactions- ratified, enforced and published), EU (Convention on the fifth against Corruption involving Officials of the EC or officials of the EU Member State, Protocol to the Convention on the Protection of the EC' Financial Interests, the Joint Action for combat with corruption in the private sector); most of these amendments were recommended on behalf of these organisations.

Incriminalized are: the bribery in the private sector (art. 225, b, of Penal Code (PC)); non-property profits/favours – in all the anti-corruption texts; the passive bribery of foreign officials (art. 301, para. 5, of PC); the influence trade / exercising influence in view of profit (art. 304, b, PC); the bribery of arbiters and, in certain cases of defenders and trustees (art. 305 of PC). The scope of the meaning of the term "foreign official" is expanded (art. 93, point 15, letter "C", and new provisions are proposed directed to counteract to corruption in the judiciary and in reference to jurisprudence, articles 302, point 1, 304a, and 305, para. 2 of the PC).

The provided punishments are too severs –imprisonment and a fine are imposed cumulatively, and the acquired property as a result of a crime is ruled to be expropriated in all cases.
While discussing the Civil Procedure Code a special text was developed for inserting into the Law amending the Penal Code (Law Amending the Penal Code – 2002) – provisions guarantying rights for the pledge creditors. The new paragraph 3 of art. 217 of the PC provides a sanction for pledging somebody else's owned property without observing the creditors rights.
The Law Amending the Penal Code – 2002 improve the regulation of the forfeiture in favour of the state (art. 53 of PC) and with the prepared for introducing to the Council of Ministers Law Amending the Penal Procedure Code of 2002 provides possibility for security of the forfeiture in the pre-trial phase of the procedure.
**A Law Amending the Law on Administrative Violations and Punishments** has been drafted. Administrative responsibility for legal persons (property sanctions) have been provided for a bribery, money laundering and influence trade, committed in their interests by their managing officers.
A draft of a Law amending the Law on Judiciary was adopted on 4 April 2002 by Decision of the Council of Ministers. The proposed amendments of the Law are largely aimed to prevent corruption in the judicial system. They provide for the introduction of the obligation for all magistrates at all levels to declare their property status, the adoption by the Supreme Judicial Council of codes of ethics for magistrates and judicial staff, the introduction of competitive rules for newly appointed magistrates and for the arrangement of the status of a state vocational school for magistrates financed through the budget. The government initiative for speeding up the reform of the judiciary evolved from large public and political discussions. However, the public support has been combined with various, in terms of their scope and contents, evaluations and criticism on behalf of the major political forces. Despite the positive vote of the National Assembly, part of the main proposals made have been rejected by the Constitutional Court. In the situation thus created it was necessary to seek to achieve political consensus on the principles and the main directions of the reform of the judiciary, which is to create the political framework for the actual achievement of the objectives set out.
Anti-corruption amendments have been introduced in the Code of Tax Procedure. By the introduction of the obligatory "VAT account" to be used by the persons registered under the Law on VAT, the possibility for corruption acts on behalf of tax authorities has been substantially reduced.
In 2002, a draft for amendment of the Law on State Internal Financial Control was prepared, whereby the repeal of Article 14 of that Law, providing for 10% of the amounts detected and recovered for damages to be paid with the budget of the State Internal Financial Control Agency (SIFCA), has been proposed. The Law has been adopted by the National Assembly and entered in force as of the beginning of 2003. The concept of financial controller has been introduced to carry out preliminary control as to the legitimacy of the liabilities undertaken and the costs incurred. The division of the functions relating to the control, authorization and accounting the liabilities undertaken and the costs incurred has been made.
The draft on the amendments of the Law on Space Planning contains anti-corruption provisions, whereby a substantial reduction of the coordination arrangements has been achieved, as well as the time limits pertaining to the procedures and the administrative and penal provisions have been set out.
The amendments of the Law on Public Procurement have contributed to improve the public procurement system, to overcome the difficulties identified in implementing the Law, to promote competition and efficiency, and to reduce the risk of corruption.
Codes of ethics are under development in all major sectors of administration and the judicial system. The organizational basis for the implementation of the system of codes of ethics is being prepared.
An organization for the development of amendments of the Law on the publicity of the property of high ranking state officials has been put in place, on the initiative of the Court of Auditors, supported by the Commission for coordination of the activities related to the fight against corruption (CCARFC).

