



State of Preparedness of the Republic of Bulgaria for Joining the Schengen Zone

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EXECUTIVE SUMMARY

While serving as a guarantee for strengthening the security of the European Union, the expansion of the Schengen zone is also a prerequisite for improving the life of EU citizens and ensuring that they would be able to effectively exercise their right to free movement and free economic activity.

Joining the Schengen zone has been highlighted as a key priority for the Republic of Bulgaria. In July 2007 the Bulgarian government set the planned deadline for the country's entry into the Schengen zone in the year 2011, while 2008 was earmarked as the year in which the Schengen evaluation procedure would start.

It would be no exaggeration to say that the accession to the Schengen zone, with its complexity, lengthiness and intricacy, could be compared only to the process of Bulgaria's accession to the European Union. Nevertheless, neither the media, nor the non-governmental organizations are adequately informed about this process, and hence, the general public is also largely unaware of it. At the same time, the government institutions seem to jealously keep "the zone" to themselves. Therefore, the efforts over the next three years should be targeted not only to developing different kinds of legislative acts, plans and strategies, but also to fulfilling the commitments made effectively and in a timely fashion, and building genuine and operational mechanisms for civic control over the Schengen accession process.

The present research paper seeks to identify Bulgaria's achievements over the last few years, the actions, which the competent authorities are expected to undertake in the next three years, as well as the state of the country's preparedness for joining the Schengen zone.

Apart from assessing the progress made in incorporating the Schengen principles and the Schengen *acquis* into Bulgarian legislation, the research focuses on three major areas, which are of key importance for both Bulgaria and the European Union, namely border control, visa policy, and migration. Asylum issues are also addressed, albeit rather schematically, since the provisions of the EU legislation in this area do not fall within the Schengen *acquis*.

With regard to *the process of incorporating the Schengen acquis into the national legislation*, we could say that it is generally progressing within the set deadlines with only a few delays, which affect the adoption of secondary legislation.

As an external border country of the EU, Bulgaria has identified *border control* as a key priority and accords great significance to the legislation and the institutional capacity required for its effective implementation. Substantial progress has been made in this area over the last few years, but the accomplishment of many projects for strengthening internal and external borders, the signing of the necessary intergovernmental agreements with neighboring states, and the actual introduction of compensatory measures at the borderline areas are still pending.

Special attention has been also paid to the upcoming construction of the necessary technical infrastructure for joining SIS II, as well as to the National Visa System and the national interface for connecting to the EU Visa Information System (VIS) and the VISION network.

The analysis of the *migration situation* in the country showed that after its accession to the EU Bulgaria has become an attractive target for citizens of "risk" countries not only as a transit destination, but also as a possible end point. The fact that Bulgaria would continue to face increasing migration pressure over the next years, requires the adoption of urgent measures to develop a *long-term strategy for managing these processes*. It should be clear to everyone that the dynamics of these social relations now goes far beyond the development and implementation of purely legislative and administrative instruments in this sphere. Effective comprehensive measures are necessary to support the integration of immigrants and their families in society and to curb

illegal residence and employment. It is by launching a debate on these issues with the involvement of media, local authorities, employers and non-governmental organizations that Bulgaria should develop a clear and sustainable position on our national interest in the reception and integration of immigrants, including the encouragement of foreign citizens of Bulgarian descent willing to settle and work in the country, as well as the reduction of outgoing migration.

An attempt has also been made in the research paper to propose specific steps for overcoming existing challenges and obstacles, which Bulgaria faces in its progress towards accession into the Schengen zone. These steps include, among others:

- ü *Creating a special body or empowering an existing agency to exercise control over the fulfillment of already assumed commitments* – as a step in this direction changes could be considered in Ordinance No 84 of April 17, 2007 on the Cash-flow and Schengen Facility Management and Supervision Procedure;

- ü *Guaranteeing the access to public information by maximizing the use of the Internet* – it turns out that the access to legislative acts, strategic and other documents is virtually impossible because relevant information is provided on the Internet sporadically, partially or in an untimely fashion;

- ü *Strengthening cooperation with non-EU member countries neighboring Bulgaria and signing intergovernmental agreements on small border traffic;*

- ü *Pursuing a more active foreign policy to secure a commitment on behalf of Greece on signing an agreement on joint border-crossing control (“one-stop border control”).*

Another problem, which has been identified, is the inadequate cooperation and coordination of actions, as well as the attempt on behalf of some government agencies to act as the sole driving force of the Schengen accession process, which impedes the formulation and implementation of the government’s policy in this area.

The research does not claim to be comprehensive or too specific. It offers a snapshot of Bulgaria’s progress in the process towards Schengen accession and the steps without which the 2011 deadline would remain only on paper. The research seeks to extend the debate on Schengen issues beyond government institutions and bring about the active involvement of non-governmental organizations, not only as a reliable partner, but above all as an impartial actor capable of providing the necessary checks and balances. Increasing public awareness and strengthening transparency and efficiency would only contribute to the timely, sound and professional fulfillment of the commitments made in the process of Bulgaria’s accession to the Schengen area.

I. FOREWORD

The expansion of the Schengen area is a prerequisite for improving the life of EU citizens and ensuring that they would be able to effectively exercise their right to free movement and free economic activity. In the Hague Programme the European Council urged the Justice and Home Affairs Council, the Commission and the Member States to implement all necessary measures to ensure abolition of internal border controls in the shortest possible term. In its "Annual Policy Strategy for 2008" Communication of February 21, 2007 the European Commission identified the free movement of people within the EU and the expansion of the Schengen area as a key priority for the Union. In addition to the current 15 Schengen Member States, nine of the ten Member States (except Cyprus), which entered the EU in 2004, are expected to join the Schengen area by the spring of 2008.

