



Bulgaria in the UE: **Building a new partnership**

REPORT

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I. INTRODUCTION: A GENERAL PERSPECTIVE

After several decades under the Communist dictatorship and a somewhat difficult transition to democracy, Bulgaria chose to become part of the most advanced and prosperous group of nations in the world, from the political, economic and social standpoint: the European Union. In 1999, the European Council of Helsinki took a crucial decision for the future of Bulgaria in accepting the country's application to join the European Union for political reasons. The EU wished to avoid the incubation of a focal point of instability on its Eastern border, under the watchful eye of Russia.

For Bulgaria, it meant a deep commitment to Rule of Law, to democracy and to a free-market economy. For the European Union, it was a step further towards the reunification of a continent divided by history and ideology, the concrete translation of a feeling that Europe was not without Bulgaria and that Bulgaria shared a common destiny with the other Member States.

The risk was high on both sides to consider the page turned on the day of Bulgaria's accession to the EU, effective as of January 1st 2007. Surely, it was the conclusion of a process that had begun in 1999. But it was also, for both sides, the beginning of a new one. The lack of perception of the dynamics of the relationship has led to deep misunderstandings. That is why it seems necessary to consider all the efforts, promises and shortcomings of Bulgaria and of the European Union in the construction of a solid partnership, since 2007, in a historical, social and political perspective, so as to avoid errors of the past. Moreover, in order to properly assess the current critical momentum in the accession process of Bulgaria in the EU, the deep cultural gap between both realities constitutes a key factor.

Since 1st January 2007, indeed, a great strain has been put on this relationship. In November 2008, following its report of July 23rd, the European Commission's definitive suspension of certain European funds to Bulgaria, due to serious mismanagement, was the paroxysm in the process of lack of communication between the Bulgarian Government and the European Commission, and at the same time stressed the lack of

an efficient system of relations between the Bulgarian Government and the EU institutions. This decision has undoubtedly sent a shock-wave through the Bulgarian civil society and may, as such, contribute to common solutions. But this shock cannot be repeated without dangers, and neither Bulgaria nor the EU are in a position to waste this opportunity to take a fresh look at their relationship and to try to build a new partnership.

Such a situation made it necessary to try by all conceivable means to open new ways to contribute to settle the crisis and to gain a view of the future. With this aim in mind, H.E. the Prime Minister of Bulgaria, Mr. Sergei Stanishev, decided to set up the International Advisory Board, comprised of the signatories of this Report, with the purpose of providing their expertise and external vision on the current situation of Bulgaria and contribute to overcoming the great challenges it is facing. Thus, with the clear idea of serving the Bulgarian society and without seeking to interfere with the work carried out by the European Commission or the sovereignty of the Bulgarian State, the International Advisory Board was officially constituted on November 2008 as an independent body, free of institutional and partisan interests.

It has been the continuous will of the International Advisory Board to underline the mutual responsibilities and interdependencies between the EU and Bulgaria in this matter so as to allow all parties to define their contribution to the common solutions. It is not about taking sides. It is about helping to find a common ground for the best of Bulgaria's interests and of the European Union. Because stakes are high, for Bulgaria as well as for Europe.

It is a challenge for Bulgaria that will deeply transform its destiny in all respects in the coming decades. Bulgaria must root and secure the major changes it has gone through in the last decades. It must also take advantage of the European integration so as to overcome its structural difficulties and enact a second phase of deep changes. Bulgaria, adopting a self-demanding and responsible stance, has to show, both as a government and as a society, that it is capable of being a reliable member and also committed to the EU's objectives, without foregoing its national identity.

From totalitarian Communism to Parliamentary democracy, from a state economy to a market economy, from the Warsaw Pact to NATO and from the Soviet orbit to Community membership: in less than twenty years Bulgaria has witnessed a Copernican about-turn in its historic evolution, and has done so at breakneck speed. A hellish pace and change of direction to give the country a new political, institutional, economic and social framework.

However, beyond the reforms of the political structures that are indispensable to successfully rise to new challenges, the Bulgarian society has not had enough time to take in and digest the ensemble of changes – a real revolution – derived from the new situation. The depth of the changes undertaken requires new attitudes and new behaviours: in a nutshell, new mentalities. The new commitments taken on by the country are giving rise to the need for legal, economic and social reforms at domestic level, and to redefine a new geostrategic role in the continent in terms of European and foreign policy. In summary, it certainly is an extraordinary opportunity to modernize the country.

The process of Bulgaria's fully-fledged accession to the EU crashed, from the very beginning, into the difficulties encountered in the process of application and transposition of the *acquis communautaire* to the domestic law, due to lack of administrative capacity in the different levels of the State Administration. Furthermore, the deficient operation of the Judiciary, which in some spheres continues to appear reluctant to exercise the function that corresponds to an independent and responsible power in a state where Rule of Law should prevail, creates a bleak picture of the situation. Moreover, the persistence of a high degree of corruption in the public spheres of power and in the business sector, despite the efforts recently undertaken to prevent and punish it, continues to be one of the main challenges the country should face with determination.

The deficiencies detected in the Bulgarian institutional system have hampered or prevented the application of Community law and have also directly affected the financial interests of the EU. This situation prompted the application of corrective measures by the European Commission, some of them as exceptional and serious as the already mentioned Decision of July 2008. Even though the guardian of the Treaties

has efficiently exercised its overseeing function, it should be analysed which are the causes of the repeated non-fulfilment: lack of political will or manifest incapacity to set up the right system and to adapt to changes? This Report shall try to answer these questions.

It is not just a question of fulfilling the obligations derived from membership, of the full enforcement and respect for the *acquis communautaire* and the acceptance of the rules of play established by the Treaties. Above all, it is about being an active member of the EU which means contributing, through the EU institutional framework, in the most positive and constructive way, to the success of the overall European project without losing sight of the national interests. “*Bulgaria must fully benefit from its membership*” – a statement issued in several occasions in the Assessment Reports made by the European Commission. It is about finding out where its specific “win-win” equation lies and looks like, the very right accommodation between national interests and the European Union’s interest: full membership begins once the whole country starts building upon this basic understanding. It is not an aim in itself, but the right way to give sense to the contract signed the accession day between the Bulgarian and the European Union.

It is also an important test for the European Union, because it is taking place in a time of doubt about the future of the European project since the refusals of the French, the Dutch and the Irish to ratify the new Treaties. It is also the first time the EU has faced a problem of this amplitude in the integration of a recent member. In this sense, the action taken by the European institutions is a test for other comparable situations or for future enlargements.

The deficiencies in the Bulgarian institutional system in adapting to the particular EU idiosyncrasy and the accentuated macroeconomic imbalances versus the European average came as no surprise to anyone who was minimally well-informed about the Bulgarian realities and heritages, nor should it have been to the European Institutions or the Member States. When considering the difficult integration of the country into the EU, the specificity of the Bulgarian case has not always been taken into account. And the same might be said about Romania. Although the European Commission has efficiently and systematically monitored the insufficiencies and non-fulfilments

attributable to the Bulgarian authorities, it is also true that Brussels has not always managed to gauge the application and viability of certain necessary reforms in terms of their short-, medium- or long-term impact. Bulgaria has been asked to achieve within a rather short time span what has often taken many years for older Member States to accomplish - for instance, regarding the financing of political parties -. Therefore, Bulgaria's performance in meeting EU standards is to be assessed in terms of relative progress rather than in absolute terms.

The creation of a EU specific Mechanism to organise the monitoring of the application of the *acquis communautaire* in the sphere of justice and home affairs and in the fight against corruption and organised crime, between the Bulgarian and EU institutions, has revealed its insufficiency to solve the problems tabled. In fact, and this is the opinion of the International Advisory Board, Bulgaria's difficulty in fulfilling its EU obligations is rooted in a social, cultural, economic and political problem of a structural nature.

As a consequence, the prospect of a new improved partnership seems the best solution to overcome the current political and institutional difficulties which have arisen between Bulgaria and the EU. This means, on the one hand, building a realistic relationship upon what already exists and analyzing the efficiency and dysfunctioning of the mechanisms put in place since the accession phase. On the other hand, it means building a thoroughly new partnership between Bulgaria and the European Union, grounded on firm and accepted principles by both sides. The successful integration of Bulgaria within the Union can only be achieved by highlighting the principles of responsibility and solidarity.

This fact stresses the urgent need for Bulgaria and its EU counterpart to define the terms of mutual trust and cooperation. The assessment made by the European Commission that there is a general feeling within the EU of "*assistance fatigue*" is in itself a worrying factor which should be taken into account in order to properly tackle the situation. On the one hand, the Bulgarians, too often irresolute in the face of the dimension of their structural deficiencies – facing up to them more or less successfully and evincing more or less good will – and, on the other hand, a European Commission focused more on the Mechanism as a political instrument than with the effective results of the process, have prevented the establishment of a meaningful and sincere dialogue

between both administrations in order to establish priorities and define clear and objective goals that may be reasonably accomplished in the short, medium and long term.

Beyond the strict accomplishment of membership requirements – complying with the rules – it is more than time for Bulgaria to set up its own, specific, successful “European agenda”. This is certainly the main task of the political stakeholders, but the civil society institutions must also assume their obligations, as representatives of the economic, social and cultural interests of the country, by defining their own agenda and helping to shape the national European interest. The maturity of “active membership” – which will be exercised according to the national European agenda – will arrive once the transition period is definitely closed and the nation as a whole is ready to assume, consequently, the choice of being a member of the European Union.

The serious institutional crisis between Bulgaria and the EU constitutes a great challenge for the parties involved. A new model of solidarity is required in order to contribute to the consolidation of the Bulgarian democratic system and to the country’s access to modernity. Meanwhile, the existing gap between the hopes of the Bulgarians and the EU responses runs the risk of widening. A joint approach by the Member States, European institutions and Bulgaria, coherent with the political decision that gave green light to the accession of the country into the EU, is crucial in order to overcome the current situation. This is particularly relevant in the present context of global financial and economic crisis.

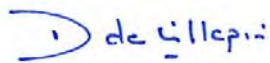
In this context, the International Advisory Board was given a mandate of six months from December 2008 to May 2009 in order to provide advice to the Bulgarian institutions with the aim of enhancing the ongoing reforms in the field of Justice and Home Affairs, administrative capacity, management of public funds and economic and social reforms.

To prepare this Report, the International Advisory Board has met not only representatives of Bulgarian main political institutions, regional and local administrations, but also the representatives of the main Bulgarian Universities, cultural institutions, NGOs, media, political parties, economic and business organizations,

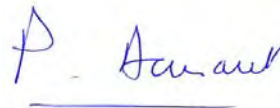
representatives of the economic and social sectors, trade unions and international organisations, among others. Finally, members of the International Advisory Board have also had contacts with members of European Institutions as well as with representatives of some Member States. The Chairman and the members of the International Advisory Board wish to thank all the people and Institutions which have agreed to meet them.

In this Final Report, the International Advisory Board expounds the current situation in Bulgaria in each one of the subjects analysed, giving its assessment and making its proposals, with a constructive will, avoiding unnecessary controversies, fully aware of the delicate nature of some of the topics addressed.

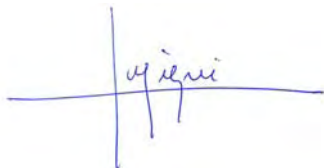
Sofia, Barcelona, Bruges, Helsinki, Lisbon, Paris and Brussels, 30th May 2009.



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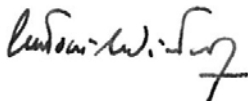
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II. BULGARIA IN THE EUROPEAN UNION: THE CHALLENGE OF RESPONSIBILITY

II.1. BULGARIA IN THE EUROPEAN UNION: The road towards accession

II.1.1. Current situation: The road to Membership

During the transition process, membership of the European Union topped the Bulgarian political agenda. Indeed, after the fall of communism in 1989 and throughout the transit from a totalitarian regime to a market economy and parliamentary democracy, joining the EU became the single most influential factor in the setting of the new political and social priorities at national level.

The legacy of the communist regime conditioned, to a great extent, the path decisions taken and choices made. Although Bulgaria had emerged as an independent State, a century ago, the truth is that the country had enjoyed very few periods of democracy which made it difficult to introduce a wide range of radical changes in a relatively short period of time. The establishment of Rule of Law and the creation of policy-making institutions capable of facing the new challenges ahead could not be done just by introducing legislative changes. Besides Rule of Law, democracy requires traditions, political culture and strong institutions.¹

The weakness of the state institutions and civil society provided the ground for state-capture practices and the rise of corruption and organized crime, the latter particularly motivated by the international embargo against the former Yugoslavia. This situation was further aggravated by the process of speed privatization undertaken by the

¹ According to Gergana Noutcheva and Dimitar Bechev, during the years of the communist dictatorship, the administrative and Judiciary apparatus were completely controlled by the State, thus being an easy prey of nepotism and informality. Family ties and connections replaced individual merits and capacities, a situation that constrained the policy-making and implementation capacity of the state.

reformist governments in 1996-97 which provided even more incentives and opportunities for state capture.

With this scenario as a reference, the perspective of joining the EU became the most efficient driving force to accelerate the reforms the country most urgently needed, a process that reached its fastest pace when, in 1999, the Helsinki European Council decided to invite Bulgaria and Romania to open accession negotiations. In order to become a fully-fledged European Member State, there were three main critical areas in which reforms were urgent: public administration, the Judiciary and the fight against corruption and organised crime.

Indeed, the setting up of an independent, professional and efficient civil service was a prerequisite stated by the Copenhagen criteria. The immediate result was the approval of a whole set of legislative changes. In 1998, the Bulgarian National Assembly passed the Law on Administration, which aimed at clarifying the distribution of responsibilities between the different structures, levels, bodies and agencies of the executive. In 2005, the Government created the Ministry of State Administration and Administrative Reform, but it failed to implement a structural and comprehensive reform of the State Administration and carry out the systematic training of its civil servants to professionally and efficiently assume the challenges, responsibilities and obligations of the country's full EU membership.

In fact, the lack of understanding of the State Administration, at all levels and in all structures, of the complexity and specificity of the EU institutional framework, policies, legislation and decision-making, as well as the lack of capacity to participate consistently in the downwards and upwards process with the EU Institutions was one of the substantial reasons for the failure in the area of the management of the European Funds and remains one of the main shortcoming that prevents the public Institutions from exercising an active role in the EU Institutions.

With regard to the Judiciary, since the beginning of the transition period it had appeared to be one of the branches of the Bulgarian State, whose adaptation to democratic principles would be the most traumatic and problematic as it suddenly was required to assume a front stage role in the respect of Rule of Law.

Anchored in the past, excessively dependent on and subordinate to the Executive, reactionary to transparency and accountability, without the knowledge or the technical capacity to apply new, unknown and complex legislation, without the financial, technical and human resources to perform adequately, having to deal with new and dangerous forms of criminal activities, permeable to corruption, it only shows that it will take at least one generation to fully achieve the aims of the reform process started with the accession negotiations to the EU and assume the institutional and social role it is required to play in democratic societies.

This conclusion, above all based on reality and common sense, does not mean that the Judiciary deserves any excuse of having failed to provide Bulgaria with the law enforcement system, as it was supposed to and required by EU membership. Its leaders should have stepped forward and led the reform process of its Institutions, establishing a realistic calendar of actions and measures that should be introduced progressively but systematically in the legal system in order to guarantee the credibility, efficiency and transparency of the Judiciary.

Today, the Bulgarian Judiciary is at the very centre of the concerns of the Bulgarian citizenship, the EU Institutions and the Member States. Some cases of high public interest – which horrify the citizenship and undermine the credibility of the Judiciary and the Bulgarian State – have gone unanswered, have not been responded to as expected in view of the evidence or are systematically postponed due to incomprehensible procedural manoeuvres.

Moreover, the lack of legal certainty or even worse, the certainty that the Judiciary is not fully, systematically and undoubtedly committed to Rule of Law, is already having a negative impact on foreign investment in Bulgaria. It is possible to attribute the slowdown of foreign investment mainly to the general economic crisis, but it is undeniable that a law enforcement system that does not provide the necessary legal certainty to foreign investment constitutes an additional negative burden that may hinder the decision of foreign companies to invest in Bulgaria.

Corruption was already identified as the main social problem of Bulgaria at the end of the 1990s. The causes are not easy to identify. Nevertheless, there is a certain consensus amongst analysts in pinpointing its origin in the period of the dismantling of the old communist State economy and attributing its systematic infiltration in public life and Institutions to the weakness of democracy and the lack of respect by the political and economic elites of the country towards the public interest and Rule of law.

To this day, corruption remains a major problem within the Bulgarian State Institutions, a serious challenge to the democratic principles of justice, equality and legality and certainly an obstacle to the economic development of the country. It therefore requires the strong and common commitment of all the Institutions to a “zero tolerance” strategy and action towards its actors and practices.

By the time Bulgaria was invited to start the accession negotiations, back in 2000, the country had to face a harshening of the conditionality factors which had been set by the European Council of Copenhagen as necessary requirements for entering the EU².

The Helsinki Council established the principle of differentiation in the assessment of the progress achieved by the candidate countries. Moreover it stated that the last candidate States, like Bulgaria and Romania, would be able to bridge the gap with the other Member States. By stating that each country would be assessed on its own merits and progress and at the same time it established that the latecomers would be able to catch up with the others.

In 2001, the European Commission considered that Bulgaria was close to being a functioning market economy, and only one year later the Commission concluded that Bulgaria was *already* a functioning market economy.

Throughout the accession process, the assessment of Bulgaria’s progress towards EU standards made by the EU Institutions revealed that the compliance with the

² Political conditions: democratic principles and institutions, Rule of Law, human rights and civil liberties and respect and protection of minorities; Economic conditions: establishment of a functioning market economy, including successful privatization and ability to cope with competitive market pressure from other EU member states; Acceptance of the Community *acquis*: ability to adhere to the obligations of membership, including adherence to the aims of political, economic and monetary union.

requirement of transposition of the *acquis communautaire* would be achieved earlier than the compliance with the other two criteria: the political and economic ones, as this required the implementation of far-reaching, difficult structural reforms, the results of which, in the case of Bulgaria, would not be tangible in a couple of years.

Nevertheless, the European Council of December 2004 established the accession date in 2007, while pointing out that this date was conditioned to the implementation, by Bulgaria, of a set of political and economic reforms by 2007. The Accession Treaty was finally signed in April 2006. Nevertheless, until its very last months, the danger of postponing accession for a year – 1st January 2008 instead of 1st January 2007 – was on the EU agenda, as the European Institutions and the Member States were not convinced of the sustainability of the Bulgarian judicial system and of its ability and capacity to fight corruption and organised crime.

In fact, the Accession Treaty of Bulgaria already contemplated the possibility of delaying the date of accession for a year in case of failure to accomplish certain requirements, particularly in the area of judicial reform and competition policy. In addition, the Treaty established three specific safeguard clauses in the areas of the economy, the single market and justice and home affairs, which allowed the Commission to suspend concrete benefits of membership in the first three years of accession.

As the date of accession gradually approached, the European Commission assessed Bulgaria's progress with serious concern, and it considered the possibility to use the mechanisms foreseen in the Treaty in order to guarantee the fulfilment of Bulgaria's pending commitments.

In September 2006, the European Commission recommended accession on 1st January 2007 even though it maintained the right to pursue the monitoring of the judicial system and the fight against corruption and organised crime after accession. To that end, the European Commission adopted the Decision³ establishing a Mechanism for

³ Commission Decision 2006/929/EC of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Bulgaria to address specific benchmarks in the areas of judicial reform and the fight against corruption and organized crime (OJ L 354, 14.12.2006, p. 56).

Cooperation and Verification (CVM) of progress in Bulgaria to address specific aims in the two abovementioned areas.

The rationale behind the establishment of this Mechanism was to facilitate and support smooth accession and at the same time to safeguard the proper functioning of EU policies and Institutions. In this sense, the CVM was adopted by setting up six benchmarks to monitor Bulgaria's progress in the areas of judicial reform and the fight against corruption and organised crime. These benchmarks⁴ are interlinked and need to be assessed comprehensively as partial aspects of a broader reform aimed at setting up an autonomously-functioning, stable Judiciary capable of detecting and sanctioning conflicts of interests, corruption and organised crime and preserving Rule of Law.

On the basis of the CVM, the European Commission is required to report on a six-monthly regular basis, starting in June 2007, based on contributions from the Bulgarian Government, the Commission services, Member States and NGOs. Mainly, the Commission's services assess, under the coordination of the Secretariat General, whether the benchmarks have been met, need to be adjusted and may request further reports on progress if necessary and provide internal and external expertise to cooperate and provide guidance in the reform process and to verify progress.

Since 2007 until present, the Commission has issued five Reports concerning the monitoring of the CVM - two assessment reports and three technical updating reports -. A separate report on the management of the European Funds was presented by the Commission in July 2008 on the basis of the responsibility it is given by the Treaty to implement the EU budget and protect the financial interests of the Union.

The doubts expressed by the EU Member States regarding the readiness of Bulgaria to become a full member of the EU in 2006 have to be assessed in the more broader context of the EU turbulent reform process, unachieved in Nice and unexpectedly hampered by the negative results of the Dutch and French referenda on the European

⁴ The benchmarks can be divided into two areas. On the one hand, there are three benchmarks that refer to the area of the Judiciary in order to ensure its independence, transparency and accountability. And on the other hand, the other three benchmarks relate to the fight against corruption and organized crime, and more concretely, the fight against high-level corruption, corruption within the local government and the fight against organized crime.

Constitution followed by the complex negotiations around its successor, the Lisbon Treaty, whose entry into force has been challenged by the Irish referendum.

The difficulties faced by the reform process of the EU evidenced also a notorious “disenchantment” trend amongst Member States towards eastern enlargement. This particular background – state of mind – facilitated firstly the inclusion, in the Accession Treaties of Bulgaria and Romania, of severe safeguard mechanisms to prevent or react strictly against the non-accomplishment of EU principles and common policies, and secondly the establishment, at the very last moment, of safeguard mechanisms such as the CVM to monitor the progress of these two countries towards EU standards in the areas of justice and home affairs.

Bulgaria and Romania are a pilot test for future enlargements. The harshening of the compliance conditions and their strict monitoring indicate that the European Union is no longer willing to incorporate new Member States at any price. The Member States, the European Commission and the European Parliament, when assessing the readiness of the present candidates to enter the Union, will certainly take into full consideration the performance of Bulgaria and Romania in the achievement of the benchmarks established in the CVM. In two and a half years it is not possible to certify that Bulgaria has succeeded. Would it have been wiser to postpone accession? For how many years? Would the expected results have come faster if Bulgaria had remained a candidate? Was accession not precisely the adequate solution to speed up the reforms? Was the CVM the right instrument to monitor and drive the reforms? Are there any other mechanisms, complementary ways or additional means that may help Bulgaria to overcome its weaknesses as quickly as possible in order to fully benefit from membership? Does it need more understanding, more pressure or more solidarity? Some of these questions do not have an answer in the Bulgarian case, as accession is already a “*fait accompli*”. Others will be addressed in the following Chapters. All of them are relevant in the framework of the assessment of new candidates.