Considerable anti-corruption amendments of the internal rules of the various administrations have been made.
The Rules of procedure of the majority of the ministries have been amended, as part of the anti-corruption amendments made. The intra-departmental control structures are strengthened. Operation and interaction mechanisms taking into account and minimizing the existing corruption risk have been set up.
Specific measures have been taken within the Ministry of Finance aimed at ensuring more active control on behalf of all its structures. SIFCA has prepared and forwarded to the directors of the relevant territorial directorates instructions on the organisation of the control activities intended to enable immediate actions to be undertaken in regard with the audit reports sent by the Court of Auditors. This has ensured timely realisation of the administrative, penal and property responsibility provided for in the Law on State Internal Financial Control and the Law on Public Procurement (item 1.2.2 of the Programme).
In order to establish better coordination with the Commission for combating corruption with the National Assembly, instructions on the procedures in regard with the provision of information and documents based on requests made to the Commission have been prepared and forwarded to the territorial directorates of SIFCA.
By amending the Rules of Procedure of the State Claims Agency (SCA) (SG No. 98/2002), functions attached to the Public Executors Directorate General related to the supervision of the activities of public executors, as well as to the corruption prevention activities, have been defined. The officials entrusted with the supervision, by performing appropriate checks, of the institution and status of public executory proceedings have been designated by an order.
A project for improving the activities of the Internal Control Department - Inspectorate within the General Tax Administration (GTA) is under development. Parallel to the amendments of the legislation governing the powers of the Bureau of Financial Intelligence Agency (BFIA), the anti-corruption protection is constantly optimised through internal instruments and the establishment of efficient organisation and procedures for that purpose.
Active counteractions have been undertaken on a large scale in both most affected, according to the preliminary studies, public sectors – the customs and the Ministry of Interior.
A comprehensive Programme for counteracting corruption has been implemented within the customs, which covers all the main objectives set out in the national strategy and the programme for the implementation thereof.
The measures taken by BCA in the field of the fight against corruption and other infringements of customs officials, as well as in the field of customs ethic, shall be in accordance with the World Customs Organisation (WCO) Action plan on the integrity and have been developed jointly with EU structures.
Priority has been given to the improvement of the organisation of customs control and the activities of customs officers in view of avoiding corruption acts.
In order to enhance the techniques of control and implementation of the risk analysis systems, the customs control is directed to risk goods and companies. An information database for customs and currency infringements and for infringing individuals and companies is being set up; processing, verification and summary of the data contained in the monthly reports on customs and currency infringements sent by the customs offices, as well as the elaboration of current information sheets and the quarterly bulletin, have been introduced in view of reflecting and disseminating information on the activities of the customs intended to detect and punish customs and currency infringements.
During the same period a new additional customs control system has been introduced based on the so-called mobile groups. Amendments of the Law on Road Traffic have been developed and adopted to that end, concerning the conferral of powers to stop motor vehicles throughout the country. The Law on Customs has been amended accordingly. A draft for amendment of the Instruction on the interaction between customs authorities and those of the Ministry of Interior in preventing and detecting customs and currency infringements has been prepared, as well as Rules of Procedure for the mobile groups.
The Bulgarian integrated customs information system (BICIS) has been developed.

As regards the information exchange in real time between customs agencies, the current possibilities offered by the national customs information system and e-mail are used. The work on the completion of the communication network of the Ministry of Finance is underway, through which a full information exchange in real time shall be performed. Cooperation and interaction have been established with other state bodies, institutions and agencies in regard with the exchange of information and documents concerning customs activities and undertaking the relevant actions, etc.

Actions have been undertaken intended to ensure in terms of staff, funds, material, technical and organizational support the activities of the Inspectorate, which performs the functions of internal control within the customs administration.

In pursuance of the expert recommendations made within the framework of the Combating Corruption within BCA Project under the PHARE Programme, a control system shall be introduced, which is to be used by the direct superiors in exercising control on the activities of the customs officers under their authority.

As regards ex-post control, a project under the PHARE Programme was launched in 2002 jointly with the German customs administration, the main purpose of which was the development of regulatory basis for the ex-post control as a function and task assigned to the customs authorities.

Based on the new customs legislation a number of instructions, regulations and other instruments directly concerning the fight against corruption and other unlawful acts on behalf of customs officers have been developed. A considerable part of such measures are the result of the joint activities performed by experts from the Bulgarian Customs Administration (BCA) and experts from the customs administrations of Germany, France and Great Britain, as well as Eurocustoms, within the framework of projects under the PHARE Programme.

The management of the Customs Agency is carrying out a set of measures for improving the professional qualification of the customs officers. A National programme for training customs officers has been developed, including the organisation and the activities of the regional training centres. The programme has been updated based on the analyses of training needs within the customs administration. Qualified lecturers from the customs administration are involved in the training carried out at the national and regional centres, regional customs directorates and customs offices by organising information courses on approved topics.

A Strategy for human resources management and Strategy for initial qualification and specialisation of the customs administration staff, which are in compliance with the specific activities of the customs administration, have been developed and implemented within the framework of international cooperation.

A Code of Ethics for the customs officers has been approved in accordance with the principles of the WCO model code of ethics and conduct, which contains the main duties of officers in accordance with the national legislation and the principles of the Arusha WCO Declaration.

Furthermore, an Instruction on the terms and procedure for spending funds from a fund intended to provide motivation to the Bulgarian customs administration to combat corruption has been approved and implemented.

The Programme for corruption restriction developed within the Ministry of Interior is aimed at creating conditions for corruption restriction through efficient mechanisms for upgrading the status of the units involved in counteracting corruption, as well as improving the internal control and the interaction between the structures of the Ministry of Interior and mass media.

An order has been issued in regard with the detection and prevention of corruptive behaviour, where the procedure for corruption detection and prevention within the Ministry of Interior has been laid down.