Joining the Schengen area has been highlighted as a key priority for the Republic of Bulgaria. In its decision No 529 of August 1, 2007 the Council of Ministers declared that as of January 1, 2008 the country would be ready to start the Schengen evaluation procedure in all areas: borders, visa arrangements, police cooperation, personal data protection, and Schengen Information System. In the same decision the Council of Ministers set the planned deadline for Bulgaria's entry into the Schengen area in the year 2011. The Government also approved a Declaration of readiness to undergo Schengen evaluation, which the Minister of Interior submitted to the General Secretariat of the Council of the EU.

The present research paper seeks to identify Bulgaria's achievements over the last few years, the actions, which the competent authorities are expected to undertake in the next three years, as well as the state of the country's preparedness for joining Schengen area.

Apart from assessing the progress made in incorporating the Schengen principles and the Schengen *acquis* into Bulgarian legislation, the research focuses on three major areas, which are of key importance for both Bulgaria and the European Union, namely border control, visa policy, and migration, addressing to some extent certain asylum issues. An attempt has also been made in the research paper to identify problem areas and challenges and, which Bulgaria faces in its progress towards accession into the Schengen area, as well as to propose specific steps for overcoming existing obstacles.

II. PROGRESS MADE IN INCORPORATING THE SCHENGEN PRINCIPLES AND THE SCHENGEN ACQUIS INTO THE NATIONAL LEGISLATION

The Treaty of Amsterdam (in force since May 1, 1999) introduced changes in the sphere of justice and home affairs aimed at establishing "an area of justice, freedom and security", and more specifically, transferring issues related to migration, asylum and judicial cooperation on civil matters in the EC to the first pillar and integrating the Schengen *acquis* into framework of the EU.

Under the Protocol annexed to the Treaty of Amsterdam, the provisions of the Schengen *acquis* are binding on all accession countries, which are obliged to participate in all initiatives, arising from the future membership in the Schengen area.

The abolition of internal border control applies to new Member States upon a subsequent decision of the Council, which in effect seeks to verify that the control at EU's external borders is effective enough and satisfies „old“ Member States of the Schengen area.

Annex II to Art. 4, par. 1 of the Treaty of Accession of the Republic of Bulgaria and of Romania to the EU, concerning the conditions and arrangements for admission, lists the provisions of the Schengen *acquis*, which are binding on and applicable in the Republic of Bulgaria from the date of accession. Those provisions of the Schengen *acquis* not referred to in the said Annex, while binding on our country, shall only apply pursuant to a European decision of the Council to that effect after verification in accordance with the applicable Schengen evaluation procedures.

Insofar as most of the provisions of the Schengen *acquis* come under the first pillar of the EU, they are directly applicable and do not require subsequent transposition.

A review of the current legislative framework leads to the conclusion that for the most part the provisions that need to be incorporated into the national legislation have been transposed in the following legislative acts:

- Ministry of the Interior Act (Promulgated, SG, issue 17 of 24.02.2006, in force since 1.05.2006, amended, SG, issue 30 of 11.04.2006, in force since 12.07.2006, SG, issue 102 of 19.12.2006, amended and supplemented, SG, issue 105 of 22.12.2006, in force since the day on entry into force of the Treaty of Accession of the Republic of Bulgaria to the European Union - 1.01.2007, amended, SG, issue 11 of 2.02.2007, SG, issue 31 of 13.04.2007, SG, issue 41 of 22.05.2007, SG, issue 46 of 12.06.2007, in force since 1.01.2008, SG, issue 57 of 13.07.2007, in force since 13.07.2007, amended and supplemented, SG, issue 64 of 7.08.2007) and its Implementing Regulation;

- Foreign Nationals in the Republic of Bulgaria Act (Promulgated, SG, issue 153 of 23.12.1998, amended, SG, issue 70 of 6.08.1999, in force since 1.01.2000, amended and supplemented, SG, issue 42 of 27.04.2001, in force since 27.04.2001, SG, issue 112 of 29.12.2001, in force since 1.01.2002, amended, SG, issue 45 of 30.04.2002, in force since 30.04.2002, SG, issue 54 of 31.05.2002, in force since 1.12.2002, amended and supplemented, SG, issue 37 of 22.04.2003, SG, issue 103 of 25.11.2003, in force since 26.02.2004, amended, SG, issue 37 of 4.05.2004, in force since 4.08.2004, SG, issue 70 of 10.08.2004, in force since 1.01.2005, amended and supplemented, SG, issue 11 of 1.02.2005, SG, issue 63 of 2.08.2005, amended, SG, issue 88 of 4.11.2005, SG, issue 30 of 11.04.2006, in force since 12.07.2006, SG, issue 82 of 10.10.2006, SG, issue 11 of 2.02.2007, amended and supplemented, SG, issue 29 of 6.04.2007, SG, issue 52 of 29.06.2007, supplemented, SG, issue 63 of 3.08.2007) and its Implementing Regulation;

- Bulgarian Identification Documents Act (Promulgated, SG, issue 93 of 11.08.1998, in force since 1.04.1999, amended and supplemented, SG, issue 53 of 11.06.1999, in force since 1.08.1999, SG, issue 67 of 27.07.1999, amended, SG, issue 70 of 6.08.1999, in force since 1.01.2000, SG, issue 113 of 28.12.1999, amended and supplemented, SG, issue 108 of 29.12.2000, in force since 29.12.2000, SG, issue 42 of 27.04.2001, in force since 27.04.2001, SG, issue 45 of 30.04.2002, SG, issue 54 of 31.05.2002, in force since 1.12.2002, SG, issue 29 of 31.03.2003, in force since 31.03.2003, supplemented, SG, issue 63 of 15.07.2003, amended and

supplemented, SG, issue 96 of 29.10.2004, SG, issue 103 of 23.11.2004, in force since 23.11.2004, SG, issue 111 of 21.12.2004, supplemented, SG, issue 43 of 20.05.2005, in force since 1.09.2005, SG, issue 71 of 30.08.2005, in force since 31.10.2005, amended, SG, issue 86 of 28.10.2005, in force since 29.04.2006, SG, issue 88 of 4.11.2005, SG, issue 105 of 29.12.2005, in force since 1.01.2006, SG, issue 30 of 11.04.2006, in force since 12.07.2006, SG, issue 82 of 10.10.2006, amended and supplemented, SG, issue 105 of 22.12.2006, in force since the day on entry into force of the Treaty of Accession of the Republic of Bulgaria to the European Union - 1.01.2007, SG, issue 29 of 6.04.2007, amended, SG, issue 46 of 12.06.2007, in force since 1.01.2008, amended and supplemented, SG, issue 52 of 29.06.2007) and its Implementing Regulation;