II.1.2. Assessment: the consequences of the acceptance of Bulgaria as a new Member State

The accession of Bulgaria to the EU was a bold political decision in line with the EU's historical will, expressed in the aftermath of the fall of the Berlin wall, to incorporate all Eastern European countries that had been prevented, against all democratic principles, from taking part in Europe's integration process. Moreover, the uncontrolled Balkan wars and ethnical disputes at the Bulgarian borders rendered it advisable not to postpone its accession for too long. With this background, the accession of Bulgaria was never questioned, even when enthusiasm for the enlargement process, just after the turn of the Century, was already showing signs of flagging, as the management of *the Europe of 27* required a deeper commitment to integration and additional efforts of solidarity from Governments and citizenship alike.

While it was never actually questioned, Bulgaria's accession was monitored in its very last stage with increasing concern as the date of accession approached and the country's Judiciary was not yet sufficiently prepared to assume Rule of Law and the State Institutions appeared to be unable to eradicate corruption and fight organised crime.

As was already pointed out, the fact that the European Union took the right decision in accepting Bulgaria as a Member State must not be used as an excuse for Bulgaria to "take its time" to comply as quickly as possible with the requirements of membership. On the other hand, the European Union must do its best, choose the right way and use the most adequate means in order to help Bulgaria to reach the required EU standards as quickly as possible.

Bulgaria and the European Union face a major challenge. When the requirements expressed in the Treaty of Accession, the CVM and the regular reports issued by the European Commission assessing Bulgaria's progress are of the magnitude of having to set up an autonomous and sustainable judicial system that guarantees full respect for Rule of Law, efficiently fight corruption and punish organised crime, it means that Bulgaria is facing a structural problem that requires full attention, cooperation and the

active commitment of all the interested parties: the EU Institutions, the Member States and the Bulgarian State.

As stated in the Introduction of this Report, both sides have to find a balanced road to common success. The search for *fine tuning* calls for the need to combine the necessary pressure applied by the EU Institutions on Bulgaria to keep up the pace of reform and achieve the required results with the supply of adequate technical assistance from the EU Institutions and partner Member States to build up the technical capacity of the State Institutions to speed up these reforms and achieve full sustainability of membership.

The CVM, as well as providing the possibility of applying, at any time, and if justified, a safeguard clause that would place the Bulgarian judicial system “*in quarantine*”, appeared to be the right tool to maintain the country’s commitment to reforms at an adequate pace. Nevertheless, an in-depth analysis of the present circumstances and of the progress made in the fight against corruption and high-level corruption and organised crime, the establishment of accountable and transparent procedures within the Judiciary, respect for public procurement procedures or the avoidance of conflict of interests, amongst others, would seem to indicate that while clearly necessary, these tools appear to be insufficient as a way of ensuring success.

The “fine tuning” of Bulgaria’s progress renders it necessary to address the complexity and persistence of the country’s serious shortcomings and difficulties in achieving the results set out in the Accession Treaty and particularly in the CVM by setting up additional requirements on the one hand, and enhanced cooperation by means of a focused and results-oriented technical assistance, on the other.

To this end, the European Union and Bulgaria have to broaden and intensify political dialogue at all levels, based on mutual trust, transparency and full commitment. If it is true that the European Commission has to stick to its mandate as the “Guardian of the Treaty”, it is no less true that this role does not preclude providing all the necessary assistance to the Member States when such a solution would seem useful. The formal framework already exists: the CVM envisages that the European Commission may assist Bulgaria in the achievement of the benchmarks. The legal instrument is there, as

is the need, it remains for the European Commission to engage in this way, for the sake of the European Union's interest.

The European Parliament could also assume a more active role in the framework of its relations with the Bulgarian National Assembly. As representative of the European citizenship – including the Bulgarians – and as branch of the budgetary authority, the European Parliament could take the initiative to structure and intensify its relations with the National Assembly in all EU areas and contribute for the latter to enhance its awareness of the EU principles and technical knowledge on EU law.

The Member States, not legally bound to any of the Treaties' constraints, should also intensify and focus the technical assistance they have been providing to the Bulgarian Public Institutions and State Administration.

On their part, the Bulgarian Institutions should show, in a clear and tangible way, their real commitment to achieving the required results by speeding up the pending reforms and by commonly adopting a zero tolerance program to fight corruption and organised crime and prevent all types and forms of conflict of interests. To fully demonstrate this commitment to their partners and Institutions of the European Union, the forthcoming elected National Assembly, and the new Government should clearly incorporate it into their respective programmes for the next mandate.

II.2. JUSTICE AND HOME AFFAIRS: The heart of the crisis

This Chapter first analyses, without pretending to be exhaustive, the progress of Bulgaria in building up a legal system that clearly respects and applies Rule of Law according to EU rules and principles. In this exercise, the real problems that Bulgaria is facing in achieving and guaranteeing these fundamental benchmarks are identified. In a second term, while going through the reform process initiated years before accession, it provides an overall assessment of the results achieved and the shortcomings that persist, while indicating issues for which the reforms were unable to provide a serious and long-lasting answer. The chapter finally analyses the

mechanisms and procedures used by the Bulgarian authorities to carry out the necessary reform planning, monitoring and self-assessment. The maturity of the system also implies the existence and functioning of credible and efficient self-assessment mechanisms.

II.2.1. Current situation: A very long way to build up the system

A. Introductory remarks

The reform of the Judiciary is one of the most critical areas identified by the Accession Treaty in Bulgaria's membership. Throughout the period of preparation for EU accession, Bulgaria carried out an extensive and fundamental reform program, mainly through the direct incorporation of the *acquis communautaire* into the national legal system but also through the adoption of new legislation in order to meet the requirements of EU principles in areas where there is no *acquis communautaire*.

However deep and revolutionary they may be assessed objectively, since the beginning of the EU accession negotiations until the day of entry, the reforms carried out were neither sufficient – failed to cover all the issues or were not radical enough – nor properly implemented. The consequence of this was the establishment of a mechanism that would allow the European Commission to monitor and verify progress in achieving these minimum EU requirements in a way that had never been envisaged before and for which there were no procedures set in place or indicators to follow.

When analysing the nature and scope of the benchmarks set up by the Cooperation and Verification Mechanism, it would have been possible – it was even necessary – to conclude that there were to be serious doubts, concerns, fears, that the Bulgarian legal system – its Institutions, its law enforcement procedures, its mechanisms to guarantee the effective fight against high level corruption and organised crime – were in a very embryonic stage for full respect of Rule of Law to be expected.

This analysis may be corroborated by the thorough and comprehensive analysis of both the Monitoring Report issued by the European Commission on 26th September 2006⁵ on the state of preparedness for EU membership of Bulgaria and Romania and of the Decision of the European Commission of 13th December 2006, in particular of its “whereas”, the nature and scope of its six benchmarks and particularly its explicit mention to the sanctions provided for in articles 37 and 38 of the Act of Accession in case of failure to fulfil the requirements.

As already pointed out, the institution of the CVM – driven by a strict logic of monitoring and verification– as the main instrument put forward by the Commission, in full agreement with the Member States, including Bulgaria, was clearly insufficient to guarantee the results that had to be achieved in a record time of three years. Knowing what the aim and scope of the exercise was – building up an efficient system to ensure respect for Rule of Law, introducing fundamental legislation attaining the independence and accountability of the Judiciary, ensuring the efficiency of basic laws such as the criminal code, the criminal procedure code, the administrative code and the civil code, combating growing high-level corruption, at the borders and at local level, as well as organised crime – the European Institutions should have set up other mechanisms to accelerate and guarantee these results in the best interest of both the EU and the European citizens, particularly the Bulgarians.

The insufficiency of the monitoring instruments with regard to the challenges and expectations at stake could have been easily stated when assessing the Bulgarian political, economic and social reality and circumstances at the time of accession. This analysis is made in other parts of this Report. Any existing legal system is based on multiple realities. It is the expression of these realities. Changing its nature, particularly in the case of Bulgaria, to adapt it to the standards that are required to meet the EU principles and law entailed serious and profound changes in cultural, social, political and economic parameters that could not hardly be effectively assumed and digested in the timeframe set in the CVM. These

⁵ Communication from the Commission - COM (2006) 549 final, 26.09.2006

parameters could certainly not be changed, and not seriously be expected to change merely through a verification and monitoring exercise.

As was already pointed out, the CVM contributed in a very positive way – together with the strict monitoring of the management of the pre-accession funds – to maintaining the pace of the reforms that had to be carried out and keeping them on course. The pressure to which the Government and the National Assembly, initially, and more recently the judicial Institutions were or have been submitted, turned out to be a healthy, effective and finally right way to maintaining the positive reforming trend initiated before accession.

Nevertheless, it was clearly insufficient. The Report of the Commission, issued in July 2008 on the progress under the CVM – one and a half years after accession – together with the Report on the management of the EU funds, accompanied by the Decision desaccrediting the certification of the two main agencies managing the pre-accession funds as a consequence of the negative assessment⁶ of the system's capacity to prevent, detect and sanction irregularities, have cruelly tabled the exact dimension, nature and scope of the real problem and the real challenges at stake and the mistake made by all parties involved when choosing the measures, instruments and timeframe set up to guarantee achievement, by the Bulgarian State, of full respect for Rule of Law according to EU law and principles.

July 2008 would therefore have been the right moment to decide to curb the situation, and for the European Commission and the Bulgarian Government to carry out a thorough, serious and accurate assessment, according to objective measurable indicators, of the real shortcomings to be addressed and adequate measures to be taken according to a realistic calendar. The absence of institutional dialogue and the lack of a constructive understanding between both sides, as well as the silence of the other member partners of the EU was a serious mistake in view of the challenges at stake.

⁶ Report from the Commission to the European Parliament and the Council on the management of the European Funds in Bulgaria - COM (2008) 496 final, 23.07.2008

As is pointed out in the conclusions of the present Report, the successful integration of Bulgaria and Romania is one of the most important challenges of the EU that may or may not contribute to ensuring the internal and external credibility of the economic and political integration process of Europe.

The series of facts, misunderstandings, reciprocal reproaches and suspicions that followed the July Reports confirmed the missed opportunity to redress the derailment of Bulgaria's reform process properly, fairly and in time. The building up of this partnership for progress, based on mutual trust, transparency and commitment, with the active participation of all the partner Member States, will be one of the challenges of the next Commission, the new Government of Bulgaria and the other 26 Member States. It will constitute a test of the maturity, responsibility and credibility of the process towards the successful integration of both Bulgaria and Romania, meeting the European citizenship's expectations, indicating a clear roadmap to present and future candidate States, giving the international community a clear sign of the political will of the EU to be and act as a strong and cohesive international actor.

The progress of Bulgaria in building up an efficient and trustworthy legal system capable of guaranteeing respect for Rule of Law and fight high-level corruption and organised crime must therefore be analysed against this general backdrop. Given the fact that neither the right accompanying instruments, right framework or proper cooperation and assistance schemes were set up to guide, monitor, assess and accompany Bulgaria in this complex and difficult process towards the achievement of the required EU standards, the reforms introduced by the Bulgarian authorities over the last three years have to be assessed globally in a very positive way.

Based on the latest available information collected from the different authorities and Institutions consulted, the Advisory Board has analysed the main elements of the reform process of Bulgaria towards the construction of an accountable, efficient, transparent and professionally-organised legal system that sustainably ensures respect for Rule of Law and effectively combats and punishes the fight against corruption and organised crime.

B. The role of CVM

Real progress under the CVM may, in the first place, be measured by the degree of achievement of the required results. In this sense, on the basis of the analysis of the first CVM benchmark, which requires the introduction of the necessary constitutional changes to ensure the independence of the Judiciary, it should be concluded, at least formally, that this particular result has been achieved. Nevertheless, there is no unanimity of views on this aspect as some sustain that what is really required and necessary to ensure is the “real” independence of the Judiciary, and not only formal independence. It is true that the mere enactment of a law, even when it is clear and includes all the legal means to ensure enforcement, sometimes fails to achieve the intended or expected results, as this depends, amongst many other factors, on the legal environment and on its practice.

In the case of the first benchmark, if the real independence of the Bulgarian Judiciary was to be achieved – fully achieved and functioning– it would have been necessary to establish additional requirements concerning, for instance, the rules regarding the composition of the Supreme Judicial Council. As these rules are established now, 50% of the members of the Supreme Judicial Council are to be appointed by the National Assembly. This principle is followed in other Member States, for instance in Spain where the two Houses of Parliament appoint twenty of the thirty-six members that form the General Council of the Judicial Power. It is certainly a very politicised process sometimes used by the political forces for purposes other than the ones strictly targeted. Nevertheless, the performance of the General Council in Spain shows no serious breach of independence arising from the particular rules applying to the appointment of its members, even although they might be considered to give rise to undesirable political bargaining.

The rules governing the election of the members of the Supreme Judicial Council in Bulgaria cannot therefore be assessed as being the real obstacle for ensuring the total independence of the Bulgarian Judiciary. The problem is elsewhere, and is mostly related to the maturity of the Bulgarian democratic system, particularly the maturity of the political party system and the integrity and responsibility of its members.

Changing the rules of appointment of the members of the Supreme Judicial Council, at this stage, in order to ensure that the proper candidates are chosen, would be no solution since in the first place there are no rules outside democratic principles that would provide this guarantee, and secondly, if such rules existed, they would not be more effective in terms of guaranteeing the body's independence, and thirdly, even if it did, the practice of modifying the legal framework to solve a short-term problem only contributes to consolidating the late negative practice of using the law to overcome problems and not to provide long-lasting solutions and finally, this would only postpone and dodge tackling the real problem, which is deeper, lying in the very heart of the functioning of the Bulgarian democratic system.

The benchmarks set up in the CVM have been useful in the identification of macroscopic problems and deficiencies. Nevertheless, the overall mechanism in itself, as has already been pointed out, failed to produce the expected results. The reason should not be sought in the nature or scope of the benchmarks. As was pointed out in the Introductory remarks, the expected results have not been achieved because expecting them to be accomplished was not realistic, given the overall political and cultural background, the exact nature and scope of the deficiencies and the timeframe.

In the face of this apparent dead-end, the solution could apparently consist of changing the scope of the benchmarks or by setting additional ones, as one of the expected results – the effective control or even elimination of corruption and high-level corruption within the central and local Administration – is serious threatens to undermine the credibility of the State. Nevertheless, widening the scope of the benchmarks and extending the CVM, for instance to the European Funds, Schengen accession or the future participation in ERM II, three crucial issues for Bulgaria's economic development and real integration in the EU, must be seen as an attempt to put more pressure on the Bulgarian authorities to achieve the results called for.

The assessment of past experience shows that this is not the solution. Fixing additional benchmarks or widening the scope of the existing ones and thus changing the Decision of 11th December 2006 would be a very negative political sign from the European Union with regard to the real integration of Bulgaria in the EU legal system. This could only be interpreted as open admission of failure, with special negative consequences for both the European Commission – the European Parliament has already expressed some doubts as to the way the process of monitoring and assessment has been handled– but more particularly for Bulgaria, as it could have a real impact on the political stability of the country and be the source of serious and irreversible frustration, since real progress has actually been achieved.

At this stage, and against the backdrop drawn, it is neither wise nor advisable to change the general framework of the CVM or its benchmarks. As a monitoring and assessment instrument, the CVM should be a dynamic and flexible framework and render it possible to plot, within the existing benchmarks, a realistic roadmap for the building of a solid and sustainable system, establishing priorities and evaluate objective and tangible progress, at any stage, on the basis of clear and measurable indicators. If some kind of shortcoming persists, complementary binding targets should be set. The roadmap should also be framed in a realistic calendar.

This solution could certainly contribute to the effectiveness of the exercise, as it would bind the Bulgarian authorities to take the necessary steps and adopt the required measures set forth in the roadmap for each benchmark according to the most realistic timeframe. This can only be achieved if and when all the parties involved, including the Member States, seal a new, mature and loyal partnership.

As was already pointed out, the plotting of a clear roadmap within the CVM should come with accompanying measures aimed at enhancing the technical capacity of the Bulgarian Administration to take the necessary steps and adopt the adequate measures, according to the highest standards, as required in the roadmap.

C. The assessment of the reform process

This assessment of the reforms carried out over recent years by Bulgaria is aimed at (a) verifying if these reforms have already incorporated those elements that render it possible to state that there is a positive and irreversible trend in the right direction (b) identifying the elements (issues) which should be addressed without delay in order to consolidate the reforms and (c) the overall strategy that should be put in place by the Bulgarian authorities in order carry out a serious and effective self-assessment and self-monitoring of the reform process.

1. The reform of legislative texts

Bulgaria has implemented a massive and impressive legislative reform plan in the last years. Not only by dint of its extension, but particularly for its relevance and impact. This plan, unfortunately, was not prepared in advance and nor was it carried out in the most effective and coherent way. A number of fundamental laws have been changed several times, sometimes to provide a concrete answer to the European Commission, others to solve practical problems arising during the first period of implementation, and other times, finally, to provide a solution that does not answer the long-term request but addresses only a certain short-term need.

(a) The first Judicial Act was adopted in 2007⁷ to regulate the structure and functioning of the SJC, guarantee the independence of the Judiciary, establish the cases of immunity and irremovability of the magistrates, as well as the term of office of the managerial positions, govern access to the career, appointments and further career developments. Last April, a new set of changes⁸ were made to the Judicial System Act in order to improve the accountability of the Judiciary, its efficiency, strengthen its independence and set further criteria for the appointment and appraisal system. It envisages structural changes in the National Investigation Service. It sets up a deadline of three months for the Supreme Judicial Council to adopt the Code of Ethics

⁷ The new Judicial System Act was adopted by the National Assembly on 24 July 2007 and became effective on 10 August 2007 – State Gazette 64, 07.08.2007.

⁸ Law amending and supplementing the JSA – State Gazette 33 of 30.04.2009.

applied to all the members of the Judiciary. In the future a new Penal Code is envisaged to enhance the quality of criminal policy and justice. A number of working groups, extended to civil society organizations, have been institutionalized in the Ministry of Justice in order to monitor and assess the new legislation, detect shortcomings and contradictions and provide guidelines for magistrates.

- (b) Substantial changes were made to the Civil Code, the Administrative Code, the Penal Procedure Code, the Penal Code⁹ and the Civil Procedure Code¹⁰. Similar working groups are set up under the responsibility of the Ministry of Justice to evaluate the implementation of the new legislation.
- (c) New amendments have been introduced to the Public Procurement Act, to the Law on the Commercial Registry, to the Special Intelligence Means Act, to the Forestry Act, to the Political Parties Act, a new Law on Conflict of Interests¹¹ was enacted, albeit not without generating controversy and concerns. The future Statutory Act, currently under appraisal, is intended to improve the quality, efficiency and coherence of legislative acts, amongst others.

2. The Institutional reform

The institutional reform has to be assessed as very positive as the new Institutions - or the reform of the existing ones – were necessary to perform in several of the benchmarks. All new Institutions – particularly in the area of the judicial system – require a certain period of experience and practice until they become fully operational. The changes must therefore be welcomed, positively assessed and stimulated, as they are a step taken by the Bulgarian authorities in the right direction.

The second step in this area should be the adoption of all the required measures in order to ensure the proper coordination and interaction of those new Institutions

⁹ Draft Law amending the Criminal Code – State Gazette 27 of 10.04.2009.

¹⁰ Currently under review in the National Assembly. The Draft was adopted by the Council of Minister's Decision 167 of 2009.

¹¹ This Act will be assessed under the item “fight against corruption”.

with others already operating in the system. Several orders have been issued at several levels by different Institutions to establish the right interaction mechanisms and procedures in order to obtain results justifying the institutional changes.

Beyond the orders – which establish the necessary institutional framework – it is important to make every effort to ensure practical and real cooperation in the field between all these Institutions. If this is the case, it should be possible to identify the expected results established in the CVM as soon as possible.

The reforms carried out are the following:

- (a) Creation of the **State Agency for National Security**¹² as a specialized authority at the Council of Ministers to conduct policy on the protection of national security. In the framework of its competences it performs activities for monitoring, detection, counteraction and violations of national security, including the involvement of high-ranking government officials in corruption and contacts with organised crime, transnational organised crime and the conclusion of unfavourable contracts, money-laundering and absorption of EU funds. It is the law enforcement agency of the executive branch.
- (b) Creation of the **Inspectorate to the Supreme Judicial Council**, responsible for the performance of inspections within the judicial Institutions, reporting to the Supreme Judicial Council.
- (c) **Reform of the Ministry of the Interior**¹³. The reform was aimed at reducing the management levels and enhances the capacity of the political and professional management to perform a direct, effective and permanent control of the activities of the structures.
- (d) **Creation of the CEPACA** – Commission for Establishing Property Acquired by Criminal Activity. It is an independent state institution set up through the Criminal Assets Forfeiture Act in force from 1st March 2005. Proceedings under

¹² Law on the State Agency for National Security – State Gazette 109 – 20.12.08

¹³ The reform of the Minister of Interior will be assessed under the item “Professionalism of the law enforcement Institutions and bodies”.

this Act are initiated if there are sufficient data on assets of substantial value which can be reasonably assumed to have been derived from criminal activity, and criminal prosecution has been undertaken against a person in connection with a certain criminal offence under the Penal Code specified in the law.

3. Professionalism of the Judiciary and the law enforcement bodies

There are two main areas or issues that are covered by the concept of professionalism, in this context. On the one hand, professionalism is taken to mean that the individuals that integrate the Institutions and structures of the Bulgarian Judiciary and law enforcement bodies are required to possess the necessary technical knowledge and capacity to contribute to the achievement of the objectives assigned to their Institutions by the EU, particularly those stated in the CVM.

Moreover, professionalism is also taken to mean that the rules applied to the careers within the Judiciary and the law enforcement bodies are based on professional criteria, taking into account the knowledge and capacity – in regard to the best possible standards – of their members as the main indicators to be applied to appointment and to career development within these structures.

(a) Professionalism within the Judiciary

Training of members of the Judiciary

A sustainable and considerable investment has been made by the Bulgarian authorities since before accession to provide general and specific training to the members of the different Institutions integrating the Judiciary. The National Institute of Justice is the entity responsible for the organisation of training programmes and courses for magistrates. These courses are of a non-obligatory nature and are either regional or countrywide. The training generally covers Community Law and issues related to revisions of current legislation and case-law.

Under the pre-accession programmes of technical assistance, a number of projects have been implemented also targeting building the necessary capacity of the members of the Judiciary.

Without underestimating the efforts that have been made in the last five to eight years to improve the professionalism of the members of the Judiciary, it still remains to be assessed – in a comprehensive and impartial way – how they can contribute to tackling the main problem which the Bulgarian Judiciary has to face, namely the enhancement of the general and specific capacity of their members in particular and the Institutions in general to lead an effective fight against corruption and organised crime. These training courses should also provide learning in the area of preventing corruption.

Providing general or specific initial or lifelong training aimed at enhancing the technical capacity of the members of the Judiciary to deal adequately with EU or national legislation or case law is certainly an indispensable instrument to ensure the quality and the efficiency of Justice. Given the present situation of the Bulgarian Judiciary, having to face the challenges it has to face and the social problems concerning widespread corruption – also of its structures – and persistent organised crime, it is very important that programmes and courses for the training of magistrates adequately reflect these concerns and thus address them openly and professionally.

