

**EUROPEAN UNION COMMON POSITION
(Replaces doc. 20897/01 CONF-BG 80/01**

Subject : Chapter 21: Regional Policy and Coordination of Structural Instruments

This position of the European Union is based on its general position for the Accession Conference with Bulgaria (CONF-BG 2/00), and is subject to the negotiating principles endorsed by the Conference (CONF-BG 14/00), in particular:

- "- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements – even partial – reached during the course of negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established".

The EU underlines the importance for Bulgaria of compliance with the Europe Agreement as well as the Accession Partnership, which constitute basic elements of the enhanced pre-accession strategy. The EU encourages Bulgaria to complete the alignment of its policies with the *acquis* and its effective implementation.

The EU notes that Bulgaria, in its positions (CONF-BG 56/01, 66/01, and 48/02 ADD 19), accepts the *acquis* under chapter 21 as in force on 30 June 2002 and that Bulgaria states that it will be able to implement it by accession. The EU also takes note of the additional information provided by Bulgaria (CONF-BG 3/04 + ADD 1-28).

The EU underlines that the negotiations on this chapter are exclusively on the existing *acquis* until 2006 and do not prejudice future *acquis* under the programming period thereafter.

Territorial organisation

The EU notes that Bulgaria's provisional NUTS classification as agreed with the Commission reflects the administrative structure and socio-economic statistics currently available.

The EU underlines that, should Bulgaria intend to make changes to the agreed territorial breakdown, these changes will have to be accepted by the Commission.

Legislative framework

The EU notes the information provided by Bulgaria on its legislative framework and underlines the importance of making all the necessary preparations for ensuring compliance of operations financed by the Structural and Cohesion Funds with Community policies and legislation, as referred to in Article 12 of Regulation (EC) 1260/1999 laying down general provisions on the Structural Funds and Article 8 of Regulation (EC) 1164/94 establishing a Cohesion Fund.

The EU invites Bulgaria to report regularly on the practical steps being taken to ensure full respect of Community rules at all levels, and underlines that it will carefully monitor Bulgaria's progress in this respect. During monitoring, particular attention will be given to the implementation of commitments made by Bulgaria in the field of multi-annual budget programming (in accordance with the relevant procedures set out in Article 34(3) of Regulation (EC) 1260/1999) and to the necessary revision of the Organic Budget Law.

Institutional framework

The EU takes note of Bulgaria's decisions designating the bodies and authorities responsible for the preparation and implementation of the Structural Funds and the Cohesion Fund, as well as the intermediate bodies. The EU underlines that Bulgaria still and urgently needs to complete this designation, including Managing Authorities and intermediate bodies. The EU emphasises that inter-ministerial coordination needs to be strengthened further with regard to both programming and implementation, and that the implementation of the organisational and human resources development (HRD) strategies of all key ministries and agencies (including intermediate bodies) should be pursued in an effective and timely manner.

The EU notes that Bulgaria has decided on the main administrative responsibilities for implementing the specific financial control provisions laid down in Regulation (EC) 438/2001, and underlines that the decisions to be taken in terms of defining and setting up the detailed arrangements for ensuring the efficiency and correctness of management and implementation of the Structural and Cohesion Funds will be very closely monitored.

Administrative capacity

The EU takes note of the information and timetables/schedules provided by Bulgaria for finalising the design of the implementation system for the Structural Funds and the Cohesion Fund. The EU stresses the need for Bulgaria to finalise the design of the structures required as soon as possible, in particular the designation of the intermediate bodies.

Furthermore, the EU underlines the need for Bulgaria to further increase substantially its efforts to bring the administrative capacity of all the Managing and Paying Authorities, intermediate bodies and other relevant bodies to the required level. The EU also underlines in particular the importance it attaches in this context to Bulgaria's ability to recruit, train and maintain the necessary staff required in all relevant areas and bodies, in the framework of coherent human resources development plans. The EU draws Bulgaria's attention to possible new *acquis* in this area and encourages Bulgaria to take rapid and decisive steps with regard to capacity building. Furthermore, the EU emphasises that the decisions to be taken to determine the final implementation structures and the development of their human resources will be closely monitored over the coming period up to their completion.