- Civil Registration Act (Promulgated, SG, issue 67 of 27.07.1999, amended and supplemented, SG, issue 28 of 23.03.2001, in force since 1.07.2001, supplemented, SG, issue 37 of 13.04.2001, in force since 13.04.2001, amended and supplemented, SG, issue 54 of 31.05.2002, in force since 1.12.2002, supplemented, SG, issue 63 of 15.07.2003, amended, SG, issue 70 of 10.08.2004, in force since 1.01.2005, amended and supplemented, SG, issue 96 of 29.10.2004, amended, SG, issue 30 of 11.04.2006, in force since 12.07.2006, amended and supplemented, SG, issue 48 of 15.06.2007, amended, SG, issue 59 of 20.07.2007, in force since 1.03.2008)

- Regulation Concerning the Conditions and Procedure for Issuing Visas (Adopted with CoM ordinance No 97 of 11.05.2002, Promulgated, SG, issue 49 of 17.05.2002, in force since 17.05.2002, amended, SG, issue 118 of 20.12.2002, in force since 1.12.2002, SG, issue 15 of 24.02.2004, in force since 26.02.2004, amended and supplemented, SG, issue 21 of 16.03.2004, in force since 16.03.2004, amended, SG, issue 80 of 14.09.2004, amended and supplemented, SG, issue 56 of 8.07.2005, in force since 8.07.2005, supplemented, SG, issue 85 of 25.10.2005, amended, SG, issue 96 of 30.11.2005, in force since 1.12.2005);

- Regulation Concerning Border Crossing Checkpoints (Adopted with CoM ordinance No 104 of 20.05.2002, Promulgated, SG, issue 54 of 31.05.2002, in force since 31.05.2002, amended, SG, issue 24 of 23.03.2004, in force since 23.03.2004, amended and supplemented, SG, issue 86 of 1.10.2004, in force since 1.10.2004, amended, SG, issue 90 of 11.11.2005, SG, issue 96 of 30.11.2005, in force since 1.12.2005, SG, issue 85 of 20.10.2006, amended and supplemented, SG, issue 106 of 27.12.2006)

- Regulation Concerning the Conditions and Procedure for Printing, Keeping, Placing, Invalidating, Disposing of and Accounting for Bulgarian Visa Stickers (Adopted with CoM ordinance No 92 of 22.04.2003, Promulgated, SG, issue 40 of 29.04.2003, in force since 29.04.2003);

- Regulation No I-13 on the Protection of the River Segment of the State Border and the Internal Waterways of the Republic of Bulgaria (Promulgated, SG, issue 11 of 1.02.2005);

- Regulation No I-11 on the Protection of the Maritime Segment of the State Border of the Republic of Bulgaria (Promulgated, SG, issue 11 of 1.02.2005);

- Instruction No I3-1063 of 5.06.2007 Concerning the Issuance of Visas at Border Crossing Checkpoints;

- Instruction No 2 of 3.06.2005 Concerning the Issuance of Visas to Ship Personnel.

However, the process of harmonising the national legislation should continue to keep pace with the constant development and improvement of the Schengen *acquis* and the adoption of new acts, which need to be transposed at the national level.

Specific steps should be taken with regard to visa policy in order to introduce Council Regulation (EC) No 851 of June 2, 2005 and Council Regulation (EC) No 539 of March 15, 2001. Further amendments need to be made in the Regulation Concerning the Conditions and Procedure for Issuing Visas to reflect requirements with regard to the limited territorial validity visas. The Regulation Concerning the Conditions and Procedure for Printing, Keeping, Placing, Invalidating, Disposing of and Accounting for Bulgarian Visa Stickers also needs to be amended accordingly to incorporate into Bulgarian legislation the provisions of Council Regulations No 1683/1995, 334/2002, 333/2002.

Last, but not least among the important legislative instruments we should mention the Practical Handbook for Border Guards or the so-called Schengen Handbook, which ensures the enforcement of Regulation (EC) No 562/2006/EO of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code). The Regulation is directly applicable and binding on the Republic of Bulgaria, except for the provisions that require a Council decision under Art 4, par. 2 of the Treaty of Accession. Therefore, full implementation of the Handbook would be possible after the entry of the Republic of Bulgaria into the Schengen area. The Handbook regulates different procedures for carrying out border controls, providing also some practical examples.

III. BORDER CONTROL

Bulgaria's accession to the EU assigned the country the responsibility to guard 1,647 km of the Union's Eastern external border. Under Art. 5 and Art. 6 of the Convention Implementing the Schengen Agreement, border management comprises a set of measures to be taken by competent state authorities with regard to border checks and border surveillance. Data collection and information exchange for risk analysis purposes, as well as the estimation of administrative capacity and technical equipment needs, seek to strengthen border security and counter threats to security and public order.

Strengthening border security and establishing an area of security, freedom and justice is a key priority for the EU and hence for Bulgaria. An essential element in this process is the development of a modern border security system based on the integrated border management concept. Integrated border management involves national and international cooperation in performing the functions of all border control institutions with a view to effectively countering terrorism, cross-border crime and all forms of illegal migration, while protecting the right of the citizens to free movement.