In this sense, an ERASMUS-like program between Bulgaria, the European Commission and the Member States should be established focusing on the systematic exchange of members of the Bulgarian Judiciary and those of other Member States (magistrates, prosecutors and judges) to exchange knowledge and practice on very concrete issues in order to build up the necessary capacity.

Career appointments and development

In this area there is a clear difference between the text of the rules applying to career access and development and the practice of the Supreme Judicial

Council in applying these rules. The formal rules are based on professional and technical criteria and are very similar to the rules existing in other Member States. Nevertheless, the practice of appointments, and appraisals, has shown that in some cases the appraisal of quality and the assessment of technical qualities have been neutralized in such a way that finally certain appointments had to be made based on criteria other than professional capacity, namely length of service.

Using length of service as the differentiation criterion in cases where two or more candidates have obtained an equal score when appraising their technical qualities, while it may not be the most adequate one in terms of guaranteeing the highest technical standards of the judicial Institutions, would not be a problem in itself if there were no general social suspicion hanging over the Bulgarian Judiciary regarding its real commitment to lead the fight against corruption and organised crime in order to guarantee the full respect of Rule of Law.

In this sense, it would be advisable for the Supreme Judicial Council to strictly apply the rules it has set itself to govern the development of the career of its members. This would not only bear out its full commitment to fight effectively against corruption within the Judiciary, but it would also give a very positive sign to the citizenship.

(b) Professionalism within the law enforcement Institutions and bodies

Training

Training within these Institutions has recently been focused on skill building for team-work in pre-trial procedures between police officers, officers of specialized law enforcement agencies and prosecutors. This has to be assessed very positively as the success in the fight against corruption, organised crime and serious crimes (money laundering, drug traffics, traffic of human beings) is directly related to the capacity and ability to prepare and present “good cases” to the courts, also from the evidence point of view.

In this area, the technical assistance of experts from other Member States is mostly welcomed and should be required to provide specific and focused assistance to enhance the capacity of special trained groups acting during the pre-trial phase of serious criminal affairs. As will be stressed below, the Government – through its Ministry of the Interior – has assessed this positively and has required specific technical assistance from certain Member States to enhance the capacity of its Criminal Police Department and Criminal Investigation Department.

The technical assistance and training within the Ministry of the Interior has been provided by the Academy of the Ministry of the Interior and the National Institute of Justice. High-profile French expertise has been provided on the basis of twinning programmes in this area and the results must be assessed very positively.

Professionalism within the Ministry of the Interior

The Ministry of the Interior underwent major restructuring after the segregation of some of its Departments into the newly created State Agency for National Security (SANS). This reform¹⁴ was aimed at reducing the number of management levels, reinforcing the political and technical control over its central and regional structures and adapting the whole structure to the functions assigned. At a glance, a clear distinction between the internal structures that are directly involved in the development of the functions the Ministry has assigned and the management structures has been made, better control of the regional structures is intended, measures were taken to professionalise and improve the effectiveness of the investigating police officers and a strengthening of staff and technical resources is envisaged.

The creation of the figure of the “investigating police officer” is of great importance as it reinforces the intervention capacity of the Ministry of the Interior in the pre-trial phase: A new “Pre-Trial Procedure” Chief-Directorate

¹⁴ Draft Law on amendment of the Law of the Ministry of the Interior – State Gazette 69, 05.08.2008

assumes the task of managing this police force, monitoring the assignment of tasks, ensuring proper and effective cooperation with other police forces and evaluating their performance.

The results of these measures aimed at enhancing the professionalism of specific police forces within the Ministry of the Interior and the proper coordination with other police forces as well as with members of other Institutions and bodies active in the pre-trial phase will not be seen immediately. But they show the will of the Bulgarian authorities – through specific measures – to create and efficiently organise the ministerial structures that are the main actors in the fight against corruption, organised crime and serious crime.

4. Fight against corruption

In the last decade corruption has become a real social problem in Bulgaria. All surveys and studies on the issue indicate that it has spread without any serious, effective and comprehensive attempt by the State Institutions to curb it. This passivity and lack of political will has eventually undermined the efficiency and credibility of the State, and seriously jeopardizes Bulgaria's exercise of active membership in the European Union.

As was said before, an exhaustive analysis of all the issues that are relevant to the assessment of Bulgaria's respect of the Rule of Law will not be carried out in this Report. Some Institutions of the civil society have already made the pertinent monitoring and relevant assessments. It should be pointed out that the Government and the Institutions of the Legislative and the Judiciary have taken certain specific measures to prevent and fight corruption. Any positive assessment that may be made on concrete initiatives taken by different State Institutions does not palliate the overall negative assessment that must be made of the results that have been achieved in the fight against corruption and particularly high-level corruption.

In the fight against corruption, prevention is a more efficient and cheaper policy in the medium and long term than spending decades investigating isolated instances

and cases. Although the Government of Bulgaria has designed and approved several anti-corruption strategies, for instance the *Strategy for Transparent Governance and for Prevention and Counteraction of Corruption for the Period 2006 – 2008*, it fails to apply and implement them properly and thus the real effects and results of such policies cannot be measured and evaluated.

In effect, the Inspectorates to the different Ministries, under the coordination of the Chief Inspectorate to the Council of Ministers, designated to implement this strategy, despite having undertaken some general actions, particularly targeting training to improve the capacity of the human resources, have not taken any credible measure or action to effectively address the prevention of corruption or to solve the problem of high-level corruption within the State Administration.

In this sense, the fight against corruption and particularly high-level corruption should be one of the top priorities of the next Government. Present Inspectorate structures should be re-organized, eventually through the creation of a special Agency with full capacity to act both at the level of the prevention of corruption/high-level corruption and at the level of control, detection and follow-up. Effective mechanisms and procedures should be put in place in order to carry out on-the-spot inspections and planned inspections on all structures of the central, regional and local Administration. A real interaction between this Agency and the other specialized bodies of the Administration should be guaranteed, as well as with the Prosecutor's Office.

All the other State Institutions should apply and show the same zero-tolerance attitude and strategy towards corruption. All measures taken within the Judiciary – by the Supreme Judicial Council, its Inspectorate, the Prosecutor's Office – are positive, but they do not provide tangible and credible results which would reveal a true commitment or a positive trend in the effective fight against corruption.

In particular, the Inspectorate to the Supreme Judicial Council has carried out systematic inspections on the different judicial areas in Bulgaria and reporting on irregularities, corruption cases and legal mistakes or delays is certainly useful, and an example of good practices and transparency. Nevertheless, as the system is

conceived and articulated, it falls to the Supreme Judicial Council to apply the necessary disciplinary measures on any irregularities detected and the Prosecutor's Office has the competence to bring the relevant criminal actions in order to achieve, as a case may be, a judicial decision of punishment. The body which exhibits unequivocal commitment in the pursuance of its mission – carry out inspections and detect irregularities or illegal obstructions – is precisely the one that is not empowered to impose sanctions which, again, does not contribute to a credible fight against corruption.

Moreover, other Institutions such as the Ombudsman should have already shown the role they can play as an attentive observer and independent controller of breaches of the civil rights of citizens perpetrated by the Administration or by any other public authority. Regrettably, the Ombudsman plays a minor role in Bulgaria and his role and intervention should be reinforced as quickly as possible.

It is true that corruption is a wider problem that is not limited to the public sphere. The civil society organisations have a very important role to play in denouncing such practices – they have exercised their civil responsibility in a very active and positive way – but should not limit their analysis to the public authorities.

The next legislative period, with a new Assembly and a new Government, will be a golden opportunity to establish a national agreement on the fight against corruption involving all the public Institutions, the main representatives of the civil society including the media and the political parties with parliamentary representation. This national agreement should envision the adoption, by general consensus, of concrete measures to address the problem and allocate the necessary resources to implement them.

There is more than a general feeling of “unpunishment” of corruption practices at present. Concrete legal decisions could have been taken in some of the high-profile corruption cases that have been identified on a number of occasions by the European Commission and the civil society if only the public authorities had shown the necessary political will to solve them. The legal obstacles that have been raised in the framework of these high-profile corruption cases would prove to be

artificial and would by no means remain sustainable if the Judiciary were decisively committed to the effective fight to corruption, even within the framework of the present penal code and penal procedure code and having to base its actions on norms and procedures whose total inefficiency is certainly a barrier to the fight against corruption.

Moreover, the Government should also demonstrate that whenever the law permits, the pertinent actions aimed at protecting the financial interests, both national and EU, are taken without hesitation.

Additionally, certain visible initiatives should be promoted to ensure the full transparency and accountability of public life. All high-ranking officials and politicians should voluntarily make public, beyond any legal requirement, their assets, economic interests and family relations, amongst others, allowing a careful and special scrutiny by the competent authorities within the limits of the protection of personal data. Public campaigns aimed at raising citizens' awareness of the problem should also be implemented.

5. Fight against organised crime

The assessment made on corruption is valid, *mutatis mutandis*, for the fight against organized crime. Nevertheless, some important and right steps have been taken. Organized crime is not limited to the national territory and the fight against it requires effective and loyal cooperation with the neighbouring countries' authorities as well as with transnational and international bodies and Institutions. In this sense, the Bulgarian authorities responsible for the fight against organised crime have been actively promoting cooperation agreements with the authorities of neighbouring countries and actively participate in the Europol framework.

Moreover, the creation of joint investigation teams polarising all the relevant bodies and forces in this area proves that Bulgaria is taking the right measures to deal with and tackle a problem that requires solid and effective investigation and operational knowledge and capacity, as well as careful planning and real team-work.

As was already said, it requires actions on two different levels: the operational level and the intelligence level. In both areas, the Bulgarian authorities are on the right track. First of all, operational teams have been set up, bringing together members of the investigation police, National Revenue Agency, National Customs Agency, the Financial Inspection Agency, State Agency for National Security, amongst others. In parallel, stable joint-investigation teams have been set up within the Prosecutor's Office specialized in the fight against organized crime.

The results will depend largely on building up the necessary capacity of both the operational and investigation teams, on their stability and the human and technical resources available. In the first case, external technical assistance from other Member States is largely required and should be provided, as was foreseen by the Government and has occurred, although not in the most best effective conditions and best framework. The longstanding experience of other Member States in this area would certainly contribute to accelerating the results expected by building up the capacity and confidence of these teams, ensuring proper team-work and enhancing the efficiency of the strategies that are to be deployed.

As was pointed out before, as the reinforcement of the investigation capacity in the pre-trial phase will certainly produce tangible results, these results may be jeopardized if the Judiciary – basically the court magistrates and the prosecutors – do not have and implement a clear and committed strategy in the fight against organised crime.

6. Transparency and accountability

Transparency and accountability are two of the main pillars of modern democracy and should therefore impregnate the political and social life in Bulgaria. These are basic principles that should be legally guaranteed and practiced from the outset by all public Institutions, at all levels.

The cultural heritage of the past, particularly during the decades when a single political party and structure prevailed, may explain the reluctance that still exists, in

the public sphere, to act transparently and be fully accountable for its acts. But this reluctance can certainly not be accepted as an excuse for not adopting regulations which, in themselves, leave no option but to strictly comply with the requirements established in the legal instruments to this end.

In this sense, a positive general trend may be observed in the public authorities towards the formal application of these two principles to their general activities. Nevertheless, it may also be seen that compliance with general transparency and accountability requirements – through the obligation of regular reporting and transparent decision-making – has been, in some cases jeopardized either by failing to extend these obligations to the core activities or decisions or by bad practices, namely the publication of clearly insufficient data, the extemporary presentation of reports or even the total absence thereof.

As regards the transparency and accountability of the decision-making of legislative acts, the forthcoming Statutory Instruments Act is to be welcomed, aimed at improving the efficiency, transparency and accountability of the legislative process and the quality and rationality of legal instruments. Once again, the results of this reform are postponed, in an initial stage, until the formal enactment of the Act and ultimately until it is fully taken on board and enforced by all the structures that it affects.

Generally speaking, the Government acts according to the normal and democratic standards of transparency and accountability. It is certain that the results could be improved, but this same reasoning could be applied to accountability outcomes in all EU countries. The Government is accountable to the National Assembly, according to various procedures and in different subjects and the Ministries and other State Institutions or bodies are obliged to report to several different parliamentary Commissions. Specific enquiries may be carried out and ad hoc Commissions can be set up to address different issues. It therefore falls to the National Assembly and its members to improve and enhance democratic control over the Government's activities in order to improve its transparency and accountability.

As was said before, on particular issues such as the fight against corruption, the National Assembly is expected to play a major role in promoting and achieving a national consensus on the adoption of a common strategy for both preventing and fighting corruption.

Regarding the Judiciary, some measures have been taken to render it more transparent and accountable, not always with the results that might be expected. As has already been pointed out, the system of appointment of the members of the Judiciary to the career and the decisions concerning its development are not taken with full transparency. These decisions – which are decisive for the system to work properly – are taken by secret vote and should be taken with total transparency.

The Institutions of the Judiciary elaborate reports concerning their activities but in general the data provided are mostly quantitative data and thus the quality of the decisions cannot be assessed.

7. Law on Conflict of Interests

The Law on Conflict of Interests, recently adopted, after it was changed when already approved by the National Assembly, merits a separate analysis, as its implementation will certainly be one of the main indicators of the assessment of Bulgaria's respect for Rule of Law and the fight against corruption.

As said, the process followed to its final adoption was not without controversy. The first Act was adopted by the National Assembly on 16th October 2008 and enacted on 31st October¹⁵. It should have come into force on 1st January 2009. Nevertheless, after some debate, mainly amongst the political forces within the National Assembly, the law, some of its aspects – mainly the scope of the declaration to be submitted by the persons occupying public positions – were questioned to such an extent that they were regarded as being impossible to implement effectively.

¹⁵ Law on the Prevention and Disclosure of Conflict of Interests – State Gazette 94, 31.10.09.

After re-opening the debate, the political groups representing the government coalition and the opposition met in a sub-committee, equally represented, reviewed some of the provisions laid down in the first version. No unanimity was reached on the final text and it finally came into force on 31st March 2009¹⁶.

The Law requires that people holding high-level political posts present an annual declaration identifying existing and, to some extent, potential conflicts of interests. As for mayors and municipal councillors, the law foresees a complex procedure, before the administrative courts, to determine whether or not there is a conflict of interest, which does not contribute to efficiency and may give rise to undesirable delays and other obstacles in the prompt adoption of a final decision. Moreover, the law, instead of listing the entities – non-profit legal entities, commercial companies and cooperatives, related persons, etc. as it did in its first version – in whose interests the persons holding a public office should not act or undertake some typified disposal acts, now foresees that these persons are only forbidden to undertake disposal acts in a private interest. The exact meaning of the term “private interest” may give rise to various interpretations which will not contribute, once again, to the legal certainty of the law and its efficient enforcement.¹⁷ Furthermore, after the amendments were introduced, the law no longer provides for removal from office when the person holding a public office presents a declaration but only when private interest exists, for a specific reason. Again, it all will depend on what a private interest is, with all the negative consequences this may have in terms of legal certainty.

In this case, as in many others that have been pointed out, the formal law, whilst not being the most efficient, could be positively assessed if its results did not depend on its implementation and practical application. Unfortunately, the assessment of the efficiency of laws is always postponed until the later stage of

¹⁶ State Gazette 10 of 6.02.2009 and State Gazette 26 of 7.04.09.

¹⁷ Article 9 of the first version of the law read as follows:

“ (1) A public office holder shall not have the right to dispose of any state or public property, to spend any on-budget or off-budget resources, including resources from funds belonging to the European Union or made available by the European Union to the Bulgarian State, to issue any certificates, authorisations or licences, or to exercise control over any such activities in the interest of any not-for-profit legal entities, commercial corporations or co-operatives wherein the said office holder or any persons having close links therewith are members of a management or supervisory body, managing directors, partners, or holders of interests or shares.”

their enforcement. This may be the case in other legal systems and a normal condition to which legal acts in general are submitted. In the Bulgarian case, knowing that the majority of problems have appeared at the law enforcement stage, it would be wise that the legislator, when drafting legal acts, should seek the greatest possible legal certainty of its provisions.

The examination of possible conflicts of interests of persons holding a public office subject to the law will be carried out by the Chief Inspectorate to the Council of Ministers and the Inspectorates, the Supreme Judicial Council and the National Assembly.

Regarding the Supreme Judicial Council, it established the Conflict of Interest Ascertainment Commission, appointed its members and adopted the required mechanism for submission of declarations. At this stage all the prosecutors, magistrates and judges have presented their declarations according to the law. All the members of the Supreme Judicial Council have presented their declarations to the National Assembly as required. The Supreme Judicial Council has issued guidelines for judges, magistrates and prosecutors as well as recommendations concerning possible activities that would constitute a conflict of interest.

Within the National Assembly, the Standing Committee on State Administration Affairs is empowered by law to examine possible conflicts of interests of the highest authorities of the State. At this stage, all the persons holding the highest offices have presented their declaration barring one.

8. Schengen

Joining the Schengen area is one of the main national priorities of Bulgaria. March 2011 has been set as the date for the country's entry into the Schengen zone. However, the date could be further delayed since the new uniformed security database known as Schengen Information System II – which should have been in place in 2007 but is far behind schedule – has not yet been introduced.

In January 2009, Bulgaria completed the first stage of the inspections on the implementation of the criteria for entrance. Throughout 2009 there will be further checks on personal data protection, police-cooperation, visa issuance, external borders checks and the operability of the Schengen information system. So far, Bulgaria has made impressive progress in strengthening controls of external borders, which is one of the main prerequisites to join the Schengen area. More concretely, substantial results have been obtained in the fight against corruption at border stations, one of the specific measures contained in the benchmarks set out in the CVM.

II.2.2. Self-Monitoring and Self-Assessment of progress

After the European Commission delivered the 2nd Annual Report in July 2008, the Government has improved and reinforced the internal mechanisms for planning and monitoring the reforms that were already identified in the first Action Plan of 2007. The coordination of the Institutions within the State Administration involved in the implementation of the reforms was placed under the responsibility of the Ministry of European Affairs.

A Coordination Team formed by Government Ministers and Heads of Executive and Judicial departments was set up and was extended to the members of the Judiciary as well as representatives of the National Assembly. It regularly analyses and monitors progress made based on another two planning instruments: the “Mechanism for Strengthened Monitoring and Co-ordination of the implementation of the benchmarks” and the “Timetable of Urgent Measures and Actions to be adopted by the Government and the Judicial”.

These documental instruments, although important, are clearly insufficient as they are not accompanied by any in-depth analysis of the Government's on the pending reforms or by a comprehensive self-assessment of the progress achieved. This a serious *lacuna* that the next Government should address and fill as a priority measure regarding the reform process of the Judiciary and respect for Rule of Law in Bulgaria in

order to ensure its effective monitoring, assessment and compliance with the general principles of transparency and accountability.

The Government should promote the establishment of an independent High-level Monitoring and Assessment Working group, which should feature the participation of representatives from all the Institutions and bodies involved in the reform process. The group should prepare the overall strategy of the reform process, draw up the necessary indicators to measure progress and shortcomings and issue recommendations to the Institutions responsible for the reforms. The group should hold regular expert meetings with representatives of the organizations of the civil society that specialise in on the issues covered by the reforms. Annually, it should present a Public Report to the National Assembly.

In parallel, the Government should reinforce, under the authority and responsibility of a Secretary of State for EU – as explained in chapter IV.2. –, the internal structures that are involved in the implementation of the reforms, those responsible for law enforcement and which participate in the preparation of the Reports to be presented to the European Commission under the CVM. A Directorate, provided with the necessary human and technical means, should be created within the Ministry of Foreign Affairs under the direct responsibility of the Secretary of State for EU, with the functions of ensuring the necessary interaction and coordination between all the relevant government structures and bodies in order to gather and assess, on a permanent and regular basis, the necessary and relevant information to be provided under the CVM and elaborate the required Reports properly and efficiently. This Directorate could provide technical and administrative support to the High-level Monitoring and Assessment Group. In parallel, it could serve as a contact point of the Government with the European Commission, provide all the required information when requested and deliver technical support in the preparation and development of inspections under the CVM.

Through these coordination, monitoring and assessment instruments the Government would be able to plan and at the same time implement a more focused, more value-added, more efficient and dynamic strategy regarding ongoing and pending reforms. The real coordination of all the structures would allow the Government to have a more

accurate overview of the real state of the reform process, establish and follow objective criteria measuring the progress, elaborate target-oriented actions to implement these reforms – also of a preventive nature – prepare value-added internal self-assessment Reports and present them to the European Commission.

Moreover, the creation of the High-level Monitoring and Assessment Group would certainly contribute to rendering the reforms more transparent, more accessible to the general public and would ensure the accountability of all the Institutions.

It would also contribute to establishing a relationship of trust both with the European Commission and the Member States, the basis that is necessary for enhancing cooperation with both. This cooperation is necessary, as has been pointed out on previous occasions, as the Bulgarian Institutions lack, in certain areas and issues, the necessary technical knowledge and capacity to apply best practices in order to fully implement Rule of law. This cooperation is needed and should be provided. If the Bulgarian authorities show their full commitment to carrying out the reforms in a transparent and accountable way, there are no plausible reasons why this enhanced and focused cooperation should not be provided as required.

II.2.3. Proposals: respect of Rule of Law, still a missing answer.

Without prejudice to the final conclusions that will be drawn at the end of this Report, from the perspective of the performance of the Judiciary and the Executive, the following further reforms and improvements are of crucial importance in order to guarantee both Rule of Law and an effective fight against corruption and organised crime:

- The relevant Bulgarian Judicial authorities – particularly the Supreme Judicial Council – should take systematic and credible actions in all the cases identified as being of high public interest. Amongst those cases, the Borilski, the Nikolov/Stoikov and the Vassilev Georgiev cases should be seriously revised and effective actions taken – within the ongoing criminal procedure – in order to have a quick and credible final judicial decision. As substantial evidence has already been provided –

throughout these proceedings– of the culpability of the accused, a possible acquittal would be regarded as a very negative sign for the credibility of the Bulgarian Judiciary.

- In order to prevent that the excessive formalism of the present Penal Procedure Code – an argument put forward systematically by certain representatives of both the Executive and the Judiciary – and which continues to be the main obstacle for the rapid development of the criminal procedure, it is of paramount importance that this decisive piece of legislation be amended without delay in the only possible way: by eliminating procedural elements and principles which are, at this moment in time, the main reason for the unjustified delays detected in criminal cases of high public interest.
- At the same time, the Ministry of Justice should seek maximum consensus on the *Concept Paper for the new Criminal Code and a Strategy* to pursue the reform of the Judiciary for the 2008-2013 period.
- There should be an improvement of the functioning and the coordination of all the bodies and instances in charge of the Judiciary:
 - Establish the necessary mechanisms to ensure the democratic accountability of SANS.
 - Adoption of the necessary internal Regulation of the Supreme Judicial Council that assures objectivity and professionalism as the relevant criteria for appointments and promotion of prosecutors, magistrates and Heads of Court Administration.
 - Effective mobility of prosecutors, magistrates and Heads of Court Administration as a preventive measure for combating corruption and avoiding conflicts of interests.
 - Effective implementation of the Unified Information System Combating Crime.
 - Ensure that the Inspectorate is given the means to develop its functions properly and as efficiently as possible (amendment of the Judicial Act concerning the limitation of administrative staff).