In pursuance of the said order Intradepartmental Coordination Council for Combating Corruption within the Ministry of Interior has been set up, which shall define the strategy and the organisation of the activities. The Council shall be chaired by the line Deputy Minister responsible for the overall monitoring of the interaction in the fight against organised crime and corruption. In order to ensure the efficient implementation of the issues to be solved by the Council, guidelines for the structure and organisation of its activities.

In order to improve the efficiency of the activities related to counteracting corruption, the status of the specialised unit for counteracting corruption at the National Service for counteracting organised crime has been upgraded from section to department and the number of the operative staff of such unit has been increased twice. The task of such department is to counteract corruption within the Ministry of Interior, and within the state and local administration.
The activities of the specialised unit within the Ministry of Interior shall be intended to intensify the counteracting corruption in the field of state administration, as well as in the structures of local administration, health protection, social protection, education, tax, customs and health insurance systems.
Considerable attention is given to the international law enforcement cooperation as an important mechanism in the implementation of the state policy on counteracting corruption; the relevant studies have been completed within the time limits set and the ministry effectively participates in the implementation of a series of projects under the PHARE Programme.
In order to ensure an operational interaction between the structures of the Ministry of Interior in regard with the receipt, status and verification of the reports for corruption as well as the control thereof, a Department for Counteracting Corruption within the Ministry of Interior with the Inspectorate Directorate has been set up at institutional level. Specialized units have been designated at the national and territorial services, which have been assigned the task to carry out operative and search activities intended to verify the corruption reports received. In accordance with the regulatory requirements on the procedures for verification of the corruption reports, the directorates of the national and territorial services shall, at the end of each quarter, prepare information to be forwarded to the Department for Counteracting Corruption within the Ministry of Interior with the Inspectorate Directorate. Every six months, the Department, on its turn, shall prepare and submit to the Intradepartmental Coordination Council summary reports for consideration. Such reports shall contain analysis of the status of activities undertaken in regard with the detection and prevention of corruption behaviour within the system of the Ministry of Interior.
The Department for Counteracting Corruption with the Inspectorate Directorate has been designated to manage and coordinate the activities of the fight against corruption. Every quarter, the directorates of the national and territorial services shall prepare information, while the Department for Counteracting Corruption shall prepare a summary report every six months.
The implementation of the *Implementation of the National Anti-Corruption Strategy: Development of an Integrated System for Counteracting Corruption within the Ministry of Interior* project under the 2002 PHARE Programme approved by the European Commission has been initiated. Following a study of the experience and the best practices of the EU Member States in combating corruption an Action Plan shall be prepared, where the required amendments of the legislation and practices in view of achieving the European standards for prevention and counteracting corruption within the Ministry of Interior shall be set out. Within the framework of the project strengthening the institutional capacity of the competent services of the Ministry of Interior shall be provided for, as well as the development and implementation of a programme for the prevention of corruptive behaviour among the officials of the Ministry of Interior and the system for promotion of anti-corruptive behaviour of the officials of the Ministry of Interior, as well as training system dedicated to the problems related to the prevention and fight against corruption.
The Ministry of Interior (MI) carries out active informational interaction with medias in view to inform the public about offences related to corruption and results from the activity on their detection. Conditions are being provided for wider involvement of the civil society structures against cases of corruption through active use of public reception offices, “hot lines” and other forms providing possibilities to public organizations and citizens to signalise for cases of corruption with anonymity guaranteed. MI keeps a lot of active contacts with NGOs, in particular with Coalition 2000 and Transparency International, including in the area of training on corruption issues.
The educational plans and programmes for training of officers in the courses for initial training, qualification and re-qualification, and of higher regular courses on issues related to corruption combat problems have been updated. Harmonization of the tutorial, educational, research and development activity on the corruption combat problems with the criteria and requirements of the EU has been achieved.

Two modules for specialized training of the MI staff involved in the counteraction to corruption in the public administration and within the MI system have been already developed and included in the educational plans. Modules related to police ethics and culture in public communication have been included in the education for acquiring Master and Bachelor degree as well as in the initial training of MI services officers.
Constant updating of the programmes in the relevant area is in process, which is based on the academic exchange between MI Academy and similar institutions from EU, USA and Norway.
Rules for selection, training and professional development of human resources within MI have been developed and adopted.
The implementation of those measures is related to the future realization of the "Twinning Light" project BG/2001/IB-JH-01-TLF "Improvement of the system for management of the MI human resources – first stage Appointment". The main objective of the project is to create the necessary conditions and prerequisites for improvement of the system for starting service at the MI (selection, initial training and appointment) as first stage of an integrated process for development of the system for human resources management within the MI. The short-term objective is, some concrete legal and organizational measures for fast change in the selection and initial training of new staff of the ministry, to be undertaken.
Complex measures with anti-corruption character have been undertaken in the economic sphere
Ministry of Economy (ME), Ministry of Finance (MF), Ministry of Transport and Communications (MTC), Ministry of Regional Development and Public Works (MRDPW), Ministry of Agriculture and Forestry (MAF), Agency for Privatisation (AP) have undertaken measures for strict compliance with the amendments in the privatisation procedures introduced with the newly adopted Law on Privatisation and Post Privatisation Control. Wider publicity and transparency at all stages of the privatisation deals have been ensured. Measures for strengthening the post privatisation control and compliance with the privatisation contracts have been taken.
With the adopted Rules of Procedure of the Agency for Privatisation "a new public register for the privatisation process of objects from its competence" is established and kept at the Agency, which ensures publicity and transparency at all stages of deals. According to Article 6, paragraph 2 of its Rules of Procedure, AP is obliged to motivate any decision. The Agency together with other state authorities informs the public and provide publicity and transparency of its activities related to the privatisation.