To achieve the goals of integrated border control, the Council of Ministers, with its Decision No 47 of January 27, 2006, adopted an Integrated Border Management Strategy of the Republic of Bulgaria. The elaboration of the Strategy was justified by the developments in the European integration process on border control matters, as well as the existing threats to security and public order. The Strategy is also consistent with the Treaty establishing the European Community, the Treaty on European Union, the Convention Implementing the Schengen Agreement, as well as the strategic and programme documents of the Bulgarian government, regulating border control. On April 10, 2006 the Minister of Interior and the Minister of Finance approved an Action Plan for Implementation of the Integrated Border Management Strategy of the Republic of Bulgaria.

The national integrated border management system comprises the General Border Police Directorate and the other law enforcement agencies at the Ministry of Interior, the Customs Agency at the Ministry of Finance, the Executive Maritime Administration Agency and the Executive Port Administration Agency at the Ministry of Transport, the Airports Administration, the National Veterinary Service and the National Service for Plant Protection at the Ministry of Agriculture and Food Supply, the Executive Agency for Fisheries and Aquacultures, the environment protection services, the Navy divisions and units, the local administration, as well as non-governmental organisations.

The implementation of the Strategy is divided into two phases that reflect the process of Bulgaria's accession to the EU. The first phase, which covered the priorities of the MoI General Border Police Directorate until the date of accession, was completed when the country achieved full membership in the Union.

Before January 1, 2007 the focus was placed on strengthening inter-agency cooperation and improving intra-institutional coordination in addressing issues related to border control and counteraction of cross-border crime and illegal migration. Accompanying measures included steps towards improving information exchange, conducting joint assessment of the operational situation, establishing joint task forces, conducting joint operations, etc.

In the first phase of Strategy implementation, the development of a TETRA radio communication system began in the areas of Svilengrad, Elhovo and Malko Turnovo. The system is gradually being extended to ensure national coverage, including the city of Sofia.

In an effort to optimise the exchange of information among relevant authorities, an Instruction for Cooperation between the agencies of the Ministry of Finance and the MoI was elaborated and approved in 2006 by the Minister of Interior and the Minister of Finance. The Instruction establishes rules and procedures for cooperation in preventing and exposing violations of customs, currency and excise legislation and the border regime.

Joint task forces have been established in June 2006 to conduct joint inspections of:

- transportation vehicles, cargo and persons throughout the country's territory with the use of mobile units;
- transportation vehicles, cargo and persons at border crossing checkpoints;
- premises owned by physical persons or legal entities, as provided by law.

The new Ministry of Interior Act (in force since May 1, 2006) provided a possibility to delegate competencies among the different agencies within the Ministry.

A step towards improving the coordination between the responsible authorities – the MoI and the MoF, is also the appointment of liaison officers at the two institutions.

The second phase of the Strategy focuses on the priorities after Bulgaria's accession to the EU towards achieving preparedness to fully implement Schengen *acquis*. A key element in the second phase is the introduction of simplified procedures for passing through border crossing checkpoints, namely:

- introducing a "common fiche" system and developing an e-form;
- adopting the "one-stop control" principle.

The introduction of the "common fiche" system at all land border crossing checkpoints along the external borders of the EU is expected to increase the throughput capacity of border crossing checkpoints, improve the quality of service, guarantee public receipts, clarify control procedures, enhance transparency, reduce corruption pressure on border administration officials, and avoid duplication of activities among responsible authorities.

A pilot project to introduce the "common fiche" principle (one-stop payment system) was launched in August 2006 at Lesovo Border Crossing Checkpoint.

Again in August 2006 a special commission was established at the Inter-institutional Council on Matter Related to Border Crossing Checkpoints to develop procedures for introducing the "common fiche" system at all 11 border crossing checkpoints along the external borders of the EU. In 2007 a special public procurement bid was conducted to develop special software for the local "common fiche" processing system and integrate it into the institutional systems of MoI General Border Police Directorate, MoF Customs Agency and the National Road Infrastructure Fund.

The procurement Terms of Reference included delivery of special technical equipment for the integrated automated border control information system and installation, along with the required software, at 11 land border crossing checkpoints (Lesovo, Kapitan Andreevo, Malko Turnovo, Kalotina, Vrushka Chuka, Bregovo, Strezimirovtzi, Otomantsi, Gyueshevo, Stanke Lisichkovo and Zlatarevo). The system would enable electronic processing of all incoming and outgoing vehicle traffic passing through the land border crossing checkpoints under the provisions of the Technological Procedure Annex to Art. 27a of the Regulation Concerning Border Crossing Checkpoints. The electronic processing would ensure one-stop payment of all taxes and fines.

The best bidder selected as a result of the special public procurement procedure was "Contactless Multiplexing Systems" Ltd. The contract with the company was signed on July 23, 2007 with a completion deadline of 140 days.

Under the adopted Action Plan and pursuant to the requirement to introduce the "common fiche" system at all land border crossing checkpoints along the external borders of the EU, a document regulating the sequence of border control procedures is expected to be developed by January 2008.

With the accession of the Republic of Bulgaria to the EU, the Bulgarian-Romanian border and the Bulgarian-Greek border became internal borders of the EU, subject to the checks stipulated in the Schengen Agreement and the Schengen Borders Code. Bulgaria is obliged to implement the "one-stop control" principle between the border authorities of the two neighbouring countries, thus reducing the time for processing passengers' flow, facilitating border crossings and dividing responsibility between the border authorities on both sides of the border.

On December 21, 2006 the Government of Bulgaria and the Government of Romania signed a Joint Border Control Agreement ("one-stop control"), which regulates the mechanism for conducting one-stop checks at the border crossing checkpoints along the common border after the

accession of the two countries to the EU on January 1, 2007. The key objective of the Agreement is to simplify, speed up and coordinate border control procedures. The one-stop control principle is implemented at four border crossing checkpoints along the land border between Bulgaria and Romania (Rousse – Danube Bridge, Silistra, Kardam, and Durankulak).