- Improve interaction and cooperation procedures between the Supreme Judicial Council and the Inspectorate in disciplinary actions, procedural mistakes, interpretative judgements, decisions or law where conflicting jurisprudence was identified and the appointment of all Heads of Administration of Judicial bodies.
 - Ensure that the Supreme Judicial Council takes the necessary corrective measures following the results of the work of the Inspectorate (discipline, case delays, procedural mistakes).
 - Ensure that inefficiencies identified in the pre-trial phase are addressed and resolved.
 - Establish working cooperation procedures between the Prosecutor's Office and the Inspectorate and ensure that the Prosecutors take the necessary corrective actions following the work of the Inspectorate and that feed-back is given to the Inspectorate.
- There should be a reform of the Institutions which are active before and during the pre-trial phase and an improvement of the interaction between the different Investigating Authorities:
 - Monitoring of the reform of the Ministry of the Interior: setting up of working groups to make objective assessment, particularly on the impact of the extension of powers of investigating police officers.
 - Monitoring and assessment of the results achieved by the permanent and *ad hoc* Joint Investigation Teams.
 - Effective action taken by the Commission of the Supreme Judicial Council monitoring the judicial cases on high-level public interest.
- Training programmes should be increased, focused, results-oriented and, in some cases compulsory in order to strengthen the capacity and the professionalism of the Judiciary:
 - Specific training programmes for the Judiciary and the establishment of an ERASMUS-like program to increase the interaction of Bulgarian magistrates with their counterparts in other Member States.

- Training programmes focused on the new legislation addressed to the main actors and stakeholders.
 - Specific training programmes addressed to the actors of the pre-trial phase (Ministry of the Interior, Prosecutors, SANS, Magistrates).
 - Specific training programmes addressed to all the State bodies that assist the investigating bodies (National Revenue Agency, Customs, Fiscal Police, Borders Police, Public Financial Inspection Agency, Ministry of Finance, Bulgarian National Bank, amongst others)
 - Training programmes focused on the enhancement of the management capacity of the Judiciary (Supreme Judicial Council, Inspectorate, Prosecutors, Ministry of the Interior, of Justice, Administrative Heads...)
 - Specific training programmes on general EU law (Legal Services of the central and local Public Administration) as well as on public procurement and conflict of interests.
- Introduce the necessary self-monitoring and self-assessment instruments that are crucial for ensuring proper monitoring and assessment of the reforms, a better coordination of structures, based on the definition of measurable progress criteria.
 - Create an independent High-level Monitoring and Assessment Group with the participation of all the representatives of the Institutions involved in the reform process in order to guarantee proper coordination, monitoring and assessment of progress. Ensure the necessary accountability and transparency of the process by reporting publicly to Parliament.
 - Reinforce the coordination of the internal structures of the Government involved in the implementation of policies and actions under the scope of the CVM through the creation of a new Directorate, within the Ministry of Foreign Affairs and under the responsibility of the Secretary of State for the EU. The Directorate should be responsible for the gathering, analysis and assessment of the information concerning the implementation of the necessary reforms by the different Ministries and bodies of the State Administration, as well as of the Judiciary, and produce a comprehensive Report to be transmitted to the European Commission.

II.3. THE WEAKNESS OF THE BULGARIAN ADMINISTRATION: Overcoming the lack of administrative capacity

II.3.1. Current situation: The lack of administrative capacity

When assessing the role and structure of the State Administration in Bulgaria, it is important to bear in mind that this particular Administration presents a number of specificities that are related to the particular transition process undergone by the Eastern European countries. One should not forget, when assessing the Bulgarian State Administration, that these were once administrations serving a regime based on a single party structure, in an environment without freedom or free competition, inserted in an economy owned and controlled by the State upon planning instruments obeying strict control mechanisms, where decisions were taken at the highest level throughout a highly hierarchised and bureaucratic channel of command.

Bulgaria started its transition process without introducing drastic changes into its State Administration or the civil service, maintaining the same incentive systems, with low pay and without effectively combating the old corruption practices inherited from the past. This same administration suddenly had to adapt to a totally new political and economic environment without being prepared, without adequate knowledge and even less the capacity to provide the services the Governments and society suddenly required.

EU accession was, in this scenario, a major challenge. The requirements of EU accession, along with the social and economic reforms it implied and a demanding society, obliged the country's Government to develop programs aimed at enhancing service delivery, creating a depoliticized, professional and merit-oriented civil service, improving policymaking procedures, promoting transparency, mainly through the use of e-governance initiatives, and building public and private sector confidence in its State Administration.

For historic and cultural reasons, Bulgarians, nevertheless, tend not to have confidence in the State Administration. They usually equate it with inefficiency, bureaucracy, opacity, corruption and other issues that do not help to curb the negative image it transmits to the citizenship.

After successive reforms, not always comprehensive or effective, the State Administration still lacks the capacity to give an effective answer to social demand and shows a lack of preparation to manage EU issues properly.

Overall, the strengthening of administrative capacity building in Bulgaria is a key factor in ensuring the success of the structural reforms undertaken in the country. The reform of the public administration needs to be consolidated, as a pillar for broader reforms of the areas involved, namely the Judiciary and Home Affairs and the management of EU funds, among others.

By way of clarification, it should be stressed that State Administration is taken to mean not only the central but also the regional and the local ones. The analysis will, nevertheless, concentrate mainly on the central structures of the State Administrations.

II.3.2. Assessment: The process of modernisation of the State Administration

The reform of public administration in former centralized countries, characterized by party-dominated bureaucracies, has involved creating new structures, instead of reforming old institutions, and replacing a culture of administrative controls with one that focuses on the delivery of public services. However, expectations on the implementation of such reforms are greater than the results achieved; therefore, much remains to be done to succeed in providing modern, efficient and transparent services to the public.

Despite Bulgaria's willingness to change the State Administration, reforms were mostly motivated by the wish and need to meet EU requirements and the prospect of accession. Actually, the pressure for reform was mainly channelled into legal measures with some institutional evolution, consisting of enthusiastic reforms on paper that have

not yet produced tangible results for the citizens or improved the statute of the civil servant. In addition, after the country's membership to the Union there was a certain risk that EU post-accession could weaken the commitment to continue reforming, which could contribute to making the overall system less effective and less stable at a time when the reforms had not been fully internalised.

Bulgaria's Government challenge for 2007-2013 is to support the successful development and implementation of projects under the Operational Programs, aimed at achieving a well-functioning Bulgarian State Administration able to apply European practices and policies. In this regard, a key role is assigned to the Ministry of State Administration and Administrative Reform, which is in charge of the "Administrative Capacity" Operational program, supporting the establishment of a more modern, effective and transparent administration.

In addition, the most common actions towards the adoption of good governance practices and principles are the reform of the civil service, the improvement of policymaking procedures, the promotion of transparency including e-governance initiatives, and decentralisation.

The *civil service reform* focuses on both the recruitment and the training of the personnel, as well as the description of their tasks, including rational planning, purposeful training, a recruitment based on objectivity and transparency and a system of career opportunities. Thus, Bulgaria adopted a new Civil Servant Act in the light of its accession to the EU in 1999, which was subsequently amended in order to further modernise its civil service. All these strategies are seen as a modernisation of the still-politicised civil service where corrupt practices are facilitated and recruitment procedures are usually opaque and combined with political patronage.

In addition, one of the amendments made to the Public Procurement Act in 2008 includes more leverage for additional bonus payments for officials involved in procurement and limited public access to information due to data protection. Despite the objectives of the Government to avoid corruption, this measure may cause an adverse effect by creating frustration among Bulgarian officials, as it could result in a two-tiered civil service structure.

Turning to *policy making procedures*, it can be argued that progress in this field is still limited in Bulgaria, which still faces problems of coordination between the administrations. Nevertheless, the country has already developed a new set of rules that include impact assessments, consultation procedures, evaluation and monitoring, aimed at improving its policy-making and co-ordination processes. In this context, as was already mentioned earlier on, the new Draft Statutory Instruments Act, which is aimed at improving the efficiency, the transparency and accountability of the legislative process and the quality and rationality of legal instruments, is to be welcomed if properly applied and followed.

Regarding *transparency and E-governance*, Bulgaria has applied extensive strategies and has developed legislation on freedom of information as well as anti-corruption strategies. However, like most of the former communist countries, Bulgaria is subject to what is often branded as the Soviet legacy of secrecy and confidentiality, which causes the citizen to become increasingly suspicious of public authorities and their use of power. Moreover, secrecy favours corruption.

Finally, with and regard to *decentralisation*, Bulgaria's aim is to strengthen local and regional authorities in order to bring democratic and effective governance closer to the citizens. However, as seen with respect to the management of EU funds, decentralisation requires guaranteeing the sufficient administrative capacity at the regional and local levels of the Bulgarian administration as well as the allocation of adequate human and technical means and resources and the implementation of comprehensive and effective coordination mechanisms.

Furthermore, Bulgaria has also taken part in the Twinning Programme¹⁸ since 1998 and has benefited from a large number of cooperation projects with other administrations from European Member States. However, the outcomes of these projects have not always been satisfactory and useful for the Bulgarian administration. Therefore, the appropriateness of the Twinning Programmes to address underlying

¹⁸ The Twinning programme is one of the principal tools of Technical Assistance accession assistance, launched in May 1998. Twinning aims to help beneficiary countries in the development of modern and efficient administrations in accordance with the *acquis communautaire*, by providing the framework for administrations and semi-public organizations in the beneficiary countries to work with their counterparts in Member States.

structural problems in the Bulgarian administration is questioned, since those projects are highly dependent on the professional and national background of experts and the willingness of host administrations to co-operate and ensure the follow-up.

In this context, the lack of administrative capacity is one of the reasons, not the main one, but certainly an important one, for both the failure to ensure adequate progress under the CVM and the failure to manage, according to EU laws and Regulations, the EU funds. And to improve the capacity to introduce, implement and coordinate actions to comply with the requirements of the EU, it will not be possible, as these requirements are short-term ones, to enhance this capacity without the active cooperation of Member States and the European Commission. The reasons and modus operandi of this cooperation will be analyzed at a later point.

Another aspect that has a negative impact on the performance of the State Administration and hinders the results that are expected is the way the latest Governments have been setting up their internal organization and structuring. Besides, as happens at present, coalition Governments tend to be structured according to quotas that reflect and express the political weight of each party within the coalition. This circumstance makes the organization of an efficient political structure even more difficult and complex, with a negative impact on the performance of the State Administration.

The figure of the Deputy Ministers introduces a distortion in the political organization of the Government, aggravated by the fact that they are not part of the political structure, but rather of the administrative one. In this sense, all political power is concentrated in the Ministries sphere to the detriment of the necessary efficiency in decision-making and the implementation of Government policies. Moreover, as the present Government is structured, Deputy Ministers tend not to have the same political affiliation as the Ministers, in order to preserve the balance of power amongst the coalition parties, which does not contribute to enhancing trust and ensuring loyal cooperation at the highest level. Ministers are not used to delegating, the structures tend not to take decisions, the delicate decisions are left to the Prime Minister by the Ministers – replicating the system they practice with their subordinates – overburdening the highest political level with decisions that could be taken by the higher levels of the

Administration, all to the detriment of efficiency, which eventually has a negative impact on the Government's political performance.

These negative aspects could be easily overcome by adopting another model of political organization of the Government, based on the delegation of powers, throughout the different levels of the Administration, starting with the Prime Minister, the Deputy Prime Ministers, if necessary, the Ministers, the Secretaries of State and the Under-Secretary of State. Besides the Prime Minister, the Deputy Prime Ministers and the Ministers, whose competences would be defined by law, all the other political structures would act on the basis of the delegation of powers given directly by the Prime Minister or by the Ministers.

Moreover, the Prime Minister should appoint several Secretaries of State in charge of the issues the Prime Minister would like to keep under his political guidance. Furthermore, as the Council of Ministers' Administration is the structure that has to give support both to the Council of Ministers and the Prime Minister, it would be wise to have one of these Secretaries of State be appointed Secretary of State of the Council of Ministers, ensuring the necessary political dimension of the Council of Ministers and coordinating its activities, at the political level, with the other Ministries¹⁹.

Overall, it is of first priority to proceed to a thorough reorganization of the State Administration, invest in the capacity building of civil servants, introducing sound accountability and transparent decisions, organize the Government in a way that decision-making is not concentrated at the highest level, empowering the structures to take decisions and assume responsibilities, introducing effective coordination mechanisms and finally adopting effective prevention strategies and actions against corruption.

¹⁹ At present, the Prime Minister is the head of the Council of Ministers' Administration, a heavy, overstaffed and most inefficiently structured Administration, thus not contributing to give the Council of Ministers neither the technical assistance it requires nor the political dimension it needs. The Prime Minister should not be directly responsible for it nor ensure its proper functioning. A Secretary of State and a thorough re-organization of the administrative structures of the Council of Ministers would certainly contribute to strengthen the political dimension and capacity of the Government.

II.3.3. Proposals: The priority reforms and immediate improvements

In the case of Bulgaria, despite the fact that the country has implemented a number of reforms aimed at improving the functioning of the public sector over the last few years, more actions are still needed concerning administration, namely:

- To successfully implement the "Administrative Capacity" operational program, because the successful absorption of the funds under the program will support the establishment of a more modern, effective and transparent administration;
- To improve cooperation among the Bulgarian Government and the European Member States, through the Partnership Initiative – as further explained in Chapter IV.1 -, in order to ensure a proper functioning of the technical assistance;
- To draw a clear distinction between civil servants and political appointees as well as to strengthen its training system by setting up a comprehensive horizontal training program;
- A shift towards the modernisation of policy-making procedures by transforming the functions of traditional public administration;
- An effective institutional framework, since the participation of citizens in governance and an effective system of internal and external control must be the way to achieve transparency and to apply the values of good governance;
- The reinforcement of the role of the Ombudsman, as a measure to guarantee transparency and protection of citizens against maladministration and corruption;
- The use of Information Technologies at all levels of public administration, and
- Allow sufficient time for local and regional authorities to achieve democratic and effective governance, provided that effective control and financial autonomy for local governments may drive some reforms, particularly in economic development programs and policies.

III. THE EUROPEAN UNION AND BULGARIA: A TEST FOR EUROPEAN SOLIDARITY

III.1. THE SUSPENSION OF EU FUNDS TO BULGARIA: An unprecedented decision

III.1.1. Current situation: The European Commission's decision of 23rd July 2008 concerning the suspension of EU funds

On 23rd July 2008, after months of warning and ever-increasing scrutiny by the European institutions, namely by the Commission's Anti-Fraud Office (OLAF), the European Commission published a special report on the management of the European funds.

The report certified a toughening in the EU's approach towards Bulgaria mainly due to its failure to control the process of absorbing EU funds and the ongoing difficulties of the Bulgarian authorities in fighting corruption in this area. Hence, this report of July 2008 remains the point of reference with regard to the main challenges ahead.

This report also warned Bulgaria of the permanent loss of EU funds by freezing them. Thus, the European Commission took the Decision to formalise the suspension of millions of Euros in aid money and to withdraw the accreditation of two government agencies in charge of managing these EU funds under the PHARE programme. According to the Commission, the frozen funds were roughly 250 million Euros from the EU PHARE and Transitional Facility programmes used to help new countries to develop their infrastructure and government institutions, another 115 million Euros from the ISPA programme earmarked for road infrastructure improvements, as well as 121 million Euros from the SAPARD agricultural support programme. The three of them

were allocated to Bulgaria before it became an EU member state, as pre-accession funds.

In November 2008, Bulgaria irrevocably lost 220 million Euros of European Union funds, assigned under the PHARE pre-accession aid programme, over its failure to tackle mismanagement and corruption. Thus, the European Commission decided not to restore the accreditation of the two Government agencies responsible for allocating funds to projects.

Other Member States, like Bulgaria, have received warnings, but never before had an EU country actually been stripped of funds for that reason, as it was a tool used for decades to help European candidate countries catch up with Western European living standards. Therefore, the suspension of funds to Bulgaria is unprecedented in EU history.

Like any decision of this magnitude, the implications of the Decision of 23rd July 2008, when Bulgaria had restricted access to EU funding, are of utmost significance, particularly in terms of the image created abroad as a consequence of this Decision.

Regarding the indirect impacts of such a decision, the impact on local public opinion should be noted, as well as on the perceptions of foreign investors. In the first case, several opinion polls conclude that the public perceived the Commission's pressure as an opportunity for much-needed and desired changes in the quality of governance in the country. In this regard, all governing parties, particularly the coalition government, seemed to lose further support in the polls, seeing their political stock fall. In the second case, the decision to cancel EU funds to Bulgaria, together with the deepening crisis in the world economy and its rising global economic uncertainty, could lead investors to reassess Bulgaria's attractiveness as an investment destination. Finally, Bulgaria also faces the risk of the postponement of its entry into the Schengen area, since the evaluation of the compliance of Bulgaria's Schengen plan is about to begin and corruption concerns would hinder the country in meeting the joint target date for Bulgaria and Romania of 2011.

The Decision of 23rd July would also have two major direct impacts, albeit difficult to measure. Firstly, Bulgaria's balance of payment position could deteriorate, since local government could be under pressure to continue to invest in projects without relying on co-financing from the EU. Thus, and despite the government's relatively strong fiscal position, growing spending demands might lead to measures undermining fiscal austerity and threatening economic stability being taken. Secondly, the restricted access of some companies to EU funds may hamper the ability of some enterprises to honour their debts to banks that pre-financed projects.

However, it should be kept in mind that the EC's decision concerning the suspension of EU funds was taken under two exceptional circumstances: the deepening crisis in the world banking systems and its effect on the world economy, as well as the political context in the country, since European Parliament elections and parliamentary elections are scheduled on 7th June and 5th July, 2009 respectively. Therefore, it becomes compulsory to describe these issues and their possible consequences.

Bulgaria faces the crisis in reasonably good economic health in comparison with neighbouring countries in order to deal with the challenges ahead, which allows the Bulgarian government to increase public spending within a certain margin in order to cope with the slowing economic trend. With regard to the direct impact of global financial turmoil in the country, it seems to be marginal, since Eastern European financial systems have not been directly exposed to "toxic" securities. On the contrary, the indirect effect may probably be significant by means of tighter financial conditions, the slowdown in global demand for exports and possible contagion. Furthermore, the predominance of foreign banks in the Eastern European banking sector and their probably cutback in external capital flow may probably lead many Eastern European countries to be fully dependent on financial assistance from international organizations.

Some of the challenges that Bulgaria and its economy face in 2009 are linked to the global financial and economic crisis. Firstly, global financial turmoil has heightened the risk of a sharp decline in foreign direct investment, making the country vulnerable to substantial downside risk to economic growth due to its dependency on external financing. Secondly, although the Bulgarian banking sector has not been exposed to serious difficulties so far, the expected lack of new financing in 2009 will force banks to

be more selective in providing credits, to the detriment of a whole range of sectors and Bulgarian entrepreneurs. Finally, weaker economic growth in the European Union may lead to a sharp fall in Bulgarian exports and a drop in tourism, which, together with a probable contraction of domestic demand growth, will likely contribute to slowing down growth.

Bulgaria's political scenario is surrounded by social riots and popular protests which are currently taking place in several Central and Eastern European countries because of the consequences of the financial and economic turmoil. Thus, the economic crisis is causing the downfall of some Eastern countries, which along with budget deficits and heavy foreign debts leave no room for their governments, already quite politically unstable.

The most recent surveys indicate that approximately only 50% of Bulgarians will show up at polls and that there is unlikely to be a parliamentary majority at the parliamentary elections, creating uncertainty and political instability in the country. Being difficult to create a new government after July elections, a coalition will be the most likely solution, if not other provisional scenarios, or eventually new elections.

In conclusion, political instability together with uncertainty, compounding the consequences of the global economic and financial crisis, will probably condition relations between the European Union and Bulgaria even further.

III.2. THE MISMANAGEMENT OF EU FUNDS: To preserve European solidarity

III.2.1. Current situation: Bulgaria's experience with EU funds

In order to help the candidate countries duly prepare for membership, the EU assists them by providing financial assistance through pre-accession financial instruments. In

the case of Bulgaria, the EU applied three pre-accession financing instruments through which it targets various needs of the country with respect to enhancing their membership potential.

Thus, in the early years Bulgaria benefited from the PHARE programme, aimed at improving general economic and democratic reforms, infrastructure projects, regional development and agriculture restructuring. In 2000 PHARE became an accession-oriented financial instrument, and two more financial programmes were introduced in the country so as to prepare EU membership, namely ISPA and SAPARD. The SAPARD program is the only one which emulates the funding programmes available to Member States and it aims to support agricultural producers. On the other hand, ISPA and PHARE are a hybrid between financial instruments for Member States and programmes for third countries. ISPA targets infrastructure and environmental protections, while the PHARE program is aimed at improving administrative capacity, cross-border cooperation and regulatory measures.

The first projects financed by pre-accession instruments commenced after the first opinion by the European Commission on Bulgaria's application for membership in 1997, so the country has already had over 10 years of experience with EU financing. However, concerns about Bulgaria's absorption of EU pre-accession and structural funds have heightened over the past period. Irregularities and corruption under some pre-accession funds were detected and are still under investigation with the help of OLAF.

It was not until July 2008 when the European Commission published a report on the management of European funds which analyses the management of resources from pre-accession instruments, highlighting many problems in the process. The main conclusion of the Report was that Bulgaria was experiencing difficulties in many of these programs, and therefore it needs not only to enhance its administrative capacity in the management of EU funds substantially – by guaranteeing stability, training and technical expertise of staff –, but also eliminating conflicts of interest in the overall management of funds and improving the supervision and transparency of public procurement procedures, at central, regional and local level in strict conformity with the applicable EU rules. The Commission's recommendations focus on the need to

demonstrate sound fiscal management structures and to drastically curb opportunities for high-level corruption.

As a result, in November 2008 the European Commission took the decision of depriving Bulgaria of 220 million Euros of frozen funds, considering that the country was too corrupt and prone to fraud to receive the subsidies.

III.2.2. Assessment: Measures approved and implemented by the Bulgarian authorities

Towards the final clearance of the EU funds

As regards the implementation of the PHARE Programme in Bulgaria, specific problems in the programme's design, namely the time-scale and the resources available, limited its effectiveness. While PHARE's contribution to familiarising the candidate states with EU legislation and dialogue with EU institutions was undeniable, PHARE's success in building institutions was not always accompanied by an improvement of effective capabilities.

In addition, serious weaknesses in the management and control systems of PHARE Programme were detected, revealing cases of improper spending of funds. The agencies in charge of managing the funds have not been able to demonstrate adequate capacity in the process, clearly failing to state corrective actions. Thus, the Commission's Decision of July 2008 entailed the withdrawal of the right of the two Implementing Agencies to manage on a decentralized basis the programmes providing assistance to Bulgaria under PHARE.