- According to Article 5, paragraph 2 of the Law on Privatisation and Post Privatisation Control, by Council of Ministers Decree No 115/31.05.2002 (published SG No 57/11.06.2002, in force as from 11.06.2002) an Ordinance for Assignment of Activities related to Preparation for Privatisation or to Post Privatisation Control, including Procedural Representation has been adopted.
- According to Article 26, paragraph 5 of the Law on Privatisation and Post Privatisation Control, by Council of Ministers Decree, these legal provisions are in compliance with the principals of transparent, effective and organized privatisation procedure and of an effective post-privatisation control over the performance of the buyers' obligations taken with the privatisation contracts.

Post privatisation control is performed by the Agency for Post Privatisation Control over the performance of any privatisation deal and in case of non-compliance with the conditions of the privatisation contract the necessary measures for imposition of sanctions provided for are undertaken. The Agency, itself, is a separate administrative unit and in implementation of its main function – post privatisation control - it may perform acts on claiming and collecting demurrages provided in contracts, in case of default, to control payments under privatisation contracts in cases of instalment payment of the buying price, to require information in cases of received signals about non-performance of privatisation contracts, to undertake inspections of the privatised sights for the fulfilment of obligations undertaken with the privatisation contracts. According to Article 44, paragraph 1 of the Law on Privatisation and Post Privatisation Control the officials nominated by the Executive Director of the Agency for Post Privatisation Control issue acts when violations have been discovered. The Executive Director of the Agency or persons authorized by him/her issue the Penal Statements for Post Privatisation Control.

On 12 March 2002 the Council of Ministers adopted Decision No 139 for further improvement of the business environment through facilitating the license, authorization and registration regimes. Full review of the license, authorization and registration regimes in force was made as well as analysis of the legal and regulative provisions for their introduction. The existing requirements criteria and directions approved by the EU have been taken into consideration.
On the basis of the analysis of 360 regimes for regulation, proposals for facilitating 120 regimes (through reducing the number of requirements, transition to lighter regimes and/or reducing the scope) and repealing of 74 regimes were drafted and adopted. By Decision No 392/07.06.2002 an organization for implementation of proposals for improvement of the business environment through facilitating the license, authorization and registration regimes was established at the Council of Ministers.
Mechanisms for drafting amendments and supplements to the legal provisions, proposals for mechanisms and legal frames were established, to ensure and guarantee compliance with the basic principles and provisions in adopting legal acts, which contain requirements for license, authorization and registration regimes, the appropriate introduction of regulative regimes in the future as well as proposal for amendments of the Register of the Administrative Structures and of the acts of the bodies of the executive power in order to add new section of data base for the regulative regimes in force.
In the field of tourism the existing license regimes have been liberalized through repeal of the licenses for hotel management, family hotel management and restaurant management activities. The above mentioned was incorporated into the draft, which was consequently voted by the National Assembly and came into force as Law on Tourism (SG No 56/2002, in force as from 01.10.2002, amended SG No 119/27.12.2002 in force as from 01.01.2003, SG No 120/29.12.2002), as well as into the regulations for its implementation – Ordinance for Licensing the Tour Operating and Tourism Agent Activity (adopted by CMD No 223/27.09.2002, SG No 93/01.10.2002, in force as from 01.10.2002) and Ordinance for Assigning Categories to the Tourist Sights (adopted by CMD No 222/27.09.2002, SG No 95/08.10.2002 in force as from 01.10.2002.)
Direct participation of the tourist associations in the procedure for licensing persons for tour operating and tourist agent activity and in the procedure for assigning categories to the tourist sights was provided.
During the previous year the ME undertook concrete measures in relation to the amendments of the Law on Ores and Minerals, which provide facilitated regime and shorter terms and procedures in granting concessions for production and authorizations for search and/or research of ores and minerals:
A draft decision for establishment of inter-institutional working group for drafting Law on Amendment of the Law on Ores and Minerals, chaired by the Minister of Economy, was prepared, introduced and adopted by the Council of Ministers- Council of Ministers Decision No 76/2002.
In implementation of Council of Ministers Decision No 76/2002 a draft for Law on Amendment of the Law on Ores and Minerals was prepared, in which important optimisation and reduce of administrative procedures for granting rights for search, research and production of ores and minerals respectively limitation of the possibilities for corruption and improvement of conditions for attracting investments in the mining industry was planned; Up to the present moment the Draft-law has not been discussed in fact by the Council of Ministers, because of differences in the positions of the ministers interested – ME, MEW, MRDPB and MEER on the necessity of creation of ores and minerals.
In relation with establishment and in compliance with strict regulations which to form economic relations between public and private economic subjects:
In April 2002 Amendments to the Law on the Public Procurement were adopted with the common aim to overcome the difficulties in application of the law and to reduce the corruption risk.
Concrete measures were taken strengthening the new administrative capacity of Directorate “Public Procurement” within the Council of Ministers. The increasing of the staff of the Directorate and the improvement of the information system are the main conditions for development of the Register of Public Procurements as an important instrument for transparency, publicity and control on corruption prevention.