A new border crossing checkpoint at Ilinden – Eksochi was officially inaugurated on December 9, 2005, which contributed to further strengthening and improving the relations between Bulgaria and Greece. The checkpoint was built under the 1995 Agreement between the Republic of Bulgaria and the Republic of Greece and was financed by the Phare Programme – Cross-border Cooperation. However, negotiations between Bulgaria and Greece on the introduction of joint border control along the “one-stop check” principle are still ongoing and no agreement has yet been signed. According to the 2007 National Action Plan on the adoption of the *acquis communautaire* related to the Convention Implementing the Schengen Agreement, the Agreement between Bulgaria and Greece should be signed by the end of 2008.

After January 1, 2007, as a full member of the EU, the Republic of Bulgaria should also implement other compensatory measures at borderline areas. These include among others:

- creating joint task forces with competent border control authorities of neighbouring countries. To this end, by the end of 2007 bilateral intergovernmental agreements are expected to be signed for establishing such task forces and for joint use of infrastructure and technical equipment;
- conducting joint operations at the international level under bilateral international agreements, which should be signed by the end of 2007;
- regulating the delegation of competencies among MoI and MoF units and divisions through relevant amendments to the MoI Act and the Customs Act. The amendments should regulate the delegation of competencies between the employees of the General Border Police Directorate and the Customs Agency regarding the customs and passport and visa control at low intensity border crossing checkpoints. This would enable efficient use of the human resources of both institutions. According to the Action Plan this measure should be implemented by December 2008;
- establishing joint task forces to conduct investigations at national and international level – this measure is applicable only upon accession to the Schengen area. Its implementation requires amendments to MoI Act and its Implementing Regulation, at the national level, and signing of bilateral international agreements, at the international level.

After the accession of the Republic of Bulgaria to the EU, the established standard procedures for full border control remain applicable at the external borders. All incoming, outgoing or transiting passengers crossing the external borders of the Republic of Bulgaria are subject to compulsory passport and visa control at border crossing checkpoints.

The conditions and procedure for crossing the state border of the Republic of Bulgaria serving as an external border of the EU external border, as well as the type and scope of compulsory border checks are regulated by the Ministry of the Interior Act and its Implementing Regulation, the Foreign Nationals in the Republic of Bulgaria Act and its Implementing Regulation, the Bulgarian Identification Documents Act, and the Regulation Concerning Border Crossing Checkpoints. These acts adopt and incorporate into the national legislation the provisions of the Schengen Borders Code regulating the crossing of external borders (Art. 6, 7, 8). An Instruction of MoI and MFA concerning the issuance of visas at border crossing checkpoints and an Instruction of MoI, MFA and MoT concerning the issuance of visas to ship personnel were adopted in 2005. The Law on entry, sojourn, and leave of EU citizens and their family members in and from the Republic of Bulgaria entered into force on January 1, 2007, while in March 2007 MoI issued an Instruction on the rules and procedure for issuing documents under this act.

The process of building new and renovating existing border crossing checkpoints to meet Schengen requirements is continuing with a view to improving border control along external borders. A “blue” border training centre is scheduled to be established by the end of 2007 to

provide specialised training to border police officers involved in the control and surveillance of maritime and river borders.

Pursuing the Ministry's policy towards improving the infrastructure, architecture and appearance of border crossing checkpoints, the Minister of State Administration and Administrative Reform issued Order No FS-10/10.07.2007 and Order No FS-198/17.08.2007 under which 17 regional administrations were provided with state seals and 1000 flags of the Republic of Bulgaria to be placed in the areas around border crossing checkpoints.

Implemented measures to strengthen administrative capacity since 2005

In 2004 the National Border Police Service as, it existed under the then applicable legislation, was entirely professionalised. With the entry into force of the new MoI Act on May 1, 2006 the National Border Police Service became the General Border Police Directorate within the structure of the National Police Service. The Directorate is a specialised structural unit assigned with performing protective, operational and investigative functions to guard national borders and control the application of the border regime. The Directorate operates in borderline areas, in the areas around border crossing checkpoints, at international airports and ports, in internal sea waters, the territorial sea and the adjacent zone, the continental shelf, the Bulgarian section of the Danube River, other borderline rivers and basins.

To optimise the operations of the General Border Police Directorate, structural changes were introduced, including increase of full-time staff.

Since February 2006, border police officers work under the rotational assignment principle. A special software was developed at the General Border Police Directorate, enabling automated independent assignment of border police officers to workstations within the Automated Border Control Information System. Rotational assignment was introduced in stages at border crossing checkpoints Kalotina, Kapitan Andreevo, Kulata, Danube Bridge, and Lesovo.

The General Border Police Directorate is a beneficiary of the Phare programme under projects targeted to introducing EU standards and best practices in border management and control, modernising technical equipment, and training border police staff. The delivery of new equipment, for example, is always accompanied by theoretical and practical training for the relevant personnel.

The one-year training programme, which was launched at the Specialised Training and Re-training Centre in Pazardjik in 2003, is still being implemented. As of 2006, 797 newly appointed officers had received initial training under this 12-month programme.

The centralised follow-up training for officers of the General Border Police Directorate who have participated in the short initial professional training programme offered in the period 1999–2002, is also continuing. As of 2006, 349 non-commissioned officers had received follow-up professional training. In the academic year 2005–2006 the duration of the programme was extended from 6 to 8 weeks and another 300 officers were trained.

In 2005–2006 border police officers received in-service training at the Specialised Training and Re-training Centre and at the MoI Academy.

In the framework of the established contacts and cooperation with the Federal Republic of Germany, officers of the General Border Police Directorate attend one- or two-year training programmes at the training centres of the Federal Border Guard of Germany.

The decentralised onsite training is also continuing. This type of training builds upon the centralised programmes, but is strongly practice-oriented and aims at maintaining a high level of professional qualification. Onsite training is offered by the so-called multipliers (trainers) – trained officers (currently 109) who in addition to their main professional responsibilities, organise in-service training sessions for newly appointed or current staff.