Following this Decision, a detailed action plan was elaborated in order to implement the EC's recommendations, and a closed monitoring of its implementation was ensured at the level of the Council of Ministers. Priority was given to sensitive topics such as transparency of public procurement, the reinforcement of administrative capacity, improvement in the process of treatment of irregularities and regulation of non-

admission of contractors, involved in cases of irregularities on contracts co-financed with EU funds. Nevertheless, in November 2008 the European Commission reconfirmed its decision of withdrawing the accreditation of the two implementing agencies.

A number of factors prevented the SAPARD Programme from becoming a stronger catalytic plan. Many project files were turned down because they were incomplete or technical omissions were detected. Moreover, the time available to applicants for corrections before resubmission was also insufficient. One major difficulty was that small farms and enterprises did not have own financial resources to co-fund projects. Another problem was created because the Bulgarian administration applied, in some cases, stricter rules than those required by the SAPARD Programme, increasing the administrative burden on applicants.

In June 2008, the European Commission identified several weaknesses mostly concerning administrative controls, internal audit function and weaknesses with regard to human resources. As a result of these deficiencies, the payments for four SAPARD Programme measures were suspended. Moreover, the Commission's report of July 2008 pointed to three sets of problems concerning SAPARD. The first relates to projects which are currently subject to investigations by the European Anti-Fraud Office because of suspected corruption and improper spending. The second set of irregularities concerns the activities of the former executive director of the SAPARD Agency. Finally, the audit revealed serious irregularities in the spending of funds. Payments on this program were suspended until Bulgaria proves that the irregularities revealed have been remedied.

The ISPA instrument has been the most challenging pre-accession programme for Bulgarian national authorities due to the large scale of the eligible projects and the Bulgarian administration's lack of the necessary expertise, particularly in the transport sector. Therefore, since 2000 only five projects have been funded under the ISPA transport budget for Bulgaria and another fourteen projects were implemented in the environment sector.

Bulgaria set up the necessary structures and procedures for managing ISPA, although underlying problems, such as weak inter-ministerial coordination and high personnel turnover, challenged its ability to function according to EU rules. Furthermore, the time available to implement ISPA was too short for any significant change to occur. Finally, insufficient management capacity in the Delegation of the Commission, due to an understaffed Delegation, caused particular delays and reduced the effectiveness of ISPA. In 2003 the Commission services in Bulgaria did not employ an ISPA finance officer but 'shared' a finance officer with the Delegation in Romania who travelled to Sofia once a month to give his opinion on all pending documents.

Regarding the transport sector, in early 2008, conflicts of interests were suspected in the National Road Infrastructure Fund, which led to the freezing of funds from ISPA. In July 2008, the European Commission suspended the interim payments of two ISPA road projects. In order to undertake corrective measures and to restore the confidence of the Commission in the management and control systems, a comprehensive Action plan was approved.

As a result of the introduction and implementation of the correct management and control mechanisms, on 12th May the European Commission decided to unfreeze 115 million Euros under the ISPA Funds for the *Lyulin Motorway* construction projects and technical assistance for the preparation of road projects in the framework of the Trans-European Network corridors, under the ISPA program.

The Commission has still to decide on the unfreezing of the SAPARD funds – 105 million Euros. At this stage, the corrective measures concerning the control of the irregularities, the selection of projects, the structural changes in the competent agencies, amongst others, have been taken by the Government and the Commission's decision should be forthcoming at the end of June.

The task of the three pre-accession funds is not only to provide financial assistance but also serve as a bridge towards the Structural and Cohesion Funds, managed under the Operational Programs and implemented during the 2007-2013 period, as well as to build structures and capacities to design, implement and monitor projects. Thus, the drafting of PHARE, SAPARD and ISPA strategies represents an important learning-by-

doing exercise, since similar strategies govern the allocation of funds and selection of projects under the later Funds. In addition, by comparing the experience of EU Member States, Bulgaria may learn lessons and best practices on the national capacity for using the Structural and Cohesion funds. Thus, the partnership principle becomes a fundamental principle for the proper functioning and an efficient absorption of the funds.

Concerning the management of the Structural and Cohesion fund, the Government introduced, in parallel to the decisions taken in the framework of the pre-accession funds, the set of mechanisms that are necessary to manage the funds according to the EU Regulations.

Firstly, it launched, in July 2008, the Unified Management Information System (UMIS), providing the opportunity for the registration of candidate data, beneficiaries, project proposals and their evaluation under the Operational Programmes. Secondly, the “Audit of EU Funds” Directorate in the Ministry of Finance was transformed into the Executive Agency “Audit of EU Funds” to the Minister of Finance in December 2008, aimed at strengthening control on legality and regularity of EU Funds expenditure.

In spite of these last two measures, the Bulgarian authorities are still awaiting clearance from the European Commission – the compliance assessment – for the definitive launching of the Operational Programmes.

Structural changes

Under the direction of the Vice-Prime Minister, a substantial re-organization of the internal structures managing the funds has taken place throughout the last year until present. On the strength of all the legislative and administrative Acts that have been adopted and issued, it gives the impression that the process of regularization and adaptation to the EU requirements of managing the funds was carried out rather on an *ad-hoc reaction to findings* basis than following a comprehensive strategy and plan to introduce the best possible system of managing the EU funds. Instead of empowering the Vice-Prime Minister with mere coordination powers, the Government should have decided, in April 2008, when creating the figure of coordinator of the EU funds, to re-

centralize the system under the direction of a single political and administrative structure, with full powers to manage the EU funds.

In effect, the scale, nature and seriousness of the irregularities identified, the weakness and shortcomings detected in the administrative structures, the need to restore the confidence of the European Institutions and of the citizenship in the capacity of the administration to manage the EU funds efficiently, as well as the need to introduce whole new ex-ante and ex-post control mechanisms advised to take more radical actions and change the principles on which the functioning of the system was based.

The regularization process was a painful learning-to-do-process for the Bulgarian authorities. From April 2008 until November 2008 the Government focused mainly on strengthening and improving communication and cooperation with the European Commission, particularly with the OLAF, and adopted wide-ranging measures regarding the procedures in place for prevention, detection of irregularities and fraud and the recovery of the latter.

Since the beginning of 2009, the Government has taken more radical decisions towards the recentralization of the system so as to achieve the rapid un-freezing of the blocked funds and pave the way for the successful clearance of the compliance assessment to be decided by the European Commission on the EU funds. The Vice-Prime Minister was empowered with partial decision-making competences in the management of the system, albeit not enough to implement an overall comprehensive, sound and efficient system.

The need to re-centralize the system of managing the funds or at least to increase its efficiency will certainly be one of the top priorities of the next Government.

Accompanying legislation

As far as legislative measures are concerned, it is important to point out the recent adoption of the Law on Prevention and Disclosure of Conflict of Interests and the amendments introduced to the Public Procurement Law and to the Law on Public Financial Inspection. These three legislative initiatives were crucial not only to restore

the internal and external credibility of the system but mainly to guarantee a sound, transparent and efficient management of the funds according to the highest EU standards of public interest.

As already stressed in the previous Chapter, the credibility of the system will largely depend on the implementation and enforcement of these important legal instruments.

The cooperation with the European Commission and Member States

On 23rd July 2008, Bulgaria was shaken by the seriousness and toughness of the assessment made by the European Commission on the real capacity, credibility and maturity of the Bulgarian authorities to manage the EU funds. The wording was very severe and left no possible margin as to the need to introduce radical changes in the way the EU funds were managed, controlled and used.

At this early stage, both the Bulgarian Government and the European Commission should have sealed a cooperation agreement aimed at enhancing the capacity of the Bulgarian Administration in managing the funds and assist systematically in the implementation of the necessary legislative and administrative measures in order to restore the levels of efficiency, soundness and credibility. In the interest of the European Union – particularly its financial interests – as well as Bulgaria.

Instead, communication and cooperation between the Bulgarian Government and the European Commission throughout the second half of 2008 was so poor as to leave the Bulgarian authorities in the vulnerable position of not having any assurance about the decision that would be taken, at the very last moment, by the European Commission on the restoring of the accreditation of the two Agencies managing the pre-accession funds.

This cooperation improved considerably as of the end of 2008 and the beginning of 2009, particularly at the highest level, which rendered it possible to re-launch and build a constructive and fruitful bilateral cooperation at a technical level.

Nevertheless, it did not prevent the European Parliament from adopting a Resolution on 23rd April 2009, in the framework of the discharge for implementation of the European Union general budget for the financial year 2007²⁰, where it expresses its discontentment on the way the European Commission carried out the monitoring and assessment not only in the framework of the CVM but particularly concerning the management of the EU funds by both Bulgaria and Romania.

Concretely, the Parliament expressed that *“the preparation of the absorption capacity of Romania and Bulgaria for funds in the Agricultural and Cohesion policy fields has not been treated by the Commission with the necessary seriousness, and that statements and actions of the Commission in this context were misleading, not only for Parliament but also for the Bulgarian and Romanian governments, and were one reason for the loss of funds by those Member States.”*

It continues by considering *“that the Commission should step up technical assistance to Member States to strengthen their administrative capacity; points out that sound management of European funds is an obligation and a duty for all Member States, and supports the temporary suspension of funding by the Commission in cases where a Member State's management systems fail to function as required.”*

The International Advisory Board shares the opinion expressed by the European Parliament and considers that a trustful and efficient cooperation mechanism providing focused technical assistance to the Bulgarian Administration by the European Commission's Services should be put in place aiming at enhancing the management capacity of the Bulgarian Administration and achieve the highest standards in the management of the EU funds as soon as possible. As the European Parliament points out, these actions have to be seen as necessary in order to protect the interests of the European taxpayers, who, by the way, are also Bulgarians. As for the European Court of Auditors, which examined the case of Bulgaria in its 2007 Annual Report, the former detected significant weaknesses in the management of EU funds, mainly at the level of

²⁰ European Parliament resolution of 23 April 2009 with observations forming an integral part of the Decisions on the discharge for implementation of the European Union general budget for the financial year 2007, Section III – Commission and executive agencies - (SEC(2008) 2359 – C6-0415/2008 – 2008/2186(DEC))

the national administration supervisory system, and called for urgent further steps to correct these shortcomings.

In this framework, the Bulgarian Government presented a proposal for the provision, by the European Commission, of focused technical assistance in some specific areas of the management of funds. Moreover, the proposal envisaged the cooperation of the European Commission in providing training assistance to Bulgarian officials in the framework of the compulsory training programs that were to be set up as well as accepting Bulgarian officials for short internships within its relevant EU funds management Services.

The proposal is currently under appraisal after having been welcomed, in the very first stage and put into quarantine, in a second moment, which proves that the necessary bilateral trust and confidence between the two Administrations is still far from reaching the level of maturity that management of EU funds requires in the interest of everyone.

Cooperation has been developed in certain areas. Regarding OLAF, it is important to stress that while its overall tone was quite critical throughout 2008, at the beginning of this year its approach towards the Bulgarian authorities reveals a predisposal to full cooperation.

As an example of cooperation between the Bulgarian authorities and the OLAF mention must be made of the establishment of the SAPARD Task Force, a specialized interagency working group in charge of dealing with irregularities in the implementation of the SAPARD Program. In addition, the functions of the Anti Fraud Coordination Structure (AFCOS) have been significantly strengthened. In order to improve the cooperation with OLAF, a mechanism for centralization of the information concerning the request for assistance or notification for inspection send by OLAF was also set up.

Finally, regarding the reporting to the European Commission and to the Anti-Fraud Coordination Structure, the Ministry of Finance submits a quarterly Report on the irregularities detected during the period, as well as the actions taken against these irregularities in preceding periods.

The Commission, as well as some Member States, assists Bulgaria in improving its actions in respect of the management of funds and contribute to institution and capacity building. Nevertheless, the insufficient human resources available in the area of the management of the European funds of the European Commission, together with the tight time frame for preparing implementation of Pre-Accession Funds led to difficulties with decentralization.

Hence, the Commission left the Bulgarian government to find a way to keep the sub-national and non-state actors involved. Despite the existing opportunities, Bulgarian sub-national representatives were unable to take full advantage of funding and training in the pre-accession period for two reasons: delay in adopting regional policy legislation and lack of technical and human resources at sub-national level. Furthermore, due to the inherited centralism and the intensity of the preparation for accession, the central authorities did not put enough effort into cooperating with the local and regional levels.

III.2.3. Proposals: Priority reforms and improvements in the short and medium-term

Institution-building and strengthening the capacities of national administrations were among the main objectives of the pre-accession instruments, yet progress has been weak and slow in the country. Bulgaria needs not only to improve substantially its administrative capacity but also to drastically curb opportunities for high-level corruption, so that the country can perform its tasks and absorb earmarked funds.

The following recommendations can be suggested to improve the control and management of EU funds:

- Recentralization of the management and control function of EU financial projects, while considerably reducing the number of implementing agencies, as well as the building of a common strategy regarding the decision-making process concerning the Managing Authorities and implementing Agencies;

- Improving effective results-oriented co-ordination between Ministries, between the various structures involved in the process of absorption of funds, at central, regional and local level;
- The proposal put forward by the Bulgarian Government, the Partnership Initiative, should be appraised without delay and a specific cooperation strategy should be developed based on the real needs of the Bulgarian Administration and the human resources and technical means available within the European Commission.

National experts could also be required from Member States Administrations in order to share the experience and understanding of the financial management of the funds as it was developed in some countries;

- Appropriate staffing of the Commission Delegation in Sofia so that the clumsiness of the prior approval system does not impinge on the efforts of the Bulgarian State Administration to absorb its share of EU funding;
- Strengthening control of the legality and regularity of expenditure by conducting planned and on-the-spot audits and across all funding programmes throughout the Agency Audit of EU Funds in the Ministry of Finance;
- Increasing the allocation of resources to the Bulgarian National Audit Office to perform more audits on the management of EU funds;
- Maintaining the cooperation with private professional audit firms in the certification of project accounts;
- Developing a credible and effective anti-corruption strategy placing the accent on preventive and pro-active awareness and informative actions aimed at enhancing the confidence of the technical staff of the Administration;
- Taking protective, corrective or disciplinary measures swiftly where necessary, and adopting common guidelines on irregularity notifications, informing the Commission accordingly;

- Cutting red tape for smaller-scale projects so that small organisations with limited human resources can also benefit from funding, particularly SMEs.
- Increasing the dialogue with the civil society to encourage change in underlying societal understandings and practices as a precondition of good implementation and proper functioning of the structures being established.

III.3. ECONOMIC AND SOCIAL REFORMS: Achieving European living standards

III.3.1. Diagnosis of the situation: Economic integration in the EU

In the coming years Bulgaria has to concentrate efforts on consolidating the elements that shape its legal and institutional framework in the European Union. However, the obligations of membership do not end with the completion of the above factors.

The European Union constitutes a reference framework at the economic and social level. The process of economic and monetary integration in the European Union, together with the consolidation of an internal market and a European competition policy, constitutes the backbone of the EU economy. At social level, the welfare state of a shared social system has become a European model.

In addition, and as was mentioned previously, after accession to the EU, Bulgaria is eligible to obtain substantial financial support from the Structural and Cohesion funds. The European regional development policy objective is to promote growth-enhancing conditions for the economy of the EU countries, in order to achieve greater cohesion within the European Union, and to focus on three objectives: convergence, competitiveness and cooperation.

Therefore, Bulgaria's objective must be to participate actively in the economic, monetary and social policies of the European Union. The need to comply with the requirements of membership should not confound either the Bulgarian Administration or the Bulgarian society, since the progress of the country requires tackling, with determination and with a realistic schedule, the reforms the economy needs in order to gain competitiveness and to progress in European welfare.

As a member of the EU, Bulgaria has access to a series of Operational Programmes aimed at simplifying the process of absorbing the EU funds in order to guarantee transparency and to strengthen the control. Thus, seven Operational Programmes have been developed, among which there is the OP 'Competitiveness', targeting the implementation of the European policy of economic and social cohesion and the improvement of competitiveness of the Bulgarian economy. The purpose of OP 'Competitiveness' is to develop a competitive and efficient production and business potential, to contribute to increasing the economic effect and to assist the necessary structural changes in economy with a view to achieving sustainable progress and feasible cohesion during the programme period.

Therefore, the full participation and involvement of Bulgaria in all European initiatives is a prerequisite for enjoying the full benefits of membership. Hereinafter, some of the economic and social challenges considered to be most important are introduced.

III.3.2. Assessment: Improving the living standards of the Bulgarian population

Bulgaria's strong elements towards economic growth have been its stable macroeconomic environment, its reliable banking system and its high foreign direct investment. However, most European countries, including Central and Eastern Europe on, present better standards of living in comparison with the Bulgarian performance²¹.

²¹ As a guide, since 1997 the steady GDP growth in Bulgaria has helped to close the gap with the average EU indicator of GDP per capita by 10%, in 2008 real GDP growth is estimated at 5.4%. Nevertheless, per capita GDP in Bulgaria still equals only about 37% of GDP per capita of the European Union as a whole.

Therefore, Bulgaria should face its main challenges, based on the continuation with structural reforms to enhance the economy's flexibility, by improving the investment climate, tackling critical infrastructure bottlenecks, enhancing SME competitiveness and productivity gains and implementing energy efficiency measures. Increased foreign competition and inefficient management and utilization of European funds may be possible threats for achieving Bulgaria's long-term goals in economic policy. In addition, the current global macroeconomic climate, the ongoing financial turbulence and weaker demand abroad will probably contribute to slowing output growth and living standards in Bulgaria.

It remains necessary to assess the main areas where considerable progress has been achieved and others where more efforts are still needed.

On one hand, the domains where the country has attained further and better development are the establishment of the Currency Board Arrangement, foreign direct investment (FDI) and privatization of the main economic sectors.

The Currency Board Arrangement, based on a prudent fiscal policy and a fixed exchange rate, brought Bulgaria to a stable macroeconomic environment, providing a solid foundation for stabilization and reform, despite the adverse external environment. Thus, the Arrangement pursues ERM II entry consistently. Thanks to the introduction of the Currency Board and despite the sharp appreciation of the real exchange rate of the lev in 2008, cost competitiveness²² has been mostly preserved, avoiding a possible threat to the future economic development of Bulgaria.

Turning to foreign investment, the steady rise in FDI flows since the mid-1990s can be attributed to the process of Bulgaria's accession to the European Union, the structural reforms carried out in the private sector, the confidence effect of the Currency Board, macroeconomic stability and lower corporate taxes, which turned the Bulgarian market

²² As regards cost competitiveness, at the moment Bulgaria has the lowest minimum wage with regard to the whole European Union. A monthly minimum wage in the country is 112 Euros, although relative labour costs will tend to catch up over time with respect to the Union. Therefore, and in order to sustain a fair productivity growth and avoid any negative impact on competitiveness, higher wages will need to be accompanied by similar productivity increases.

into a preferred option for foreign investors. However, the world financial crisis might reduce the foreign investments in the Bulgarian economy.

It has to be noticed, moreover, that the surge in inflows not only generated strong GDP growth, but also a sharp widening of external and internal imbalances, namely a large external deficit. Given the shortage of national capital, the large share of FDI in GDP has become an indispensable factor for capital formation in Bulgaria and, therefore, for the country's overall economic development.

Regarding the privatization process, hitherto most of the enterprises from the key sectors of the economy have been privatized and the remaining companies with state interest subject to privatization are considerably limited. The completion of the privatization process under the most transparent and autonomous manner must be reached.

On the other hand, in order to reach the Bulgarian goal of long-term growth and convergence with the leading economies in Europe, investments in human capital, improved infrastructure development and legal certainty are required.

Thus, and regarding sustained increases in labour productivity, and therefore investments in human capital²³, Bulgaria faces a significant decline in its workforce due to the country's demographic decrease, which, combined with the continuous emigrations of skilled workers, presents a pessimistic picture. Furthermore, while growth in productivity is higher than in the old Member States, the level of productivity in the country's economy is around 30% of the level in the European Union, revealing the need for more efforts so as to improve efficiency and strengthen competitiveness in response to the EU objectives for achieving growth and jobs in the light of the re-launched Lisbon Strategy.

Concerning the oligopolistic sectors in Bulgaria, particular mention should be made of the level of market competition of infrastructure development, information and communication technologies (ICT) and energy.

²³ The OECD Program of International Student Assessment (PISA) 2006 survey shows Bulgarian students' performance statistically significantly below the OECD average.

Firstly, Infrastructure development is a key factor in the competitiveness of the Bulgarian economy and to aid balanced regional development. From a geostrategic point of view, Bulgaria's favourable geographical location is a key factor for the development of the transport sector and logistics. Nevertheless, there is a need for new and improved long-term planning of the future development transport, while dealing with basic obstacles such as the inadequately developed transport system capacity, poor technical and operational parameters of the transport infrastructure, and the low market share of Bulgarian railways.

On information and communications technologies²⁴, the major developments in the country over the past years have been the deregulation of the telecommunications market. However, there is a risk of it becoming a monopoly under the BTC company with regard to the fixed-line market. Furthermore, BTC also has a practical monopoly over the country's growing DSL market. Therefore, the implementation of a sound and competitive IT market must be guaranteed.

Thirdly, Bulgaria is heavily dependent on energy as it imports more than 70% of its primary energy sources, on which some 20% of GDP is spent. The country is also lagging behind in terms of the upgrading and modernization of energy transmission grids and outdated energy production capacities. For this reason, the key strategic objectives of the energy sector are the diversification of energy sources, as well as increasing the efficiency of the energy systems, energy supply and distribution, and energy end use in the context of the European Energy Policy, with the Nabucco project being a possible additional source in the medium and long term.

In terms of the potential for energy efficiency projects, one of the main priorities of Bulgaria's energy policy should be the reduction of energy losses within the transmission and distribution grids. In addition, energy consumption and energy balance can only be streamlined under a competitive energy market, namely in the generation and distribution process. A significant potential for improving the security of

²⁴ The European Information Technology Observatory (EITO) 2007 study ranks Bulgaria almost last on the list according to ICT spending per capita, followed only by Romania, demonstrating that challenges still remain for the government in the field of ICT.

supply lies in the growing mutual dependence with both exporters and importers of energy in the context of using Bulgaria's key geographic location.

Finally, discussion regarding the improvement of the business environment continues within the country, since legal certainty²⁵ is a prerequisite for the expansion of entrepreneurial activity, and thus for economic growth. Although Bulgaria has taken important steps over the past few years in simplifying its regulatory environment and establishing favourable conditions for fair competition, particularly by bringing down barriers to starting up business, simplifying rules, and reducing state intervention in economic activity, there is still overregulation in Bulgaria compared to the rest of the European Union Member States.

Challenges still remain in strengthening the capacity for implementation of the legislative basis and improving the efficiency of the courts, and improving the quality of administrative services delivered, as well as in the introduction of contemporary legislation regarding contract reinforcement procedures. At the same time, it is essential to strengthen the independence, the capacity and resources of the regulatory bodies.