In all ministries, agencies and district administrations measures have been undertaken for strict compliance with the terms for selection of common contractor provided for, in the Law on Public Procurement and the Ordinance for Assigning Public Procurements under the Thresholds, defined in Article 7, paragraph 1 of the Law on Public Procurement in conditions of publicity, transparency, control in spending budget funds and insuring competitive conditions. In MRDPW "Methodical Instructions for Conducting Procedures under the Law on Public Procurement" were developed, as a new additional form for strengthening the accountancy and control in this activity closely related to corruption risks.

Representatives of the MTC take part in procedures conducted under the Law on Public Procurement in the second level budgetary credits spending units at the Minister of Transport and Communications.

Measures are in preparation to strengthen the local government and to carry out reform in the financing municipalities system. These measures provide adequate funds to be granted to the local government for effective provision of services to citizens and increasing of the responsibility of the agencies working on local level to the local councils.

Conditions are being created for wider involvement of the civil society structures against cases of corruption through active use of public reception offices, "hot lines" and other forms providing possibilities to public organizations and citizens to signalize for cases of corruption with anonymity guaranteed.

Although, the implementation of the tasks is still ongoing, the measures undertaken already achieved some results. There are visible signs of change in the public opinion in relation to cases of corruption. The agenda of all established structures more completely responds to the current problems of counteracting corruption. Practice and experience for reaction to received signals are being established. Mutual exchange of experience between the established structures has started. Attitude appears for overcoming the administrative closeness of those structures and strengthening step-by-step NGO and social representatives participation in their work. In the present moment, activity has been undertaken for creation of own web pages. The will for more transparency in their work appears to be highlighted. The work performed, the ongoing processes, together with the important obligation of Bulgarian media and their particular sensibility to cases of corruption are the main reason for Bulgaria to move forward from 47 to 45 place according the so called corruption index in the extremely important classification "Transparency Without Frontiers".

Meanwhile, some essential weaknesses in the work might be distinguished. Among them the most important are the organizational and functional incapacity of the specialized structures for corruption combat, lack of regulative basis, which to allow the newly created structures to check up signals for corruption and for inspection of factors and conditions which give rise to corruption potential, and which is even more important, for development and implementation of anti-corruption measures and practices. Although, the established centralized structure provides conditions for better organization of the administrative process on the implementation of the programme tasks, the necessary attitude and work organization against corruption in all structures of the executive power are not still developed. There is particular retardation related to introduction of a complex of measures in the field of public health and education.

It is extremely important for the further development of the organization of anti-corruption work to build up, to develop and to strengthen a system of structures for combating corruption – both at central and at regional level. Together with the existing committees and councils within the ministries, agencies, district governments, a special attention has to be paid on the development of system of structures for implementation of the ethic codes.

**Annex No 4: Decision No 77 of 11 February 2002 of the Council of Ministers**

# REPUBLIC OF BULGARIA
# C O U N C I L  O F  M I N I S T E R S

## DECISION No. 77
## of 11 February 2002

for establishment of a Commission for Coordination of the Activity for Combat with Corruption

By virtue of Art. 21, para 1 of the Law on the Administration

THE COUNCIL OF MINISTERS
HAS DECIDED:

1. To establish a Commission for Coordination of the Activity for Combat with Corruption hereinafter referred to as "The Commission" with the participation of:

**Chairman** - Minister of Justice
**Vice – chairman** - Minister of the State Administration
**Members:**
Deputy Minister of the Interior;
Deputy Minister of Justice;
Member of the Court of Auditors;
The Director of the Agency for State Internal Financial Control within the Ministry of Finance;
The Director of the Agency "Financial Investigation Office" within the Ministry of Finance;
Deputy Director of the Agency "Customs" within the Ministry of Finance;
The Head of the Inspectorate of the General Tax Directorate within the Ministry of Finance;

2. The ministers and heads of the relevant institutions shall nominate the Members of the Commission.
3. The Commission shall:
   a) analyse and summarize the information related to the measures and the actions undertaken against the corruption, as well as to the results and effectiveness of the combat against corruption;
   b) coordinate and exercise control over the activity on the implementation of the National Strategy for Counteracting to Corruption and the Programme for its implementation;
   c) develop and propose measures to increase the efficiency and to activate the combat against corruption.

4. The activity of the Commission shall be supported by officers from the Ministry of Justice pointed out by the Chairman of the Commission.
5. The Commission shall develop a draft for Rules of Procedure on Functions, Tasks and Organization which shall be submitted for discussion to the Council of Ministers by the Chairman within one month period after this Decision enters into force.