In 2007 the General Border Police Directorate developed a Strategy for securing the necessary technical equipment to protect the external borders of the Republic of Bulgaria and the EU. The ultimate goal of the Strategy is to acquire modern technical equipment with high

operational capacities: five helicopters, new border patrol craft (one 100-ton and one 200-ton vessels, as well as two 50-ton and two 20-ton vessels), surveillance and control equipment, cars. Five provisional projects for integrated surveillance and control systems have been developed under the Strategy, for the Black Sea border, the Bulgarian-Turkish border, the Bulgarian-Macedonian border, the Bulgarian-Serbian border and the Danube river border, respectively.

Institutional development

In the period 1999–2007, 44 million Euro have been invested in modernising the border control and surveillance equipment, including:

- 18.5 million Euro for thermal imaging surveillance systems: 34 mobile systems (25 of which pending delivery), 6 fixed thermal imaging cameras, 100 mobile cameras, and 819 night vision devices;
- 3 million Euro for 101 all-terrain vehicles, 64 motor vehicles and 18 minivans;
- 7 million Euro for communication and information equipment (IT equipment, portable radio stations, TETRA equipment);
- 680 thousand Euro for mobile document verification systems;
- 13 million Euro for maritime border patrol equipment: three new patrol boats (50 tons), two patrol vessels (20 tons), five hard-bottom inflatable boats, 200 protective underwater suits, as well as three second-hand patrol craft (200 tons), co-financed by the national budget under the “Maritime Border 2000” Project.

The 2005–2006 Financial Memorandum provides for an additional 33 million Euro. With these funds, the total amount of pre-accession assistance for modernising the Border Police technical equipment would reach 77 million Euro.

In September 2007 the National Assembly is expected to ratify the Memorandum of Understanding between the Republic of Bulgaria and the European Commission concerning the utilization of grant funds under the Transition Facility. The Transition Facility is designed to further support new Member States in their effort to develop and strengthen their administrative and judicial capacity to implement and enforce Community legislation. The Transition Facility for Bulgaria was established under Art. 31 of the Treaty of Accession of the Republic of Bulgaria and of Romania to the EU and justice and home affairs are among the areas for which assistance is envisaged. The contracting period expires in 2009, while the disbursement period – in 2010. The total indicative amount of assistance available to Bulgaria is 31.488 million Euro, while the final amount will be determined with a decision of the European Commission on October 4-5, 2007. Nine projects are to be implemented in the area of home affairs with a total indicative budget of 7.133 million Euro, including projects to strengthen the external “blue” borders of the EU.

Provisions for airports

Currently the Republic of Bulgaria has five international civil airports – Sofia, Varna, Bourgas, Plovdiv, and Gorna Oriahovitsa. The new passengers’ terminal at Sofia Airport became operational in 2007.

Full passport and visa control is conducted at all airports. Aviation security committees with representatives of all agencies responsible for civil aviation security operate in all international airports.

The necessary technical facilities and arrangements for dividing passengers by citizenship (EU citizens, third countries) are expected to be created by the date of accession to the Schengen area.

Provisions for maritime and river traffic

The legal basis of maritime and river traffic control comprises the Ministry of the Interior Act, the Foreign Nationals in the Republic of Bulgaria Act, the Bulgarian Identification Documents Act and the Act on the Maritime Territories, Inland Waterways, and Ports of the Republic of Bulgaria.

A Regulation concerning the protection of the river section of the state border and the inland waterways of the Republic of Bulgaria and a Regulation concerning the protection of the maritime section of the state border of the Republic of Bulgaria have been elaborated under the Phare twinning project BG 0203.11 (BG02/IB-JH-06) "Further Strengthening of border Control and Management of future EU External Borders (blue borders).

Another tangible result of the project is the creation of a permanent Centre for Coordination, Control and Information Exchange on Black Sea traffic in Bourgas, which has been operational since October 2003. The **Black Sea Border Coordination and Information Centre** monitors maritime traffic in the Black Sea basin and receives and exchanges real time information among all border control services of the Black Sea region countries: Bulgaria, Romania, Ukraine, the Russian Federation, Georgia, and Turkey. The main task of the Centre is to ensure the peace and inviolability of the Eastern border of the EU. The Centre coordinates the activity of the decision-making and executive authorities on the implementation of joint tasks involving protection and control of maritime territories and traffic, as well as surveillance of areas and targets to build a comprehensive overview of the maritime situation in the region. The Centre works with modern surveillance and communication equipment and uses satellites to transfer and coordinate real-time information. Visual data on the situation in the Black Sea are received on LCD monitors and can be archived in graphs and text. The Centre collects data on any illegal traffic, smuggling or change of ship flags, as well as on persons suspected of terrorist activity.

Since its establishment in 2003 until the end of 2006, the Centre has monitored 780 vessels. 311 communications have been received only in 2006 and 51 have been dispatched to countries in the Black Sea region. The course of 119 vessels cruising in Bulgarian territorial waters has been monitored by the Centre with full onboard checks performed both at sea and in the harbours.

The continuing efforts to improve the Centre's performance are reflected in the agreement reached at the end of July 2007 by the Bulgarian and Romanian Foreign Affairs Ministers to commission Romanian border police officers to the Centre. The Bulgarian side made a commitment to send similar invitations to the other participants in the initiative: Ukraine, Georgia, Turkey, and the Russian Federation.

For the four years since its establishment the Black Sea Border Coordination and Information Centre emerged as a reliable partner in counteracting illegal migration and terrorism, as well as in implementing joint search operations. A priority for Bulgaria is to promote the Centre into a key partner for FRONTEX in the region with regard to EU external border protection coordination and third party collaboration.

Cooperation with the Agency for the Management of Operational Cooperation at the External Borders of the European Union (FRONTEX)

The Agency was established by Council Regulation 2007/2004 to improve operational cooperation and strengthen security at the external borders of the EU.