III.3.3. Proposals: The need to reform further

At the time when current global macroeconomic climate is uncertain, output growth and living standards in the country will probably slow down. Thus, it is recommendable to expand the scope of structural reforms, as well as to improve the business and investment climate by:

- Implementing an economic policy focused on improving the quality of the physical infrastructure, investing in human capital and removing administrative and market inefficiencies to promote entrepreneurship and investment, as major driving forces of economic growth;

²⁵ According to the World Bank, Bulgaria holds 46th place out of 181 countries in the prestigious 'Doing Business 2009' ranking, one place down from last year. Nevertheless, in 2008 the country moved 8 places up thanks to the reforms undertaken to improve the business environment and was thus selected among the top ten "reformers" of the year.

- Continuing to perform with a strong fiscal position and maintaining the Currency Board, as a way to provide a solid foundation for stabilization and reform in order to successfully join the ERM II;
- Reorienting regulatory and education policy in the country, as well as maintaining an attractive investment environment, so as to improve incentives to investment in physical and human capital and to enhance productivity in the Bulgarian economy;
- Investing in new technologies, particularly in information and communications technologies, in view of the global trend for economies to be based on dynamic information flow and transfer of knowledge and know-how;
- Improving long-term planning of the future development transport. Public-private partnerships (PPPs) could be a suitable scheme for efficient implementation of large-scale infrastructure projects;
- A better deregulation of the telecommunications market and the establishment of a competitive ICT market, and
- Normalization of energy prices in line with the justified full economic costs and phasing out of the subsidies for generators, financial recovering and establishment of energy companies operating on a commercial basis, properly functioning regulatory authorities and mechanisms and appropriate market rules and structures, aimed at establishing an up-to-date and market-oriented energy sector.
- Improving the security of supply by diversifying energy sources and increasing the efficiency of the systems.

IV. BUILDING A DYNAMIC PARTNERSHIP

IV.1. STRENGTHENING DIALOGUE: Enhanced cooperation between the European Commission, Member States and the Bulgarian government

IV.1.1. Current situation: The lack of a structured cooperation

Since 2007 until the present day, the Government of Bulgaria, according to the National Reform Program, has been undertaking measures to narrow the gap with the rest of the European Union. The reforms have been focusing on the modernization and development of infrastructure, in particular transport, energy and ICT networks, improvement of the business environment, the quality of human capital through improved access by everyone to quality education and training with a view to increase productivity, the modernization of the State Administration by improving the institutional capacity at all levels, increasing transparency and efficiency and the quality of public services.

Nevertheless, there are still a certain number of structural and persisting weaknesses concerning the implementation and enforcement of the legislative reforms of the Judiciary, the sustainability of the judicial system and the management of the European Funds.

In order to undertake the necessary changes and implement the reforms required, it becomes of utmost importance to build an enhanced cooperation with the European Commission and the Member States. It is clear that in the present scenario, inserted in a global context of severe financial and economic crisis, no single European country can carry out all these outstanding reforms by itself without the support, cooperation and solidarity of the other Member States and the European institutions. The solidarity of the European Union towards some of its country members – Hungary, Lithuania and

lately Romania – was immediate and generated no special doubts about the need, the urgency and the convenience. Instead, the request by the Bulgarian Government to have special technical assistance in the framework of the implementation of the reforms in the area of Justice and Home Affairs – addressed mainly at the Member States – and in the area of the EU funds – addressed at the European Commission – was not duly taken into consideration.

Without a careful and serious appraisal, the feeling immediately arose that the Bulgarian authorities, through this initiative, were trying to dodge and undermine the obligations they had assumed at the time of accession to the European Union.

Nevertheless, on several occasions and in all the Reports issued by the European Institutions over the last five years, the weakness of the Bulgarian Administration regarding the effective implementation of the EU requirements was pointed out as being one of the main concerns and problems in achieving European standards.

IV.1.2. Assessment: The need to establish a coordination scheme

As previously stated, in 2006, a political agreement among the Member States was reached for Bulgaria's accession to the EU. Membership presupposes rights and responsibilities for the parties involved. For the Member States, it means the right to expect Bulgaria to comply with all the requirements of membership and to act as a trustful and fully-fledged partner. For Bulgaria, it comprises the right to benefit from European solidarity.

The solidarity of Member States and the European Commission already expresses itself through a variety of instruments i.e. the European Funds and cooperation mechanisms such as the Twinning Programs. In order to enable Bulgaria to fully benefit from its membership and successfully implement the required reforms, in the present circumstances the solidarity should be enhanced in a more focused and effective way.

Until now, the cooperation between the Bulgarian State Administration and other Member States has been developed either in the framework of the Twinning Programs or by means of bilateral agreements established between certain Ministries and their counterparts in other Member States, on a case-by-case basis.

It has to be stressed that in certain cases, the expertise provided in the framework of the Twinning Programs has not been as effective as was planned. Recently, the European Commission pointed out the existence of a certain “assistance fatigue” felt by the Member States that have been actively cooperating with Bulgaria in the enhancement of the capacity of its State Administration and the adoption of important legislation in the framework of the reforming process.

The would-be “assistance fatigue” is due to various reasons: until the present, the Bulgarian State Administration was not in the position to clearly identify the assistance needs. This circumstance led, in some cases, to unfruitful assistance, generating frustration on both sides. In parallel, in some cases, the Member States provided expertise in areas matching their particular interests without carrying out an in-depth assessment of the usefulness of this specific expertise for the Bulgarian State Administration.

“Assistance fatigue” may be overcome by a clear assessment of the real needs for external expertise on the side of the Bulgarian Government by leading the strategy of collaboration between its administration and the other Member States on the one hand, and with the European Commission on the other.

As was pointed out earlier in this report, one of the main difficulties of Bulgaria in achieving the reform process, fully complying with the requirements of the EU law and exercising active membership is the lack of administrative capacity of its public institutions. In this sense, the cooperation of the Member States may be expressed through the provision of expertise in crucial areas for Bulgaria’s progress according to the priorities set up by the Government, turning this cooperation into a real partnership. This will require the Government of Bulgaria to set the priorities and areas in which the external expertise is needed according to a comprehensive and strategic plan.

The bilateral cooperation between the Bulgarian Government and the other Member States is based on a dual partnership. On the one hand, the success of this exercise will largely depend on the real commitment of the Government of Bulgaria, which is duty bound to provide the infrastructure and material means, as well as the best political environment for the development of the experts' tasks. On the other hand, the Member States should commit to providing the best expertise and, if necessary, to contribute financially to the presence of these experts within the Bulgarian State Administration.

The proposal put forward by the Bulgarian Government already raised some concerns among Bulgarian citizens. Particularly, references to the regime being a kind of protectorate, the incapacity of the Bulgarians to overcome the situation on their own or the claim of interference in national sovereignty have arisen. At this stage, the following points should be clarified.

First of all, the establishment and development of this kind of cooperation between Member States has been common practice in the European Union. The exchange of civil servants between the administrations of the Member States, particularly between Ministries of Foreign Affairs, has traditionally been a useful tool for achieving a better understanding of each other's political, economic, cultural and social realities.

Secondly, being a member of the EU is basically an exercise, somewhat difficult at times, of sharing sovereignty in a certain number of fields in which Bulgaria asks for and makes use of the assistance provided by the other Member States in order to protect the national as well as the European interests.

The logic of this enhanced cooperation scheme may be applied, *mutatis mutandis*, to the European Commission in areas in which it possesses a high level of expertise matching the specific needs of the Bulgarian State Administration, namely the area of the management of European Funds. As pointed out in other parts of the present Report, there is a real need for technical assistance in the field of the auditing capacity and the ex ante and ex post control functions, the elaboration of tenders specifications, financial programming, the improvement of the technical expertise of municipalities and other regional bodies, the evaluation procedures and effective coordination amongst all

the management authorities and implementation agencies involved in the Operational Programs.

The involvement of European Commission experts in the management of EU funds cannot contradict the monitoring and control competences of the institution set up in the EU Fund Regulations and in the Treaties. In this sense, the Commission experts should only provide advice and training. Moreover, this assistance should be timely, limited and results-oriented.

At this stage, the Bulgarian Government is about to adopt the necessary internal legal instruments and structures to shape and enhance the coordination mechanisms of the provision of external technical assistance. According to this proposal, it is said to create a Council for the European Partnership, reporting directly to the Office of the Prime Minister which provides it with a high-profile horizontal view for the exercise of the necessary monitoring, assessment and coordination capacity to guarantee the best results, for both sides, of the technical assistance both from the European Commission and the Member States.

Accompanying the creation of this new Council, a first assessment of the technical assistance has already been made and presented to the Member States. This technical assistance covers the areas of Justice, Interior, State Administration, Finance, Agriculture, Transports, Regional Development, Health and Social Affairs, Environment, amongst others. All the concrete job descriptions have been made, assessed and approved in a special Interministerial Group appointed by the Prime Minister to implement the European Partnership Initiative as it was denominated.

The individual Ministries and bodies of the Administration maintain their legal competences concerning the relationship to be established with the expert but they cooperate very closely with the Council, acting under the direction of its Chairman and the supervision of the Chief of Staff of the Prime Minister and the Prime Minister himself. The Council will present bi-annual Reports to the Council of Ministers as well as publicly.

The concrete implementation of this initiative will belong to the next Government which will have already put the necessary instruments, framework and structures in place. It is advisable that the next Government assess the initiative not only from a technical point of view – aimed at enhancing the capacity of the Administration in crucial areas for the full exercise of EU membership – but also at political level. In fact, the initiative should be appraised as an important measure to enhance the trust and cooperation between the Bulgarian Government and its partners, a strong sign in terms of transparency, openness and accountability and certainly one of good governance, as it imposes clear and efficient rules on the management of external technical assistance and clear cooperation and coordination obligations on the structures of the Administration that will benefit from this assistance.

In this sense, it has to be seen as a positive step not only to reinforce the administrative capacity of Bulgaria's State Administration but particularly as a sign of readiness and willingness of the authorities to exercise a responsible and active EU membership.

IV.2. BULGARIA IN THE EU: Setting up a national European agenda

Membership of the European Union implies the participation of the member State in its institutional framework, particularly in its decision-making process. Active membership requires a Member State to clearly establish a national European agenda and develop formal and informal relationship mechanisms with the European institutions and the EU Member States.

In the case of Bulgaria, it is a matter of serious concern that the country did not prepare itself from the very beginning of the accession negotiations for its full membership.

In addition, the existence of the Cooperation and Verification Mechanism and the need to implement structural reforms seems to have focused the European agenda exclusively on justice and home affairs issues. Moreover, the difficulties encountered in the management of EU funds have prevented the definition and normal development of

a Bulgarian European agenda. As a consequence, it is barely impossible to consider the existence of a Bulgarian Government European policy.

IV.2.1. Assessment: The need for a national European agenda

In line with the foregoing, the European policy must be the first priority of the Bulgarian Government, since the European Union constitutes the political, economic and social framework within which the Bulgaria's interests are to be defended.

It is therefore of the utmost importance to define the axes of the Bulgarian European agenda, to establish internal effective coordination mechanisms to ensure its coherence and to carry out a comprehensive and effective strategy at all EU institutional levels in the best interest of the country.

Last February the Government adopted the Annual Programme for the participation of the Republic of Bulgaria in the European Union's decision-making process²⁶.

The main objective of the Annual Programme is *"to provide the fundamentals for preparing the Bulgarian attitudes in discussing the priorities of the country's issues on the EU Agenda. This is the reason why the Programme was brought in line with the legislative and the work programme of the European Commission for 2009 and with the 18-month programme of the French, the Czech and the Swedish Presidency"*.

More than a strategic agenda, setting up the political priorities of the Bulgarian Government concerning the EU, this document is a guide concerning Bulgaria's position in relation with the European Commission Agenda and the agenda of the presidencies of the European Council.

It nevertheless gives an indication about the issues of the EU agenda in which Bulgaria would concentrate its efforts during 2009. These issues are:

²⁶ Decision no. 76 of the Council of Ministers of 9.02.2009

- Consistent introduction of the institutional framework covered by the Treaty of Lisbon
- Implementation of the European Economic Recovery Plan
- Review of the EU budget
- Strengthening the energy security of Europe
- Continuation of combating climate change
- Expansion of the EU borders
- Year of Creativity and Innovation

As has already been said, these issues, while being of unequivocal importance, can barely be identified with the Bulgarian national EU agenda, meaning the issues that are (a) vital for Bulgaria's full integration in the EU and (b) in which Bulgaria, due to its vital geo-political and strategic interests, is called to systematically exercise an active and consistent role in the definition of the EU strategies and policies throughout all levels, structures and bodies of the institutional framework of the EU.

Consequently, the key areas which should be considered by this European agenda are:

Vital interests for Bulgaria's full integration in the EU

- Shaping a new cooperation relationship with the EU to achieve the CVM goals and build up a sound and efficient system of management of EU funds;
- The entrance to the Schengen area;
- Joining the ERM II as the path to prepare the country for participation in the Euro area;
- The Lisbon Strategy agenda.

Vital geo-politic and strategic interests

- Energy security and diversification;
- EU policies towards South-eastern Europe, the Black Sea region, the Caspian region, central Asia, the Western Balkan countries and Russia.
- Development of the Eastern partnership;

- Enlargement policy and strategy;

EU Institutional issues

- Any change in the institutional framework of the EU is of vital interest for any Member State.

Full integration in the EU: the vital interests and priorities

The first set of priorities is aimed, as has been said, at consolidating Bulgaria's EU full membership. Without achieving these goals, at least those related to the fulfilment of the CVM benchmarks and the implementation of a sound system of management of the EU funds, in the shortest possible period of time, it is not difficult to predict that the active membership will always be hindered and its real potential will not be realised.

In this sense, all the efforts of the next Government should concentrate, as a first priority, in achieving, as soon as possible, at least the required minimum standards as set up in the EU mechanisms of monitoring and assessment.

In parallel, more efforts should be deployed in order to achieve entrance in the Schengen area. As pointed out in Chapter II.2, a number of obstacles have appeared on the path to implementing the mechanisms and systems required by Schengen accession. These obstacles are directly related to the delays in the implementation of various tender-procedures, including those necessary to achieve the installation of the uniformed security database, known as Schengen Information System II. These delays could jeopardize the date of 2011, set to join Schengen area.

Moreover, the failure to seriously fight corruption and organized crime could eventually lead to serious doubts as to the credibility and capability of the Bulgarian authorities to ensure the minimum safety standards that are required to join the Schengen area and integrate the management system of its common protection network. This requires not only a commitment in principle to the fight against corruption and organized crime but also the effective demonstration that Bulgaria is willing and able not to tolerate criminal practices that could and would jeopardize the system by being lax in the prevention,

detection and punishment of corruption practices and crimes and of the criminal activities of organized groups.

As pointed out in Chapter III.3, joining the ERM, as the ante-chamber prior to the Euro zone, is vital for Bulgaria. Not only for purely economic and financial reasons, which are quite evident, but also for patent political ones. Joining the ERM and the Euro-zone will be, without any doubt, the second major achievement of Bulgaria in its integration process in the European Union, after accession. For obvious reasons, the achievement of this goal will not be possible without the sustainable effort of the Government in implementing the right accompanying economic and fiscal policies, the control of inflation and the progressive reduction of the external deficit, investment in education and human resources and consolidating a sound, clear, competitive efficient business environment able to attract foreign investment.

The fight against corruption and the elimination of red-tape practices are of paramount importance for joining the ERM and the Euro zone. A clear sign of this understanding was already given by the European Commission in its decision to provide Romania with the required financial assistance. It was clearly stated that the implementation of this assistance was directly related to progress achieved under the CVM requirements, particularly in progress in the effective fight against all types of corrupt practices.

As a conclusion, these three priorities being directly inter-related, should concentrate the main efforts of the Bulgarian Government throughout the next mandate. As has already been said, the implementation of this particular national EU agenda should be accompanied by the establishment of a cooperation framework with the European Commission and the Member States as it is a priority largely shared by all and of major interest for the Union as well. Both the attitude of keeping strictly to distant monitoring-threatening-sanctioning on the one side, and proud reluctance in facing realities, on the other, will not help to introduce minimum EU standards into the Bulgarian political, economical and social life that will allow the country to address its real European agenda and contribute in a special way to the consolidation of the European project.

The exercise of active membership: the defence of vital geo-strategic interests

The development of the European agenda of Bulgaria, as has been said before, stems directly from its particular geo-strategic position. In fact, if we superimpose and analyse different maps, it immediately transpires that Bulgaria is positioned in the cross-roads of different vital interests, be they national, EU, candidate States, neighbouring countries and also Russia.

First of all, it lies at the crossroads of terrestrial trans-EU connexions with Turkey and beyond that with Central Asia and the Middle East. Secondly, it is at the crossroads of the main natural gas pipeline projects that connect the South Eastern Europe and gas sources in Russia, and the interconnection between Greece and Romania, and will be – in the future – a central crossroads of both the Nabucco and South Stream pipeline projects.

History and culture tie Bulgaria to Russia. Strong and trustful relationships have been built and are maintained at present between both authorities and citizens. Mutual respect is, beyond circumstantial political tactics, what characterizes these relations. This circumstance is a very positive asset of Bulgaria that may contribute decisively to adequately shaping EU policies towards Russia. It does not necessarily mean that Bulgaria will play a major visible front-stage role in the EU-Russia relations, but it is certain to allow Bulgaria to play the role of an “interface” in both the definition and implementation of certain aspects or issues of these complex relations.

Against this background, Bulgaria, in the framework of the Eastern Partnership Initiative and other frameworks, may certainly contribute to overcoming the Russian’s natural wariness and “jealousy” towards the EU’s Eastern policy, which has dangerously reached its borders. In the future, a mutual understanding between the EU and Russia must and will be reached. The challenges of economic interdependence, the vulnerability to cyclical economic crisis, energy interdependence, climate change, global terrorism, among others, are so important that there is no other way out than finding a reciprocal fruitful framework of understanding and cooperation. This mutual understanding can be shaped with the active contribution of Bulgaria.

Furthermore, Bulgaria has developed strong relations with the ex-soviet Republics in Europe and Central Asia: Ukraine, Moldova, Azerbaijan, Georgia, Armenia, among others. These value-added relations will also contribute to establishing, in the future, the necessary framework of trustful and cooperative relations between the EU and these countries.

Bulgaria has a particular knowledge and experience of the leverage and catalysing role played by the European perspective of accession in the acceleration of the establishment of democratic principles, the economic development of the country and its political stability. EU accession will bring definitive political, ethnic-religious stability and social cohesion to the Western Balkan countries and, when it happens, it will be a major achievement in the History of Europe. Bulgaria, together with other EU members in the region, may play a major role in the accompanying and promotion of a rapid and successful accession of the former Yugoslavian Republics in the EU.

This active role in the development of certain EU policies, particularly targeting the region and in certain sectors, is of vital national interest to Bulgaria. And this is so not only because it is important in terms of ensuring the political stability of the region and guaranteeing the normal supply of energy. It is important also for the economic development of Bulgaria. The building up of stable political frameworks of understanding with the neighbouring countries of Bulgaria will open up the perspective for improved and enhanced economic cooperation, boosting trade, foreign investment, tourism and company partnerships to the benefit of the Bulgarian economy.

Structuring and implementing the national EU agenda

In the coming years, if the Government is to adopt and implement such a European Agenda, the internal coordination mechanisms and structures directly involved in it should be streamlined in order to both ensure an effective and active participation in the EU institutional framework and initiatives (upwards) and a correct implementation of EU policies and legal acts (downwards).

It is not clear if there is a truly correct and accurate understanding, within the political class and the administrative structures of the Government and the political parties, of

the EU institutional framework, EU decision-making and taking, the mechanisms for the implementation of the policies and the way of working and reaching compromises. Bulgaria has been participating normally in the EU structures, the documents produced, such as the one mentioned above on the position of Bulgaria concerning the main EU issues in 2009, is impressive, but reality demonstrates that beyond formal understanding there is a rather superficial, inefficient and uncoordinated effort by the competent structures to adequately defend Bulgarian interests, with the necessary support of high-profile professional and technical background work.

Regarding the delicate issue of the management of the European Funds, the efforts were mainly or excessively defined upon on the conviction that the problem was due to poor communication between the Bulgarian Government and the European Commission, which was not the main cause. Individual initiatives, at the highest level, are necessary to establish and develop a political dialogue both in the interest of the country and the European Union. But they are definitely not enough. The interests of the European Union, represented by the European Commission, are backed by a highly-professional and skilled Administration specialized in EU affairs, also on national issues, with more than 50 years of experience and proven results.

The defence of national interests at EU level requires a professional and technically skilled administration and a coordinated action by all its structures, at all levels, in the institutional framework of the EU, under the political guidance of the competent Ministries, the Minister of Foreign Affairs and finally the Prime Minister who represents the country, at the highest level.

As has been pointed out before, the weakness of the Bulgarian Administration is a horizontal structural problem. In this field, an enriching learning experience for internal reforms and enhancing the capacity of the civil servants could be to exchange and compare “best practices” of European coordination policies, as well as internal and informal reaction mechanisms. Nevertheless, besides the Unit directed by the Bulgarian Agent before the European Court of Justice, neither the Ministry of Foreign Affairs nor the Ministry of European Affairs have asked the Member States for any technical assistance for this purpose.

Nevertheless, however deep the structural administrative capacity problems may be, the main reasons for the absence of an adequate adjustment of the coordination mechanisms to the EU challenges has to be seen and found in the absence of a European strategy or agenda policy in the Bulgarian government, rather than in its deficient structures or capacity. Such mechanisms would certainly have already been put in place and served this strategy if there was a consistent and comprehensive one.

At present, at the political level of coordination, the Council of Ministers represents the executive body in charge of Bulgaria's policy in relation with the European Union as a full EU member since January 2007.

The governmental coordination mechanism tends to enforce administrative coordination at the expense of political coordination. Since 2007, coordination has taken place on two levels: (a) Working groups, which introduced a new culture of inter-institutional cooperation within the Bulgarian administration in the framework of the European integration issues and (b) the European Affairs Council, which is an inter-institutional body of coordination, chaired by the Minister of European affairs. It works at the level of deputy ministers and is responsible for the elaboration and coordination of Bulgaria's policy on EU issues.

If the working groups achieve a consensus on the proposed Bulgarian position, this does not need to go through the European Affairs Council and therefore the working groups can forward the Bulgarian position directly to the Permanent Representation in Brussels. When neither the working groups nor the European Affairs Council can reach an agreement, this position is forwarded to the Council of Ministers.

It has to be noted that this new two-level governmental coordination mechanism allows for more political activism on behalf of the Bulgarian European Affairs Ministers in the near future, albeit with a lesser degree of effective interministerial cooperation.

Regarding legislative power, the National Assembly has to be informed on the government's activities within the various EU institutions in which it is participating. In addition, the European Affairs Council must invite the chairman of the parliamentary

Committee on European affairs and a representative of the Administration of the President to its weekly meetings.

Since June 2002, Bulgaria's chief negotiator in accession talks with the EU has been upgraded from Deputy Minister of Foreign Affairs to Minister of European Affairs, although this did not involve the creation of a new ministry. However, the responsibilities of this position seem to correspond rather to those of a deputy minister, being part of decision-shaping rather than decision-taking.