Programming capacity

The EU takes note of the information and timetable provided by Bulgaria with regard to the preparation of the Development Plan and of 6 Operational Programmes containing all the elements listed in Articles 17 and 18 of Regulation (EC) 1260/1999. The EU underlines that it will monitor closely progress made towards meeting both these timetables and requirements.

The EU also takes note of the information and timetable provided by Bulgaria as regards the preparation of the *ex-ante* evaluation of the draft Development Plan and the Operational Programmes as referred to in Article 41 of Regulation (EC) 1260/1999.

The EU notes the information provided by Bulgaria with a view to ensuring the effective implementation of the partnership principle with regard to the preparation, financing, monitoring and evaluation of Structural Funds assistance.

The EU also notes the information provided by Bulgaria regarding the setting up of a monitoring and evaluation system in line with the specific provisions applicable to the Structural Funds.

Financial and budgetary management

With regard to financial management and control and given the importance for the management of the Structural and Cohesion Funds, the EU recalls the need for Bulgaria to comply, upon accession, with the specific financial control provisions applicable to the Structural and Cohesion Funds.

The EU takes note of the information and timetable provided by Bulgaria as regards the legislative, budgetary and administrative framework in place or foreseen for ensuring multi-annual programming, co-financing and financial management of Structural Funds assistance.

The EU draws Bulgaria's attention to the fact that expenditure may not be considered eligible for a contribution from the Structural Funds if it has actually been paid by the final beneficiary before the date on which the application for assistance reaches the Commission and may, in any event, not be eligible before the date of accession. The EU also underlines that expenditure shall not be deemed eligible for assistance from the Cohesion Fund if incurred by the beneficiary Member State before the date on which the Commission receives the relevant application.

The EU takes note of the information provided by Bulgaria as regards compliance with the additionality principle, including the timetable and the information on the methodology. The EU underlines that the reference level of expenditure is to be based on final data on actual payments of eligible measures.

The EU encourages Bulgaria to work closely with the Commission in preparing for the implementation of structural instruments during the period leading up to accession, in full respect of the commitments and timetable provided by Bulgaria. The EU underlines that in the event that the commitments undertaken are not met, the Commission will not be able to approve Community funding until the conditions set out in the Structural and Cohesion Funds Regulations are satisfied.

Eligibility

Taking account of available GDP per capita data for Bulgaria at NUTS II level for 1999-2001 and without prejudging the final decision on Bulgaria's eligibility for Objective 1 assistance, the EU considers that on the basis of the current *acquis*, all of the 6 NUTS II regions would currently be eligible for Objective 1 assistance. The EU draws Bulgaria's attention to the fact that the validity of the current *acquis* in the area of the Structural Funds ends on 31 December 2006 and invites Bulgaria to follow closely the evolution of the *acquis* in this area. The EU underlines that eligibility for Objective 1 assistance for all EU members on 1 January 2007 will be determined through procedures established under the *acquis* applicable at that time.

The EU considers that on the basis of the current *acquis*, all NUTS III level areas along Bulgaria's land borders would be eligible areas and that possibly some NUTS III level maritime border areas could be eligible areas under the cross-border cooperation strand of INTERREG. The EU also considers that all Bulgaria's NUTS II level areas would be included in a joint or in separate groupings of regions for the purpose of transnational cooperation. The EU invites Bulgaria to follow closely the evolution of the *acquis* in this area, given the need to develop administrative capacity with regard to cross-border and transnational cooperation. Eligibility for cross-border and transnational cooperation programmes on 1 January 2007 for all EU members will be determined through procedures established under the *acquis* applicable at that time.