**Prime-Minister: /sgd./ Simeon Saxe-Coburg Gotha**

**Secretary general of the Council of Ministers: /sgd./ Sevdalin Marvrov**

**REPUBLIC OF BULGARIA**
**C O U N C I L  O F  M I N I S T E R S**

# D E C I S I O N No. 397
# of 10 June 2002

Amending the Council of Ministers Decision N 77, for establishment of a Commission for coordination of the activity for combat with corruption, and for approving the rules of the functions, tasks and organization of the activity of the Commission for coordination of the activity for combat with corruption

By virtue of Art. 105, Para 1, of the Constitution of the Republic of Bulgaria and Art. 21 of the Law on the Administration

THE COUNCIL OF MINISTERS
D E C I D E D:

1. In point 5, of the Decision, the text "rules of procedure" shall be replaced with "rules".
2. Approves rules for the functions, tasks and organization of the activity of the Commission for coordination of the activity for combat with corruption

**Prime-Minister: /sgd./ Simeon Saxe-Coburg Gotha**

**Secretary General of the Council of Ministers: /sgd./ Sevdalin Marvrov**

# RULES

## of the functions, tasks and organization of the activity of the Commission for coordination of the activity for combat with corruption

I. General provisions

1. The Rules shall regulate the functions, tasks and organization of the activity of the Commission for coordination of the activity for combat with corruption, called here in after, “The Commission”
2. The Commission shall perform coordination, analytical-information and control functions at implementing the National Strategy for counteract to corruption and the its implementation programme.
3. The chairman of the Commission shall be the Minister of Justice, deputy chairman – the Minister of State Administration, and members:

    a) Deputy Minister of Interior;
    b) Deputy Minister of Justice;
    c) a member of the Court of Audits;
    d) the Director of the Agency for State Internal Financial Control, under the Minister of Finance;
    e) the Director of the Agency “Financial Investigation Office”, under the Minister of Finance;
    f) the Deputy Director of the Agency “Customs”, under the Minister of Finance;
    g) the Head of the Inspectorate of the General Taxation Directorate, under the Minister of Finance.

    The members of the Commission shall be nominated by names through an Order of ministers and heads of the corresponding institutions.

4. The composition of the Commission may be amended by a Council of Ministers Decision.

II. Functions and Tasks of the Commission

5. The Commission:

a) shall analyse and summarise the information concerning the measures undertaken by the state bodies, and actions against corruption, as well as the results and effectiveness from the combat with corruption;
b) shall coordinate and exercise control over the implementation activity of the National Strategy for Counteract the Corruption and its implementation programme;
c) shall develop and propose measures for promotion of the effectiveness and activity of the combat with corruption;

6. For the implementation of its functions, the Commission:

a) may require from the corresponding ministers and heads of the institutions information concerning the measures, undertaken by them and actions on the task implementation by the National Strategy for Counteract the Corruption and its implementation programme;
b) makes proposals to the Council of Ministers for adopting measures for updating and supplementing of the National Strategy for Counteract the Corruption;
c) gives statement and performs organisation and methodical assistance at coordination the projects, connected with National Strategy for Counteract the Corruption, including the projects, funded by the corresponding international organisations;
d) examines and submits by competence signals and complaints about expressions of corruption with a special public significance and analyses the concrete actions and results, achieved by the competent bodies at the implementation of their legal obligations;
e) upon request by the state authorities and the local government, gives opinion on concrete cases in view to prevention of the corruption;
f) develops and presents to the Council of Ministers an annual report containing summery of its activity and analyses and recommendations for improvement of the government activities for counteract to corruption;
g) organise every year, in view of optimising the working programme for the next year, a national forum where all competent state bodies involved in combating corruption shall be represented, as well as NGOs engaged in such activities;
h) establish and maintain its own information system and an Internet website.

III. Organisation of the Commission's activities

7. The Commission shall organise its activities based on the working programmes that it has adopted.

8. The Chairperson of the Commission shall:

(a) represent the Commission and manage its overall activities;
(b) convene and preside the meetings of the Commission;
(c) approve the agenda of the meetings of the Commission;
(d) submit proposals and issues related to the Commission's activities to be considered by the Council of Ministers;
(e) designate the supporting staff to assist the Commission in its activities;
(f) make statements before the mass media.

In the absence of the Chairman, his/her functions shall be performed by the Deputy Chairman, except for the powers referred to in item 6(e).

9. The Commission shall hold regular and extraordinary meetings. The regular meetings of the Commission shall be held twice monthly.

The Chairperson may, at his/her own initiative or on a proposal of the Deputy Chairperson or three of the Commission members, convene an extraordinary meeting in case of important circumstances requiring the adoption of a decision.

10. The meetings of the Commission shall be held in camera.

The meetings of the Commission shall be held in the building of the Ministry of Justice.

By decision of its Chairperson, the meetings of the Commission may be held elsewhere, where important circumstances so require.

11. The agenda of meetings shall be forwarded to the Commission members not later than 5 working days prior the meeting.

The Chairperson, the Deputy Chairperson and the members of the Commission may propose issues to be included in the agenda not later than three calendar days prior the date of the meeting.

12. Apart from the Commission members, the meetings of the Commission shall be attended by a shorthand writer and supporting staff designated by the Chairperson to assist the work of the Commission.