Furthermore, whereas the Minister of Foreign Affairs participates in the EU's General Affairs and External Relations Council, there are no provisions concerning the participation of the Minister of European Affairs in any of the Councils of the European Union. In addition, although the post of Minister of European affairs is entrusted with the coordination of activities related to the EU's Cooperation and Verification Mechanism for Bulgaria, this position does not allow real and effective coordination.

As for the Deputy Ministers in the Foreign Affairs Ministry, a position within the cabinet of Ministers in the Bulgarian government which can in no way be compared to the position of Secretary of State in other European countries, they are to be considered as part of the administrative , rather than political mechanism of coordination.

In addition, a Vice Prime Minister was appointed in April 2008, being in charge of coordinating and controlling the Government activities with regard to the absorption of European Funds, including relations with the European Institutions and Member States, which weakened the overall competences of the Minister of European Affairs in the coordination and implementation of a comprehensive European Agenda.

IV.2.2. Proposals: The European agenda as a key priority of the Bulgarian Government

The European policy cannot be a cyclical option which only acquires prominence because of accession challenges or the structural problems in the Bulgarian government policy framework. Bulgaria must build on the efforts that have been made

until now and learn from the experience accumulated over its nearly two and half years of membership in order to shape a streamlined European policy, be able to contribute to the EU integration process, face the EU challenges and take advantage of the opportunities and defend its vital interests. As has been said before, it has to identify and shape the necessary “win-win” equation that guarantees the success of EU membership.

The European policy should be a national policy, shaped according to the most vital national interests, not subject to and suffering from the circumstantial political debate, armoured against the political partisan interests of each and all and certainly not the exclusive property of the Government.

In this sense, the incoming 41st National Assembly should debate, at the initiative of the next Government, as a priority of national policy, the country’s European agenda, which may be those indicated in this Report or others. This debate should lead to a national consensus on certain principles and policies. The debate should be taken away from these principles and move into the control of the Government’s performance in implementing and defending them at EU level.

The national consensus would not only be of major political importance, as it would prove the maturity and responsibility of the political forces while building and defending the interests of the Nation and showing their unequivocal commitment to the European project. Its endorsement by all the political forces would also contribute to putting a stable and professional structure into place, prepared to serve any Government in office, regardless of political leaning.

Together with the definition and implementation of a European agenda, a new understanding and management of the EU affairs must have its concrete repercussion in the coordination procedures, both political and technical and the implementation of the necessary structures to lend effective support to the political action.

While not being the practice followed by the latest Government in its internal organization and structuring, it would be advisable to create, under the political guidance and coordination of the Minister of Foreign Affairs, State Secretaries with

competence to implement the policies of the Government in the different areas of the general Foreign Affairs policy. This organization, followed by other Member States, adapts perfectly to a modern vision of the Foreign Affairs Policy, certainly in the area of the EU, which requires responding quickly to unexpected challenges, participating in multiple fora and Institutions and defending the national interests in a variety of complex issues. The delegation, in State Secretaries, of the competence of implementing sectorial policies would allow the Minister to concentrate his efforts and skills in the most important aspects of the Foreign policy of the country, together with or complementing the action of the Prime Minister.

In this sense, the figure of the State Secretary for the EU should be created and their competences defined – political responsibility for the implementation of the national EU policy, coordination of the Bulgaria's position in relation to the EU policies and initiatives and in the Council instances, bilateral relations with other EU countries as well as candidate countries – among other political responsibilities related to the EU affairs. The Secretary of State should substitute the Ministry of Foreign Affairs, in issues related with the EU, whenever necessary.

The Secretary of State should coordinate, with the other State Secretaries of the different Ministries, the position of Bulgaria, at a political level, in relation to the EU affairs. As it is provided for in the present government coordination procedures, in the case of disagreement, the issue should be put to the Council of Ministers.

As has already been pointed out, the special Directorate with competences in the coordination of the Ministries and State bodies responsible for the implementation of policies and actions that fall under the scope of the CVM and to establish the necessary relations with the EU Institutions, in particular with the European Commission, will be integrated in the Secretary of State for the EU.

Due to the scope and importance of the policy areas under his responsibility, the Secretary of State should participate regularly in the meetings of the Council of Ministers.

A special Directorate for EU affairs should be responsible for internal technical coordination in relation to all the EU issues as well as coordination with the Permanent Representation in the EU, with the other structures of the Ministry of Foreign Affairs that are involved in other Foreign policies issues, with the political cabinet of the Minister of Foreign Affairs and with the political cabinet of the Prime Minister. The present structures of the Ministry of Foreign Affairs that are involved in EU affairs should be integrated within this directorate, under the responsibility of the Secretary of State. The representation of the State before the European Court of Justice should also be integrated in the Directorate.

The Secretary of State would assume the normal representation of the Government before all EU Institutions and serve as the point of contact of these Institutions within the Government.

In parallel, the present structure created with the appointment of a Deputy Prime Minister for the management of the EU funds may be replaced by a Secretary of State within the Ministry of Finance, which is the most appropriate Ministerial structure to centralize the management of the EU funds.

All the Ministries' political cabinets, as well as the political cabinet of the Prime Minister, should integrate an EU advisor in order to assist and advise the Prime Minister and the Ministers and their respective political cabinets on the EU issues of their respective competences. The same should occur in the political cabinet of the President of the National Assembly.

The Permanent Representation should be a main executive arm of the Bulgarian European agenda on a daily basis, serving as a two-way channel of transmission for the Bulgarian Government in Brussels, within the European Commission, European Parliament and the Council of the European Union.

Regular contacts with the European Commission and its services, as well as with the European Parliament, should be integrated in the European agenda of the Bulgarian Government. Similarly, the Bulgarian government must also keep frequent contact with a small group of Member States on grounds of neighbourhood within the European

Union, building a shared political agenda aimed at seeking common interests on issues over which the European Union has powers of decision. This task, which will need to be boosted by the Prime Minister in cooperation with the Foreign Minister and the Permanent Representation in Brussels, will have to avoid political isolation, as Bulgaria experienced lately.

IV.3. THE ROLE OF THE BULGARIAN SOCIETY IN THE EUROPEAN INTEGRATION PROCESS: The need for full commitment

IV.3.1. Current situation: The Bulgarian civil society and its relationship with the EU

Civil society mobilisation in Bulgaria has been crucial in setting the direction of the country's development and its democratic agenda. The end of the communist regime, in 1989, was accelerated due to civil demonstrations and protests, the detonator being the protests carried out by environmental organisations against a project the Government wanted to take forward.

Since then, Bulgarian civil society has been getting organised under various associative forms, all simply referred to as NGO – non-governmental organisations. Some of them have a clear political affiliation or are located in the orbit of some political parties, others are socially engaged and working actively with the most disfavoured, others are think tanks mostly in the field of geo-politics attached or not to Universities, human rights, justice, fight against corruption, monitoring transparency and accountability of public Institutions and economy, among other topics.

One of the best examples is the role played by several Bulgarian non-governmental organizations in 1997 aimed at combating corruption. It was a pioneering initiative, which for the first time brought together representatives of state institutions, civil society organizations, and individual experts in a concrete area of interest, as was the fight against corruption in the country.

Some of these NGOs have been actively engaged in the scrutiny of public life, particularly within the State Institutions activities, denouncing corruption, lack of transparency, requiring more accountability and respect for Rule of Law. Through their constant and persistent engagement, some of these NGOs have managed to raise national and international awareness for the shortcomings and weaknesses of the Bulgarian legal system and were able to put the need to introduce more transparency in public life on the public agenda.

In a certain way, this third sector owns its existence, its front-stage position in Bulgarian society and thus its capacity of influencing the public agenda precisely with regard to the weakness of the State Institutions and the lack of effective mechanisms to curb the issues that are denounced. Thus, on analysing the agendas of the activities of these NGOs in the last years, it is surprising to see that they recur, year after year, focused on the same issues, addressed in the very same way, even with the participation of the same persons and funded by the same international organizations. In a sense, there is the feeling that both parts retro-feed each other, both of them accommodated in the roles of simply denying and denouncing.

It is like an equation that neutralizes itself and keeps repeating itself without providing any tangible moves, either from one side or the other. It should perhaps be like this, the role of these NGOs limiting their role in public life to the active denouncing of bad practices. In any case, consistent work makes it possible to maintain tension and put pressure on public Institutions.

NATO accession was also promoted through the active role of some NGOs, which had the merit of rapidly creating awareness in the public opinion in Bulgaria as to the benefits and opportunities, for the country, of participating in an Alliance that represented the values of freedom, security and progress and which could definitively accelerate the integration of Bulgaria in the western world.

Bulgarian NGOs have also played a key role in spreading the EU message during the accession process. In this sense, the EU, through the PHARE programme, funded several projects of dissemination of the EU, covering issues such as its Institutions, its

policies and placing the accent on the benefits of membership. It helped to increase the awareness of citizens on the accession process from the very outset, and on the natural steps the country should take in order to achieve economic progress and social welfare.

Two years after accession, it is quite clear, judging by the results published in the different Eurobarometer reports, that the majority of Bulgarian citizens make a positive assessment of the European institutions and of the country's membership. Some of these polls even show that Bulgarian citizens rate the European Commission more positively than the Bulgarian Government. The results of polls should nevertheless not be over-estimated or extrapolated, as people are not asked to compare the performance of both in relation to their respective scope of action but to simply to compare the two, as if they had the same functions.

Ultimately, what does matter is that Bulgarian citizens do positively assess their country's membership, which puts Bulgaria in a better position versus other European countries, where the rates of approval of the European Institutions and in general of the European integration project have been shrinking progressively.

This positive attitude of Bulgarian people towards EU integration and EU affairs provides the right ground – and a clear indicator that there is enough positive energy and attachment – for the development of a real Bulgarian national European Agenda that will enjoy the support of the citizenship. Such an agenda does not exist and has never been formulated as such by the Government. This particular issue has already been dealt in Chapter IV.2.

Bulgarian citizens, by now, have clearly understood that the economic development of the country depends on Brussels. They have also understood that the pressure the European Commission is putting on the Bulgarian authorities to fight corruption and organised crime has brought some benefits. They are waiting for the European Funds to increase prosperity. They link progress with the European Union. Nevertheless, they believe – at least this is the general attitude – that the European Union is a Marshall Plan and that the national Government should limit itself to facilitate the funds to arrive directly to the citizens, without interference, if possible.

With some exceptions, this is the general attitude of the Bulgarian civil society towards the European Union. It is not perceived or assessed by the Bulgarian civil society as requiring a pro-active attitude to defend their interests but as an organization whose mission is to protect their interests. When a special economic interest is to be defended before an EU initiative which, for example, places a special burden on a certain economic sector (which is the day-to-day life experience), the practice has been to rely on the Government to defend these interests properly, instead of taking the road to Brussels and trying to negotiate with the European Commission like others, from other EU countries, who at that stage have probably already achieved what they wanted.

What this example means is that civil society has a very important role to play not only in the proper spread of European initiatives in Bulgaria but also, and mainly, to defend the interests of the country before the European Union. This can and must be done through the active participation of the different national organizations representing different sectors in the European-scale organizations and, through them, act properly in the defence of the European sector before the European Union. Governments can back these initiatives if they are of national interest, of course, but they should not be required to take the place of civil society in relation to the EU.

This passive attitude by Bulgarian civil society is, to a certain extent, a legacy of the past when the Government and the State left no room for private initiative. But, as is sustained in other parts of the Report, this cannot serve as an excuse in principle. Bulgaria is undergoing deep changes and adapting to the standards of the other European countries. These changes will require, from the Bulgarian civil society, an effort to move from the passive attitudes it is used to towards active positive behaviours that are necessary to modernise the country.

Being an active member of the EU – and benefitting fully from it – does not only concern the Government, and nor is it fully in its hands. The civil society has a direct interest in supporting the Government when it defends the national European agenda in Brussels and elsewhere. And, in parallel, the Government will help civil society before Brussels if doing so is in the national interest. They both mutually reinforce each other.

It is a sign of a mature understanding of the requirements of the European Union. They may be not written requirements, but the European Union is a project that tries to combine, at the moment, twenty-seven national interests, common interest, the interests of various economic, cultural and social organizations, the citizens' interests through the European Parliament and international interests. In this complex environment, passivity means defeat. A civil society that relies exclusively on the Government to find a way in this melting pot of interests has fewer chances than others of being taken into consideration.

Without setting clear priorities on what vital national interests must be defended within the European Union and thus contribute to shaping the European project, it is impossible to mobilize civil society beyond the defence of disperse interests extending to a variety of organizations of different sectors. The national European agenda of the country is the general framework which will give support and motivate the civil society to have a pro-active role both as coadjutant of the Government in the defence of the national agenda in the European Union and in helping to spread the European reality in Bulgaria.

IV.3.2. Proposals: Public-private cooperation in EU affairs

The Bulgarian government, as well as the rest of public institutions, should make every effort to involve Bulgarian civil society in the process of full integration of the country in the European Union structures. Given the particularities of the Bulgarian civil society, on the one hand, and the complexity and specificity of the mechanisms, the way of functioning and even the “working philosophy”, which is based on the dialectic of interests, on the other, it is advisable to create new mechanisms of public-private cooperation to encourage its active participation in the framework of the EU.

Besides, these mechanisms would constitute the right framework to stimulate the necessary interaction between the public authorities and civil society in relation to EU affairs, creating the necessary critical mass to implement projects of common public-private interest.

A good initiative would be the creation of a public-private consortium whose aim would be to (a) promote European values, reality, and project in Bulgaria (b) provide information about European policies, projects and initiatives and programs (c) provide advice on them (d) offer training courses and scholarships on European studies particularly oriented to young people who want to study abroad (e) organise debates, seminars and conferences to analyse and reflect upon current European issues and foster relations between the Bulgarian society and its institutions in the EU (f) represent Bulgarian socio-economic and cultural interests in Brussels beyond formal institutionalized relations.

The foundation members could be, on the public side, the Government, Universities, the Association of Bulgarian Municipalities, and on the private side, the national organizations representing the economic, social and cultural sectors. The managing team should be professional and independent. A non-executive President would be appointed by the National Assembly at the proposal of the Government.

IV.4. BEYOND THE BULGARIAN CASE: A new model of partnership

Bulgaria's path initiated in 1998 to become a member of the European Union has not been free of difficulties, most of them subsisting until the present, as explained in the present Report.

The special circumstances that characterise Bulgaria were not duly taken into consideration by the European Union during the negotiation process for the accession of the country – as well as of Romania – to the EU. It has been shown that neither the EU institutions nor the EU Member States were prepared to deal with the political decision to incorporate two new countries that were not yet ready to cope with all the implications of becoming a Member State.

In this sense, the creation of the CVM was supposed to be the tool that would help Bulgaria to fulfil the EU requirements after Accession. However, it has proved to be an insufficient tool to overcome a complex scenario. The lack of positive results has become frustrating for all the players, the Bulgarian government, the European Commission and the EU Member States. Hence, the European Commission and the EU Member States, without an adequate pattern to follow, were not able to provide a competent instrument to accommodate the new members to the EU club.

This is special relevant nowadays taking into consideration that the governments of the EU Member States agreed to extend the EU perspective to the countries in South East Europe - Croatia, the former Yugoslav Republic of Macedonia and Turkey as candidate countries and Albania, Bosnia and Herzegovina, Montenegro, Serbia and Kosovo, as pre-candidate countries. Accession to EU membership is, as it was in the past for Bulgaria, a main driving force for these countries, since a gradual and carefully managed enlargement process should create a win-win situation. However, membership will only happen when the necessary requirements are met and this means that most of these countries have started or should embark upon important structural reforms in the coming years.

Undoubtedly, the case of Bulgaria has prompted the EU to take a closer look at the abovementioned new potential members. In recent years, EU Member States have repeatedly demonstrated their division regarding future enlargements. While the two EU heavyweights have reaffirmed their reluctance to accept further enlargements until the full institutional consolidation of the EU, other Member States as well as the European Commission have reaffirmed the need to maintain the momentum of the process.

EU institutions could decide to delay the accession process “sine die” – condemning the candidate countries to a long stay in the “EU waiting room” –. In this case, the “stick” policy could be practiced, with a unique goal to make these countries strictly fulfil pre-accession conditions. Hence, the application of political pressure to comply with the *acquis communautaire* rather than proposing a cooperative scheme of work would clearly restrain the possibilities of these countries to access the EU in a reasonable period of time. The establishment of a set of requirements waiting for the governments of the

candidate countries to fulfil them in time is clearly insufficient. This kind of measure has proven to be notably inefficient owing to the specificities and weaknesses of the candidate countries - as it has been for Bulgaria.

In this sense, assuming that the political strategy of the European institutions would consist of advancing further in the enlargement process, EU Member States, as the final political decision-makers responsible for mapping out the future EU frontiers, should establish a well-defined political strategy with a specific and intelligible model to follow when facing the subsequent EU enlargements. The approach should be guided by a more collaborative, flexible and constructive scheme since the outset of the negotiations, with a wide participation and active implication of the European Commission, the Member States and the candidate countries. This new proactive framework would help to prevent future misunderstandings between the actors involved as well as to minimize the impact of the problems that might arise in later phases of the accession process.

At this stage, the analysis of the Bulgarian experience becomes particularly valuable for the candidate countries in order to face the difficulties that they will presumably encounter on the road to EU membership. Moreover, the role that Bulgaria could play within the EU as a bridge between the countries of the Balkan area and the European institutions is particularly relevant. Furthermore, apart from the close geographical situation, Bulgaria and the candidate countries share a good number of similarities to the EU.

The “Bulgarian case” could, in this sense, contribute and facilitate the design process of accession strategies of these countries. The Bulgarian experience has emphasised the need to assure that critical issues such as the Judiciary reform or the fight against corruption should be tackled in the very early stages of the accession process if other reforms are to be pursued effectively in time.

Besides, the European institutions and EU Member States should also reckon on the Bulgarian experience for the future challenges they should confront as a consequence of the forthcoming enlargements. The European Commission, but also the Council, are

obliged to reach some conclusions on the Bulgarian experience in order to avoid comparable difficulties in future enlargement processes.

Notwithstanding the lessons learnt from the “Bulgarian case”, the case load for each of the current candidate and pre-candidate countries will force the related parties to establish original and innovative solutions guided, as stated, by more cooperative schemes with the objective to foster a wide political dialogue and thus a gradual reinforcement of mutual trust between the parties. Proven administrative efficiency would also be required in order to face the future challenges of the EU with guarantees of success.

The “Bulgarian case” should not be seen as a deterrent for the new members to achieve membership, but on the contrary, it should constitute an incentive for these countries, as an example to soften or even to avoid the foreseeable difficulties they will face on their way to the EU.

EU institutions have to confront the challenges of the future EU enlargements, particularly the Balkan area, with a new attitude and strategic vision. The schemes used in the past have to be reformulated in order to adapt them to the particular circumstances of each of the candidate countries. The way to the EU membership has proven to be neither simple nor comfortable for any of the parties, but the actors involved should be receptive in order to rise to the occasion.

The political will of the European Union to lead the process, under the co-responsibility principle, should be stated clearly and free of ambiguities in the adoption of this new action strategy. Between the “sine die” delay of the accession process and full membership of the EU institutions, there is an intermediate solution consisting of a new model of progressive integration, open and flexible, by phases, where the political and economic solidarity of the EU towards the candidate countries could play a relevant role from the outset.

V. CONCLUSIONS: STRATEGIC RECOMMENDATIONS

The International Advisory Board wishes to stress the fact that difficult integration of Bulgaria, and for that matter Romania, into the EU, raises major issues.

It is the first time the Union has had to cope with such important and complex difficulties concerning the integration of one of its Member States. In this sense, the position adopted by the European Commission and the Member States is a test for Europe's ability to manage new enlargements in the future, during which similar problems may arise, particularly in the Western Balkans. The decisions taken regarding Bulgaria will be seen as a reference model for the accession of future Member States.

There is also a real risk for the cohesion of the European Union. The Bulgarian people's attitudes and feelings towards the EU have been determined by hope and trust for the past decades. Even the suspension of the European funds has been welcomed by many as a chance for Bulgarian society to react and face its real problems. Still, the shockwave may also have negative implications in the long run, fuelling Euro-sceptic feelings and opinions. Some signs point to growing uneasiness of the Bulgarian civil society in a EU where full membership seems to have been denied to its country.

Geopolitical context should not be forgotten while handling the situation of Bulgaria. The country has historically been torn between the respective influence of its Eastern neighbour, Russia, and that of Western Europe. This factor explains the rapid accession of Bulgaria, despite its insufficient preparation. The relationship between Russia and the EU will be a core issue of European external policy in the next years, concerning security matters as well as energy supplies. In this regard, it is particularly important for the EU to be able to rely on all its Eastern members when trying to develop a constructive approach towards Russia. On the other hand, a situation where some of these countries would fall again under strong Russian influence could cause a rift among EU members and need to be avoided.

In consequence, the European Union and Bulgaria must build a new partnership so as to face their common challenges both with realism and optimism. Changes are rendered necessary by the inadequateness of the existing pre-accession logic, based on control, restrictions and sanctions, with the needs of a full, active and responsible membership of Bulgaria. Such a partnership can only be based upon strong principles.

Mutual trust, first. Mutual trust between the European institutions, the Member States and Bulgaria should be the basis for achieving a fruitful relationship. Hitherto, the parties involved have not pursued the same objectives neither shared the same expectations, leading to continuous and reiterative misunderstandings. The development of mutual trust between the parties will require a common agreement on the role of Bulgaria within the EU.

The second principle must be the search for stability. A close consideration of Bulgaria's social and political situation leads one to think that there are risks for the nation's stability. It seems important for the EU to acknowledge these risks and avoid any action that could lead to radicalization. The coming European and national elections contribute to reinforce existing political tensions and may encourage populist attitudes and political instability. The strain put by the international financial crisis on Bulgaria also bears risks of instability in the short term, which should not be underestimated.

Responsibility is the third prerequisite of a strong partnership, on the basis of reciprocity. On the one hand, it supposes that Bulgaria is willing to take effective action in order to remedy to its structural deficiencies. In the short term, this means furnishing proof of the Government's good will in specific cases, because structural reforms will only prove efficient in the long run. On the other hand, it means respect for this responsibility by the European Union, so as to let Bulgaria take the actions needed by itself. The European institutions should focus on accompanying existing and future efforts and not merely issue critical Reports and impose sanctions.

The last principle is solidarity. European solidarity has been one of the roots of European construction. Beyond the importance of the European economic and social

cohesion policy, from which Bulgaria is actually benefiting, a demonstration of political solidarity on the part of the European institutions could also be a key factor in order to find a solution for the specificity of the Bulgaria's case within the EU.

Bulgaria should build, according to its national public interest, a European agenda backed by the expertise and the active support of European institutions. This requires that Bulgaria's political forces and its civil society can agree on what is Bulgaria's common interest as a participant in the European integration process. If Bulgaria fails in the fulfilment of this objective, different consequences could arise: first, the Bulgarian State could become more vulnerable, encouraging populist movements and planting the seeds of discouragement among Bulgarian civil society. Second, the efforts undertaken to build up a stronger, more modern and efficient state apparatus, could weaken, and so would the trust of the people in the State. Finally, it could undo the ties between the EU and Bulgaria, prompting a shift of Bulgaria towards Russian political and economic interests.