On September 5, 2005 FRONTEX decided to invite Bulgaria and Romania, as future Member States, participate in its activity as observers.

In August 2006, FRONTEX and the MoI General Border Police Directorate signed a Memorandum of Cooperation, which specifies the forms of interaction in several main areas: exchange of information, participation in the FRONTEX risk analysis network, training, and scientific activity.

By December 31, 2007 the General Border Police Directorate and the European Agency for the Management of Operational Cooperation at the External Borders the European Union (FRONTEX) are expected to sign a Framework Cooperation Agreement, which is currently being prepared.

Bulgaria has stated its commitment to provide a border patrol vessel with a displacement of 200 tons, equipped with navigation and surveillance radars and a 17-member crew, to be used in joint conducted by the Agency along the external borders of the EU in the Black Sea region.

A joint training exercise for border patrol officers under the aegis of FRONTEX is expected to be organised in the Black Sea by the end of 2007. In addition to Romania and Bulgaria, border patrol officers from Greece, Italy, and Spain will also participate.

Building the necessary technical infrastructure for use and operation of the second generation Schengen Information System (SIS-II)

Council Decision 2007/533 established a second generation Schengen Information System (SIS II). SIS II constitutes an essential tool for the application of the provisions of the Schengen acquis as integrated into the framework of the European Union. The currently operating system – SIS – has the capacity to service no more than 15 participating States and need to be replaced by a second generation SIS, since with the accession of the new Member States the Schengen area would include 24 States. The system is at present operational for all 'old' Member States, except for the United Kingdom and Ireland, as well as for two non-EU States – Norway and Iceland.

The purpose of SIS II is to ensure a high level of security within the area of freedom, security and justice of the European Union. SIS II is composed of a central system, national systems, and a communication infrastructure. A management authority is expected to be established to provide operational management of the system.

Each Member State should monitor independently the lawfulness of the processing of SIS II personal data on their territory and their transmission from that territory, as well as the exchange and further processing of additional information.

Over the last few years the competent Bulgarian authorities have been working actively to prepare for the use and operation of SIS-II.

The development and implementation of a new automated information system for MoI search activities was completed in June 2005 under two projects financed by the Phare Programme. The system covers all categories of objects according to the Schengen acquis and is in full compliance with the SIS requirements. The Instruction on the use and operation of the AIS for MoI search activities (adopted on May 19, 2005) regulates the institutional framework for the process registering, updating and removing objects of specific control and discrete surveillance in and from the system. The operational technology is consistent with the requirements of the national legislation, as well as with the provisions of Art. 99 of the Convention implementing the Schengen Agreement. Based on the AIS for MoI search activities, a national search system will be developed covering all SIS II categories of objects.

An intra-agency TCP/IP network for transferring data has been created with the use of leased communication channels and physical lines for data transfer. This network connects the national services and the MoI general and specialised directorates, the regional police directorates, the regional border control services, the police stations and the border checkpoints, and allows access to the centralised databases in accordance with the competences, the rights to access and the availability of technical equipment in the relevant service.

Several projects were launched in 2006 for the delivery of technical and communication facilities for establishing a backup information and computing centre for MoI in compliance with the requirements of the new SIS-II.

In June 2006 the Minister of Interior endorsed a *MoI Action Plan on the preparation of the Republic of Bulgaria to join the new Schengen Information System (SIS II)*. The Action Plan envisages the following measures:

- creating conditions for Bulgaria to join SIS-II by including MoI representatives in the EC working groups on the establishment of the new SIS-II (SIS-II CM and SIS-II NPM) – this is a permanent measure under the responsibility of the MoI;
- developing a national interface to connect to the new SIS-II;
- upgrading the national AIS for MoI search activities to ensure data and information exchange with the new SIS-II;
- establishing a national SIS-SIRENE data exchange unit; provision of the necessary technical, organisational and human resources;

- adopting the necessary legislative amendments to support Bulgaria's participation in SIS-II;
- launch of data exchange between the national AIS (N.SIS) and the SIS-II.

In 2007, the Council of Ministers adopted Ordinance No 84 of April 17, 2007 on the Cash-flow and Schengen Facility Management and Supervision Procedure (Promulgated, SG, issue 35 of 27.04.2007, in force since 27.04.2007). According to Art. 2, par. 1 of the Ordinance, the support provided by the EU under the Schengen Facility shall be used, as required by Art. 32 of the Treaty of Accession of the Republic of Bulgaria and of Romania to the EU, to meet the objectives and priorities set in the approved National Indicative Programme for 2007–2009 and the Annual Indicative Programmes. The National Indicative Programme and the Annual Indicative Programmes include actions involving investment in equipment, in SIS building and maintenance, in optimisation and modernisation of border control facilities, in staff training, etc.

The Ordinance established a Schengen Facility Management, Monitoring and Supervision Committee, which is also the managing authority under the National Indicative Programme. The Committee is chaired by the Minister of Interior, while the members include: the Deputy Minister of Finance, responsible for managing EU funds; the Deputy Minister of Foreign Affairs, responsible for consular and visa policies; and the Deputy Minister of Interior, responsible for EU co-operation.

Under the Schengen Facility Indicative Programme, MoI has submitted the following projects, which are expected to be carried out in 2008–2009:

- elaboration of a project for comprehensive technical and organisational development of the national interface for the new SIS – SIS II. Delivery and installation of technical equipment and software – by June 30, 2008;
- establishment of the backup information and computing centre and the backup interface linking to the new SIS – SIS II – by June 30, 2008;
- provision of technical equipment for the backup information and computing centre, provision of equipment for the backup interface linking to the new SIS – SIS II – by June 30, 2008;
- elaboration and development of the national N.SIS to be linked to the new SIS – SIS II – by December 31, 2008
- linking the national N.SIS with the new SIS – SIS II – by April 30, 2009.