Taking account of available GNI per capita data for Bulgaria for 1999-2001 and without prejudging the final decision on Bulgaria's eligibility for Cohesion Fund assistance, the EU considers that, on the basis of the current *acquis*, Bulgaria would currently be eligible for Cohesion Fund assistance. The EU draws Bulgaria's attention to the fact that the validity of the current *acquis* in the area of the Cohesion Fund ends on 31 December 2006 and invites Bulgaria to follow closely the evolution of the *acquis* in this area. The EU underlines that eligibility for Cohesion Fund assistance for all EU members on 1 January 2007 will be determined through procedures established under the *acquis* applicable at that time. The EU recalls that assistance from the Cohesion Fund is conditional on implementation of a convergence programme, in such a way as to avoid an excessive government deficit.

The EU stresses the importance of the consistent availability of relevant and reliable statistics in the area of regional policy, both for determining eligibility matters and for programming and monitoring purposes.

Financial issues

Without prejudice to future policy decisions to be taken and on the basis of the General Affairs and External Relations Council conclusions of 22 March 2004 on a 'Financial Package for the accession negotiations with Bulgaria and Romania', the overall commitment appropriations for structural actions to be made available for Bulgaria over the three-year period 2007-2009 shall be a ring-fenced total of € 2,300 million (2004 prices). This figure is based on a similar approach as for the ten new Member States, including in particular the phasing-in of expenditure in order to reflect the expected progressive increase in absorption capacity and the capping of funding at 4% of national GDP per year.

On this basis, in each of the first three years, structural actions commitments for Bulgaria will amount to 2.4%, 3.2% and 4% of GDP respectively. Based on the latest available macro-economic forecasts, the corresponding amounts for commitment appropriations to be ring-fenced in favour of Bulgaria shall be €539 million in 2007, €759 million in 2008 and €1002 million in 2009 (2004 prices). These amounts shall be included in the Accession Treaty.

During the three years 2007-2009, the scope and nature of the interventions within the fixed country envelope foreseen for Bulgaria shall be determined on the basis of the provisions laid down in the then applicable *acquis*. For the period after 2009, allocations in favour of Bulgaria and the scope and nature of these interventions will be determined by the then applicable *acquis*, including the next financial perspective. Without prejudice to the balance between the different funds in the period after 2006, based on the current *acquis*, one third of the overall structural actions envelope in favour of Bulgaria shall be allocated to the Cohesion Fund.

The EU underlines that in terms of programming, the three-year financial envelope 2007-2009 would not be programmed separately, but would rather form an integral part of the overall programming period to be covered by the next financial perspective. The EU therefore stresses that for the Structural Funds, the level and modalities of any payment on account will depend on the new *acquis* covering the period from 2007.

The EU recalls that the total annual receipts for each Member State from the Structural Funds, in combination with receipts from the Cohesion Fund, are limited to a maximum of 4% of national GDP.

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Subject to Bulgaria's acceptance of the above considerations, the EU notes that, at this stage, this chapter does not require further negotiation. Monitoring of progress in the adoption and implementation of the *acquis* will continue throughout the negotiations. The EU notes that the Commission will continue to report regularly on that progress in the existing framework. The EU calls on Bulgaria to work closely with the Commission in preparing for the implementation of structural instruments during the period leading up to accession, in full respect of the commitments and timetable provided by Bulgaria. Furthermore, the EU underlines that in the event that the commitments undertaken are not met, the Commission will not be able to approve Community funding until the conditions set out in the Structural and Cohesion Funds Regulations are satisfied. Particular consideration needs to be given to the links between the present chapter and other negotiating chapters, including Free Movement of Goods (in particular in the area of public procurement), Competition Policy, Agriculture, Transport Policy, Economic and Monetary Union, Statistics, Social Policy and Employment, Environment, Financial Control, and Financial and Budgetary Provisions. A final assessment of the conformity of Bulgaria's legislation and policies with the *acquis* and its implementation can only be made at a later stage of the negotiations. In addition to all the information the EU may require for the negotiations on this chapter and which is to be provided to the Conference, the EU invites Bulgaria to provide regularly detailed, written information to the Association Council on progress in the adoption and implementation of the *acquis*.

In view of the above considerations, the EU may return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* between 1 July 2002 and the conclusion of the negotiations.