The International Advisory Board wishes to point out some relevant subjects of the challenges posed by the EU to Bulgaria, analysed in the present Report. In this sense, some proposals will be issued in order to contribute to improving Bulgaria's EU membership:

A. Concerning the Cooperation and Verification Mechanism

The CVM: a useful but insufficient instrument

The Cooperation and Verification Mechanism has proved to be a useful monitoring instrument as it applies positive pressure on the Bulgarian institutions to undertake corrective measures to tackle the weaknesses in the Judiciary and the fight against corruption and organised crime. Such pressure needs to be maintained must in the future in order to ensure that all the necessary reforms are adopted and implemented. Further technical improvements could be introduced in order to adapt the roadmap to the actual state of progress. On the other hand, the CVM has clearly failed on the cooperation side as it has proved insufficient to reach a useful and results-oriented cooperation between Bulgaria and the European Commission. A broader approach is

needed regarding the cooperation aspect, embracing all the country's specificities and particularities.

The current *status quo* does not satisfy any of the parties and there are some voices claiming for its upgrading and broadening, and for increasing its technical accuracy, others. Whatever choice is made, it will be important to bear in mind that the verification function developed by the European Commission, with or without the CVM, should be maintained and prolonged beyond 2009. On the other hand, it should be clearly stated that a re-evaluation of the CVM or an eventual modification thereof should not be, by any means, an excuse used by Bulgaria for not fulfilling its obligations.

Strengthening the internal mechanisms of self-monitoring and self-assessment of the reform progress

The CVM provides a roadmap to guide the reform process of Bulgaria towards the establishment of a legal system that truly conforms to Rule of Law in keeping with EU law and principles. It is a useful tool for Bulgaria as a roadmap and as a binding instrument to report on progress. Nevertheless, the reforms are not needed and do not have to be implemented because of the CVM, but mainly because rather they are necessary and required to modernize Bulgaria and achieve the highest standards in the field of Rule of Law. If this is so, it justifies Bulgaria starting to build up its own roadmap, its own self-monitoring and self-assessment instruments. This will substantiate the maturity of the State Institutions and will contribute to the transparency and accountability of the reform process and the efficiency of the reforms.

B. The reforms of the legal system: towards full respect for Rule of Law

The establishment of a sustainable legal system

Bulgaria should continue the reform process in order to set up a system that guarantees effective compliance with Rule of Law. Important steps have been taken to lay the foundations of this system, but further steps must be taken in order to guarantee its capacity to prevent and punish, in a sustainable and unequivocal way,

corruption and organized crime. High-profile judicial cases of corruption and mismanagement of public funds, as well as of organized crime activities, should therefore be given a solution without delay.

A more efficient coordination of the Institutions and bodies of the Judiciary and the law enforcement bodies should be achieved as an indispensable condition for the overall sustainability and efficiency of the system. Professionalism should be enhanced both through specific technical assistance provided by the Member States and better-focused training programs. A special ERASMUS program could be instituted in order to promote systematic exchange of members of the Judiciary between Bulgaria and other Member States.

The prevention and fight against corruption

There are serious concerns about the way corruption has captured public life, undermining the credibility of the State, hindering the impact of public policies and limiting economic opportunities. The State Institutions should seal a *National Zero Tolerance Pact* against corruption committing themselves to promote and carry out concrete actions in the field of its prevention and its unconditional fight. This means in particular that, without waiting for often lengthy judicial proceedings, high officials, who are under serious suspicions of corruption, ought to be dismissed. Within the State Administration, a special independent Agency should be created for the prevention and sanctioning of all forms of corruption while promoting good practices, increasing the transparency of decision taking and improving the accountability of public Institutions.

Strengthening cooperation between the European Commission, the Bulgarian government and Member States

A new scheme of technical cooperation between Bulgaria, the Member States and the European Commission should be established in the field to ensure the full implementation of ongoing reforms, avoiding the problems of the past, mainly, the lack of a clear framework of cooperation, based on a case-by-case approach. The new initiative of know-how exchanges and project-oriented support from the Member States to Bulgaria will permit the achievement of concrete results by strengthening the

capacity of the policy-makers and the State Administration and promoting accompanying measures taken on a mutual agreed basis. The Government of Bulgaria should lead this initiative clearly stating its priorities and needs for cooperation.

C. The modernization of the State Administration

The comprehensive reform of the State Administration is still pending: old and inefficient structures, insufficient transparency in the decision-taking and making procedures, poor accountability, disparity of pay systems, limited career opportunities, heavy bureaucratic procedures, reduced delegation practices justify a brave turn-around and to carry out the necessary structural measures in the political and administrative organization of the State Administration.

Further investment in training programs, also compulsory, and the introduction of indicators of efficiency are required to achieve the highest performance standards. Bulgaria must achieve the building of a modern Administration, able to provide professional support to governmental action and able, at the same time, to serve adequately the needs of the citizens.

D. The management system of the European Funds

Recentralising the management of EU funds

The recentralisation of the programming, management and control of EU funds in Bulgaria is crucial after the attempt by the Government to decentralise the administration of EU funds that has resulted in serious problems of mismanagement. It is necessary to reduce the number of implementing agencies and to strengthen administrative capacity in the central executive in order to exercise credible financial control on the management of the Structural and Cohesion funds in order to avoid the problems encountered with respect with pre-accession funds. An independent and efficient audit function is important in this context.

E. The national European Agenda

Building a Bulgarian European agenda

Bulgaria must define the role it wishes to play in the EU. The Bulgarian Government should therefore define a European agenda that takes into account the country's vital interests, debate it and submit it to the National Assembly for approval and explain it to the citizens. As of now, the Government must participate actively and without inhibition in the building of Europe, leveraging its initiative capacity in the EU Institutions. Parallel to this, the necessary internal policy mechanisms must be set in place to afford consistency and credibility to the European agenda.

Accelerating the road towards the ERM II

Bulgaria has not joined the Exchange Rate Mechanism, the "waiting room" for Euro membership, amid concerns about its high inflation rates and external trade imbalances. Currently, the country meets four of the five criteria for Eurozone membership, except for inflation. In this sense, it is crucial to continue to maintain a strong fiscal position in order to successfully join the ERM II within a short run. The participation in the Exchange Rate Mechanism, which requires a continued will to reform, would be an important signal for investors and a confirmation of the country's financial and macroeconomic stability.

Achieving the Schengen criteria

Bulgaria has to make all the efforts to meet the Schengen criteria if the country wishes to join the Schengen zone in March 2011, although joining Schengen is not just a matter of fulfilling criteria but also a political question and a matter of trust. There are still different criteria the country has to meet in order to become a fully-fledged member of the Schengen area. Bulgaria has already demonstrated its strong commitment by strengthening the security of the European borders and the customs enforcement. The accession of Bulgaria to Schengen will catalyze reforms in key sectors of the country's economy and will indeed contribute to full integration of the country in the EU.

Promoting the EU in Bulgaria and Bulgaria in the EU

The Bulgarian government should foster the initiative of creating a Bulgarian public-private consortium to promote the European Union in the country and Bulgaria in the EU. The aim of this body would be (a) the promotion of European values, reality and project in Bulgaria (b) provide information about European policies, projects and initiatives and programs (c) provide advice on them (d) offer training courses and scholarships in the field of European studies particularly oriented towards young people who want to study abroad provided there is an incentive for them to come back to Bulgaria (e) organise debates, seminars and conferences to analyse and reflect upon current European issues and foster relations between the Bulgarian society and its institutions in the EU (f) represent the Bulgarian socio-economic and cultural interests in Brussels beyond formal institutionalized relations.

Foundation members could be, on the public side, the Government, the Universities, the Association of Bulgarian Municipalities and, on the private side, the national organizations representing the economic, social and cultural sectors. The managing team should be professional and independent. A non-executive President would be appointed by the National Assembly on a proposal from the Government.

F. Building a new partnership

The lessons learnt from the Bulgaria case should help the EU institutions and Member States to confront the challenges of the future EU enlargements with a new strategic vision. A “new partnership”, based on a proactive cooperation, fluent dialogue and mutual trust between the EU and candidate countries should guide a new strategy with future candidate countries taking into account their historical, social, cultural and political specificities.

Between postponing “sine die” the accession process and the full membership of EU institutions, there is an intermediate solution consisting of a new model of progressive integration, open and flexible, by phases, where the political and economic solidarity of the EU towards the candidate countries could play a relevant role since the beginning.

Finally, in the current context of widespread international economic and financial crisis and impending European and general elections, Bulgaria is facing a key moment in its national life, in particularly delicate circumstances, and in which the future of the country is at stake.

It is time for great decisions that will condition the future of the country. Decisions on the role of Bulgaria in the European Union; decisions on the economic and social reforms required to complete the country's modernisation; decisions on improving training and competitiveness to stimulate and encourage Bulgarian society and economy.

It is also the time for courageous politicians, who can act driven by rigour and rationality, know how to listen to the people without lapsing into populism, properly interpret the general interest of the country, have an ambitious project for a European Bulgaria, and who are capable of bringing it to successful completion with enthusiasm, determination and honesty. In fact, what any European citizen may want from his government. Nothing more and nothing less.

For all these reasons, the International Advisory Board for Bulgaria takes the liberty to suggest to the political forces that will be running for the forthcoming elections to the National Assembly, as well as the citizens, the convenience of promoting, once the elections are over, a broad **National Agreement**, with the support of the political forces with parliamentary representation, on the following areas:

- On **Education and training**, establishing all the actions required to improve the quality of young people's education and training;
- On **Competitiveness and innovation**, which targets a set of economic and social reforms that are necessary to complete the modernisation of the country;
- A **Zero Tolerance Pact against corruption** committing the State Institutions to promoting and carrying out concrete actions to prevent and unconditionally fight it

- On **European Policy**, which includes suitable guidance, objectives and actions to reinforce and consolidate Bulgaria's full political participation in the EU.

Bulgaria disposes of the means, in order to look at the future with confidence: a long and historic route as a nation, a dense and rich culture and a relatively stable economy with capacity for growth. But above all, it is the citizens of Bulgaria who matter. They have helped to bring about the transformation witnessed in the country over recent years, and now they have the opportunity to decide, in a European and democratic framework, the future of the country for the coming years.

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Annexes

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ANNEX 1

List of personalities with whom the International Advisory Board has met

- Mrs. Zelma Almaleh**, Chief Editor BGNES
- Mr. Valery Apostolov**, Member of the Board of the Bulgarian National Audit Office (BNAO)
- Mr. Fernando Arias**, Ambassador of Spain
- Mr. Slavcho Atanasov**, Mayor of Plovdiv
- Mr. Stavros Avgoustides**, Ambassador of Cyprus
- Mrs. Rumyana Bachvarova**, Sociologist and director of the Market & Media LINKS
- Mr. Jordan Bakalov**, MP United Democratic Forces
- Mr. Paul Beijer**, Ambassador of Sweden
- Mr. Stefano Benazzo**, Ambassador of Italy
- Mr. Bojidar Bojinov**, President of the Bulgarian Chamber of Commerce and Industry
- Mr. Borislav Borisov**, Rector University of National and World Economy
- Mrs. Irena Borisova**, Senior Expert International Legal Co-operation and European Affairs, Ministry of Justice
- Mr. Boyko Borissov**, Mayor of Sofia
- Ms. Teodora Borissova**, Expert at the Department “EU Coordination”, Council of Ministers
- Mrs. Maria Cappone**, MP United People's Party
- Mr. Boyan Chukov**, Adviser in the Prime Minister's Office
- Mr. Evgeni Daynov**, Political scientist and chairman of the Center for Social Practices
- Ms. Miglena Delcheva**, Senior Associate at “Aeronautics BG”, Bulgarian consultant company of EADS
- Mr. Dimitar Dimitrov**, Agricultural College
- Mrs. Valery Dimitrov**, President of the Bulgarian National Audit Office (BNAO)
- Mrs. Boryana Dimitrova**, Sociologist and director of the Alpha Research
- Mrs. Mijailina Dimitrova**, Journalist Trud
- Mrs. Lubomira Dimitrova**, Director International Legal Co-operation and European Affairs, Ministry of Justice
- Mrs. Svetlomira Dimitrova**, Analyses Department Dnevnik

Mr. Dinko Dinkov, Jean Monnet lecturer at the University of National and World Economy (UNSS) and President of the Bulgarian European Community Studies Association (BECSA), Sofia

Mr. Ahmed Dogan, MP Movement for Rights and Freedoms

Mr. Dr. Didar Erdinc, Jean Monnet lecturer at the American University in Bulgaria (AUBG), Blagoevgrad

Mr. Klaus Fabjan, Ambassador of Austria

Mr. Florian Fichtl, Executive Director of the World Bank in Sofia

Mr. Antonii Galabov PhD, Political scientist

Mr. Michael Geier, Ambassador of Germany

Mr. Krasimir Gergov, President of KRES Ltd. Advertising agency

Mr. Dimitar Grekov, Rector of the Agricultural University

Mr. Lazar Gruev, Chairman of the Supreme Court of Cassation

Mr. Jivko Gueorguiev, Sociologist and political commentator

Mrs. Tatiana Houbenova, Lecturer at Varna Free University “Chernorizets Hrabar”

Mr. Todor Hristev, Head of Attack Councilor’s group

Ms. Katia Hristova-Valtcheva, Jean Monnet lecturer at New Bulgarian University, Sofia

Mr. Kauko Jämsén, Ambassador of Finland

Mr. Sergey Ignatov, PhD, Rector of the New Bulgarian University

Mr. Prof. Ivan Ilchev, Rector Sofia University “St. Kliment Ohridski”

Mr. Ilko Iliev, Chairman of the City Council

Mr. Kostadin Iliev, Technical University Sofia, Branch Plovdiv

Mrs Silvia Indjova, Executive Director of the National Fund depending from the National Authorising Officer (NAO), *Ministry of Finance*

Mr. Ivan Iskrov, President of the Bulgarian National Bank

Mr. Victor Ivanov, journalist 24 Hours

Mrs. Ivanka Ivanova, Program Director of the Open Society Institute of Sofia

Mr. Dimitri Ivanovski, Deputy Minister of Finance and NAO

Mr. Kaare Erhard Janson, Ambassador of Denmark

Mrs. Kadrinka Kadrinova, Deputy Chief Editor Tema Magazine

Mr. Ivailo Georgiev Kalfin, Minister of Foreign Affairs

Ms. Dani Kanazireva, Head of GERB Councilor’s group

Mr. Nikolay Karaivanov, Head of the Right Alliance Councilor’s group

Mrs. Anna Karaivanova, Head of the Inspectorate to the Supreme Judicial Council

Mr. Krasimir Karakachanov, MP Internal Macedonian Revolutionary Organization

Mr. Geoffrey Keating, Ambassador of Ireland

Mr. Martin Klepetko, Ambassador of the Czech Republic

Mrs. Rumjana Kolarova, Jean Monnet lecturer at Sofia University “St. Kliment Ohridski

Mr. Boris Kostov, Jean Monnet lecturer at Sofia University “St. Kliment Ohridski”

Mr. Ivan Kostov, MP Democrats for Strong Bulgaria

Mrs. Danae-Madeleine Koumanakou, Ambassador of Greece

Mr. Ivan Krastev, Chair of Board of the Centre for Liberal Strategies in Sofia

Mr. Ivan Kutzarov, Rector of the Plovdiv University

Mr. Ladislav Lipič, Ambassador of Slovenia

Mrs. Judit Lang, Ambassador of Hungary

Mr. Georgi Markov, Director of the Institute of History at the Bulgarian Academy of Sciences

Mrs. Maria Marques-Pinto, Advisor of the Prime Minister in EU Affairs

Mr. Marc Michielsen, Ambassador of Belgium

Mr. George Mifsud, Ambassador of Malta

Mrs. Mariana Mihailova, European College of Economics and Management

Mrs. Assia Mihaylova, MP St. George's Day Movement

Mrs. Iskra Mihaylova, Deputy Minister of the Ministry of Regional Development and Public Works

Mr. Mihail Mikov, Minister of Interior

Mr. Ognyan Minchev, Executive Director Institute for Regional and International Studies

Mr. Karol Mistrík, Ambassador of Slovakia

Mr. Julian Mitev, Head of the Legal Department at the Supreme Judicial Council

Mr. Petar-Emil Mitev, Sociologist

Mrs. Maya Mladenova, Deputy Chief Editor Telegraph Daily

Mr. Plamen Mollov, MP National Movement Surge and Stability

Mrs. Anastasia Mozer, MP United Agrarians

Mr. Angel Naydenov, MP Coalition for Bulgaria

Mr. Alexandre Nedeltchev, Member of the Bulgarian European Community Studies Association (BECSA), Sofia

Mrs. Viktoria Nesheva, Director “Legislative Council”, Ministry of Justice

Mr. Alex Nestor, Senior Investment Project Manager of Chelopech Mining EAD

Mr. Ivelin Nikolov, Chief Editor Duma Weekly

Mr. Krassimir Nikolov, Chairman of the Bulgarian European Community Studies Association (BECSA), Sofia

Mr. Todor Nikolov, President of the Privatization Agency

Mrs. Zornica Nikolova, Editor Focus

Mrs. Violeta Obretenova, State Expert “Legislative Council”, Ministry of Justice

Mr. Rein Oidekivi, Ambassador of Estonia

Mr. Plamen Oresharski, Minister of Finance

Mr. Andrey Pantev, Professor in the Faculty of History at Sofia University "St. Kliment Ohridski". BSP deputy at the National Assembly

Mr. Emil Panusheff, Head of Social Sciences Department and Jean Monnet lecturer at Varna Free University

Mr. Andrzej Papierz, Ambassador of Poland

Mr. Georgi Parvanov, President of the Republic of Bulgaria

Ms. Petya Parvanova, Director International Cooperation Directorate, Ministry of the Interior

Mr. George Paskalev, Rector of Medical University

Mrs. Gergana Passi, Minister of European Affairs

Mr. Lubos Pavlas, Country Manager of CEZ Bulgaria EAD

Mr. Yordan Peev, Professor at Sofia University “St. Kliment Ohridski” and formerly at the College of Europe, Bruges

Mrs. Teodora Peeva, Chief Editor Sega

Mr. Konstantin Penchev, Chairman of the Supreme Administrative Court

Mr. Simeon Peshov, President of Glavbulgarstroy

Mr. Krastyo Petkov, Political economist

Mr. Todor Petkov, Regional Governor

Mr. Valentin Petrousenko, Jean Monnet lecturer at Plovdiv University “Paisii Hilendarski”

Mr. Peter Petrov, Adviser in the Prime Minister’s Office

Ms. Mila Petrovich, Senior Expert at the Ministry of Foreign Affairs of Bulgaria

Mr. Georgi Pinhev, MP Bulgarian Agrarian National Union

Mr. Georgi Pirinski, President of the Parliament of Bulgaria

Mrs. Meglena Plugtschieva, Deputy Prime Minister in charge of Coordination and control of EU funds

Mr. Etienne de Poncins, Ambassador of France

Mr. Peter Poptchev, Ambassador at large for Energy Security and Climate Change

Mr. George Prohasky, Co-Chair of the Center for Economic Development

Mrs. Iva Pushkarova, President of the Bulgarian Judges Association

Mr. Nikolay Radev, Head of the Coalition for Plovdiv Councillor's group

Mr. Mihail Rosianu, Ambassador of Romania

Mr. Nikola Sabotinov, Chairman of the Bulgarian Academy of Sciences

Mr. Denis Samson, Exclusive director of Solvay Sody

Mr. Mário Jesus dos Santos, Ambassador of Portugal

Mr. Alberts Sarkanis, Ambassador of Latvia

Former King Simeon II Saxe-Coburg-Gotha

Mr. Petko Sertov, Chairman of the State Agency National Security (SANS)

Mr. Georgi Sharabov, Deputy Chief Editor Trud Daily

Mrs. Ingrid Shikova, Head of European Studies Department at Sofia University "St. Kliment Ohridski"; Head of Communications Section, Representation of the European Commission in Bulgaria

Mr. Volen Siderov, MP Ataka

Mr. Kaloyan Simeonov, Head of Department "EU Coordination" in the Administration of the Council of Ministers; Lecturer at the European Studies Department at Sofia University "St. Kliment Ohridski"

Mr. Daniel Smilov, Jean Monnet lecturer at Sofia University "St. Kliment Ohridski"; Senior Associate, Centre for Liberal Strategies, Sofia

Mr. Stefan Sofiyanski, MP Union of Free Democrats

Mr. Stoyan Stalev, Executive Director Invest Bulgaria Agency

Mr. Krasen Stanchev, Political scientist and director of the Institute for Market Economics

Mr. Sergei Stanishev, Prime Minister of the Republic of Bulgaria

Mr. Ruslan Stefanov, Coordinator of the Economic Program at the Center for the Study of Democracy

Mr. Dragomir Stoynev, Adviser in the Prime Minister's Office

Mr. Peter Stoyanov, Former President of the Republic

Mr. Kancho Stoychev, Sociologist and co-owner of the Gallup International in Bulgaria

Mr. Georgi Stoytchev, Executive Director of the Open Society Institute of Sofia

Mr. Nikolay Svinarov, MP Bulgarian New Democracy

Mrs. Miglena Tacheva, Minister of Justice

Mrs. Cosmina Tanasoiu, Jean Monnet lecturer at the American University in Bulgaria (AUBG) – Blagoevgrad

Mr. Eugeni Tanchev, Jean Monnet chair holder at New Bulgarian University, Sofia; Judge at the Constitutional Court of the Republic of Bulgaria

Mr. Antony Todorov, Associate Professor of Political Sciences at the New Bulgarian University of Sofia. Chairman of the Bulgarian Association for Political Sciences

Mr. Valeri Todorov, General Director Bulgarian National Radio

Mrs Ana Topalova, Expert at International Legal Cooperation and European Issues Department at the Supreme Judicial Council

Mrs. Stanka Tosheva, Deputy Chief Editor Capital

Mr. Konstantin Trenchev, Chairman Confederative Labour Union “Podkrepa”

Mr. Georgi Valchev, Rector of the University of Food Technologies

Mr. Willem van Ee, Ambassador of Holland

Mr. Tzvetan Vasilev, Chairman of Supervisory board of Corporate Commercial Bank

Mr. Nicolay Vassilev, Minister for State Administration and Administrative Reform

Mr. Boris Velchev, Prosecutor General

Mr. Arunas Vinciunas, Ambassador of Lithuania

Mr. Konstantin Vulkov, journalist Darik Radio

Mr. Jean-Jacques Welfring, Ambassador of Luxemburg

Mr. Stephen Williams, Ambassador of United Kingdom

Mr. Yane Yanev, MP Law, Order and Justice

Mrs. Mira Yanova, Sociologist and director of the MBMD

Mrs. Vasilka Yoncheva, Rector of the Academy for Musical and Dancing Arts

Mrs. Mitka Zaharlieva, Head of Cabinet, Ministry of Justice

Mr. Zhelyu Zhelev, Former President of the Republic

Mrs. Zinaida Zlatanova, Representative of the European Commission in Sofia

Mr. Borislav Zyumbyulev, First Deputy Chief Editor 24 Hours Daily

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