Members of Parliament, Ministers and Directors of agencies, other officials and experts may be invited to participate in the meetings of the Commission on particular issues.

13. The Commission shall hold a meeting, if 2/3 of its members are present.

In case of a lack of quorum, a new meeting shall be convened.

14. In pursuance of its functions the Commission shall adopt decisions.

The decisions shall be adopted by an open vote by the majority of the Commission members present at the meeting.

15. The Commission shall draw up minutes of each meeting, where the discussions, findings and decisions adopted shall be noted.

The minutes of the meeting shall be signed by all present Commission members and shall be kept in the records of the Commission.

Copy of the minutes shall be forwarded to the Secretary General of the Council of Ministers for information.

16. The members of the Commission, the supporting staff, experts and any person invited to attend its meetings shall be under the obligation to keep confidential the information obtained in regard with the Commission's activities.

The persons referred to item 6(e) may not disclose the opinions of the Commission on particular cases.

IV. Administrative and technical support of the Commission's activities

17. The Commission shall, on a proposal of its Chairperson, elect a secretary among the supporting staff designated to assist its activities.

18. The Commission secretary shall:

(a) prepare the draft agenda and submit it to the Chairperson for approval;
(b) notify the meetings to be held by the Commission and shall prepare and forward the relevant materials;
(c) ensure information, documentary and technical support required for the meetings;
(d) manage, coordinate and supervise the activities of the supporting staff designated to assist the Commission;
(e) keep record of the decisions adopted by the Commission.

The secretary of the Commission shall be assisted by four officials from the Ministry of Justice.

V. Financial provision of the Commission's activities

19. The funds required for the Commission's activities shall be provided through the budget of the Ministry of Justice.

20. The Chairperson shall, by decision of the Commission, submit a proposal for budget adjustments to the Council of Ministers, where necessary.

## Annex to sector "Judicial Cooperation in Criminal and Civil Matters"

### Annex No 1: Trainings

# Magistrates Training Center
# Curricula
# SEPTEMBER 2002 – JULY 2003

## September

EU LAW TRAINING

**23 –24** **European Convention on Human Rights and Fundamental Freedoms – Art. 8, 9 and 10**

**Location**: Borovetz, Rila Hotel

**Instructors:** Experts from Council of Europe and Bulgarian lecturers.

**Audience:** 35 – 40 participants – judges, prosecutors, investigators and experts from Ministry of Justice and Ministry of the Interior

## October

### New Judges Training

**29.09 – 4. 10** **New Judges Training Seminar– Level One, Part One**

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** George Angelov – Supreme Administrative Court judge; Vera Chochkova – Sofia District* Court judge;

**Audience:** 20 judges

### Continuing Judges Training

**06 – 09** **Current Issues of Extradition**

**Organized by:** jointly by MTC and the National Magistrates' School of France.

**Location**: Borovetz, Rila Hotel.

* District Court – First Instance Court
Regional Court – Second Instance Court

**Instructors:** Anabel Exclapez, Prosecutor, Appellate Prosecution Office, City of Po; Jean-Dominique Sarceles, Prosecutor, Appellate Prosecution Office, City of Reims; Galina Toneva, Sofia AC, Pavlina Panova, Sofia AC; Borislav Petkov, MOJ, Anton Girginov, Prosecutor, SCP

**Audience:** 40 participants – judges from Sofia Court of Appeal, Sofia City Court, Sofia Regional Court, prosecutors, experts from Ministry of Justice, Ministry of Foreign Affairs and National Interpol Bureau

---

## EU LAW TRAINING

**14 –18**

### Basic Course of Intellectual Property

**Location**: Sofia

**Organized by:** jointly by MTC and the International Development Law Institute of Italy

**Instructors:** Experts from the International Development Law Institute of Italy

**Audience:** 30 participants – judges, prosecutors, investigators and experts from Ministry of Justice, Ministry of the Interior, Ministry of Culture and Customs.

---

## EU LAW TRAINING

**23 –24**

### European Convention on Human Rights and Fundamental Freedoms – Art. 5 and 6

**Location**: Borovetz, Rila Hotel

**Instructors:** Experts from Council of Europe and Bulgarian lecturers.

**Audience:** 35 – 40 participants – judges, prosecutors, investigators and experts from Ministry of Justice and Ministry of the Interior

---

# November

## NEW JUDGES TRAINING

**3 – 8**

### New Judges Training – Level Two, Civil Profile

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Emiliya Vassileva – Sofia Appellate Court judge, Albena Boneva – Varna Regional Court judge.

**Audience:** 20 participants– district judges with judicial experience between 3 and 6 months, who have participated in Level One (seminar 1-5 April 2002 and seminar 1-5 July 2002) or district judges changing their functions.

**3 – 8**

## New Judges Training – Level Two, Criminal Profile

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Kati Markova – Sofia Appellate Court judge;

**Audience:** 20 participants– district judges with judicial experience between 3 and 6 months, who have participated in Level One (seminar 1-5 April 2002 and seminar 1-5 July 2002) or district judges changing their functions.

---

**3 – 8**

## New Judges Training – Level One, Part Two

**Location:** Sofia.

**Instructors:** Ignat Kolchev –Chairman of Smolyan District Court; Elena Velichkova – Supreme Court of Casation, Kalin Gaidarov – Director of National Institute of Psyhology.

**Audience:** 20 participants– district judges or junior judges with judicial experience up to 4 who have participated in Level One, Part One (seminar 29 September – 4 October I 2002).

---

**10 – 15**

## New Judges Training – Level Three, Part One, Civil Profile

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Emiliya Vassileva – Sofia Appellate Court judge, Olga Kerelska – Sofia Appellate Court Judge;

**Audience:** 20 participants– district judges with judicial experience between 6 and 12 months, who have participated in Level Two (seminar 12-17 May 2002).

---

**10 – 15**

## New Judges Training – Level Three, Part One, Criminal Profile

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Petya Shishkova – Sofia City Court judge, Tcvetinka Pashkunova - Sofia City Court judge; Momyana Guneva – Sofia University,

**Audience:** 20 participants– district judges with judicial experience between 6 and 12 months, who have participated in Level Two (seminar 12-17 May 2002).

---

## TOT TRAINING – BASIC COURSE

**13 – 19**

**Organized by:** the Magistrates' Training Center in cooperation with the USAID Judicial Development Project

**Location**: Sofia, Rodina Hotel

**Instructors:**

**Audience:** judges

---

## CONTINUING JUDGES TRAINING

**24 – 26**

### Pilot seminar on Probation

**Location**: Velingrad, Velina Hotel

**Instructors:** Experts of the Pilot Center of Probation.

**Audience:** 20 participants – judges, prosecutors and investigators.

---

## December

## EU LAW TRAINING

**02 – 05**

### Foundations of EU Law – Level Four of New Judges Training

**Location**: Sofia

**Instructors:** Bulgarian magistrates - judges, prosecutors, investigators

**Audience:** 40 judges, who have participated in all three levels of New Judge Training

---

## NEW JUDGES TRAINING

**08 – 13**

### New Judges Training - Level Three, Civil Profile, Part Two

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Two (seminar 10-15 November 2002).

---

**08 – 13**

### New Judges Training- Level Three, Criminal Profile, Part Two

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Two (seminar 10-15 November 2002).

---

## January

### NEW JUDGES TRAINING

**12 – 17**

### New Judges Training - Level Two, Civil Profile

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level One or district judges changing their functions.

---

**12 – 17**

### New Judges Training- Level Two, Criminal Profile

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level One or district judges changing their functions.

---

**26 – 31**

### New Judges Training- Level One, Part One

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges.

**Audience:** 20 participants– all newly appointed district and junior judges with up to 3 months judicial experience.

---

## February

### NEW JUDGES TRAINING

**02 – 07**

### New Judges Training - Level Three, Civil Profile, Part One

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Two (seminar 3-8 November 2002).

---

**02 – 07**

### New Judges Training- Level Three, Criminal Profile, Part One

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Two (seminar 3-8 November 2002).

---

**3 – 8** **New Judges Training – Level One, Part Two**

**Location:** Sofia.

**Instructors:** Bulgarian Judges

**Audience:** 20 participants– district judges or junior judges with judicial experience up to 4 who have participated in Level One, Part One (seminar 26-31 January 2002).

---

## March

### NEW JUDGES TRAINING

**23 – 28** **New Judges Training - Level Three, Civil Profile, Part Two**

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Three, Part One (seminar 2-7 February 2002).

---

**23 – 28** **New Judges Training- Level Three, Criminal Profile, Part Two**

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Three, Part One (seminar 2-7 February 2002).

---

## April

### NEW JUDGES TRAINING

**30.03 – 04.04** **New Judges Training - Level Two, Civil Profile**

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level One or district judges changing their functions.

---

**30.03 – 04.04** **New Judges Training- Level Two, Criminal Profile**

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level One or district judges changing their functions.

---

**13 – 18**

## New Judges Training - Level Three, Civil Profile, Part One

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Two (seminar 12-17 January 2002).

---

**13 – 18**

## New Judges Training- Level Three, Criminal Profile, Part One

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Two (seminar 12-17 January 2002).

---

# May

## NEW JUDGES TRAINING

**25 – 30**

## New Judges Training - Level Three, Civil Profile, Part Two

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Two (seminar 13-18 April 2002).

---

**25 – 30**

## New Judges Training- Level Three, Criminal Profile, Part Two

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– regional judges with experience between 6 and 12 months who participated in Level Two (seminar 13-18 April 2002).

---

# June

## NEW JUDGES TRAINING

**01 – 06**

## New Judges Training- Level One, Part One

**Location:** Borovetz, Chamkoriya Hotel

**Instructors:** Bulgarian judges

**Audience:** 20 participants– all newly appointed district and junior judges with up to 3 months judicial experience.

---

# July

## 29.06 – 04.07 New Judges Training – Level One, Part Two

**Location:** Sofia

**Instructors:** Bulgarian judges

**Audience:** 20 participants– district judges or junior judges with judicial experience up to 4 who have participated in Level One, Part One (seminar 01-06 June 2002).

---