IV. VISA POLICY

Common visa policy

Bulgaria has harmonised its legislation with the Common Visa Policy of the EU, regulated in a number of directives, regulations, decision and other acts of the Union. The *acquis communautaire* in the area of visa policy has been incorporated in the Foreign Nationals in the Republic of Bulgaria Act, the Bulgarian Identification Documents Act, Law on entry, sojourn, and leave of EU citizens and their family members in and from the Republic of Bulgaria, the Implementing Regulation to the Foreign Nationals in the Republic of Bulgaria Act, the Regulation Concerning the Issuance of Bulgarian Identification Documents, the Regulation Concerning the Conditions and Procedure for Issuing Visas, the Regulation Concerning the Conditions and Procedure for Printing, Keeping, Placing, Invalidating, Disposing of and Accounting for Bulgarian Visa Stickers.

As of December 31, 2006 the visa regime of the Republic of Bulgaria is fully synchronised with the positive and negative lists to Regulation 539/2001.

With Decision No 590/04.10.2006 of the Council of Ministers, Bulgaria unilaterally established a visa-free regime for the citizens of Guatemala, Nicaragua, Salvador, Honduras, Costa Rica, Mexico and Panama. Guatemala, Salvador and Honduras reciprocated by introducing visa-free regime for Bulgarian citizens effective since the beginning of 2006, while Mexico – since March 11, 2007.

A visa-free regime agreement was signed with Argentina on March 14, 2006 and entered into force in August 2006.

Under Regulation 539/2001, as of January 1, 2007 the citizens of Paraguay, Israel, Brunei and Singapore are exempt of the requirement to be in possession of a visa for stays of no more than 90 days in all within six months of the date of the first entry.

By signing travel regime agreements with Serbia, Macedonia and Montenegro, which established a visa regime for the citizens of these countries and a visa-free regime for Bulgarian nationals, Bulgaria completed the process of harmonising its visa policies with Annex I to Regulation 539/2001.

Under the provisions of Regulation No 1932/2006 of December 21, 2006 amending Regulation 539/2001, Bolivia was transferred to Annex I as of April 1, 2007. Since by December 31, 2006 Bolivia had not introduced a visa-free regime for Bulgarian nationals, Bulgaria continues to implement a visa regime towards the citizens of Bolivia.

In terms of legislation, measures should be taken by the end of 2007 to prepare a draft act for accession to the visa facilitation agreements between the EU and Russia, the EU and Ukraine and the EU and China.

No later than 6 months before the date of accession to Schengen, Bulgaria should take the necessary steps to denounce any visa agreements that ease significantly the procedure for issuing visas, in case these agreements contradict the visa facilitation agreements between the EU and the respective countries, or the common visa policy.

With regard to institutional development, the following steps are expected to be taken by the end of 2007:

- research and groundwork for the establishment of a backup visa centre (location, hardware and software equipment, communications and security systems) to ensure the operation of the national visa system in emergency situations;

- research and groundwork for establishing and equipping a unit within the Visa Centre to identify incoming visa and temporary passport applications (location, hardware and software equipment, access control systems, routers);

- research and groundwork for extending the disc space of the central database server of the national visa system with an external disc subsystem, and for upgrading the hardware and software equipment of the Visa Centre;

Training is continuing for the staff of the MFA Visa Centre (multipliers), responsible for preparing Consular service officers on short- and long-term assignments to implement EU common visa policy and legislation.

Uniform visa – definition

The definition of the term “visa” has been introduced in Bulgarian legislation with Art. 9 of the Foreign Nationals in the Republic of Bulgaria Act, which stipulates that a visa is a permit authorising entry, stay, transit or airport transfer through the territory of the Republic of Bulgaria.

By the date of Schengen accession Bulgaria should also introduce into the national legislation definitions for:

- uniform EU visa, valid for the territories of all Member States, and
- limited territorial validity visa.

Uniform visa stickers and unified forms for affixing visas

The amendments to the Foreign Nationals in the Republic of Bulgaria Act (SG, issue 29 of 06.04.2007) revoked the definition “Bulgarian visa sticker” included in the Bulgarian Identification Documents Act and introduced a new definition, consistent with Council Regulation No 334 of February 18, 2002. Thus, the common EU formats for visa stickers and forms for affixing visas were introduced into the national legislation.

Furthermore, the Foreign Nationals Act regulated the collection of biometric data (a photo and 10 fingerprints), which may be used only for verification, recognition or ascertainment of identity in the process of issuing visas or in the course of border control procedures.

The amendments to the Foreign Nationals Act, pursuant to Regulation No 333/2002 of the EU, also stipulated that foreign nationals in possession of a travel document, which is not recognised by Bulgaria, may obtain Bulgarian visas by placing the visa sticker on a unified EU form for affixing a visa.

Pursuant to Council Recommendation of April 29, 1999 all Bulgarian consular services have been supplied with standard equipment for verification of travel and identification documents, residence permits, visa stickers, etc. - combined document testing device equipped with magnifier, ultra-violet light source, and 3M Retroviewer.

Consular services have been provided with information in an electronic format on the features of the national passports, visas and other documents (driver’s licenses, residence permits for foreign nationals, etc.) issued by other states.

Bulgarian diplomatic missions and consular services are now required to coordinate electronically with the Visa Control System any actions related to extending the validity of Bulgarian passports and issuing temporary passports for return to the Republic of Bulgaria.

The amendments to the Bulgarian Identification Documents Act changed the definition for “temporary passports” and introduced a possibility for Bulgarian diplomatic missions and consular services to issue provisional travel documents to EU citizens in extraordinary circumstances.

Amendments to the Regulation Concerning the Conditions and Procedure for Printing, Keeping, Placing, Invalidating, Disposing of and Accounting for Bulgarian Visa Stickers had to be drafted and adopted to incorporate Council Regulation No 333/2002, Council Regulation No 1683/1995, and Council Regulation No 334/2002. This measure had to be completed by the end of May 2007 according to the 2007 National Action Plan for the Adoption of the Schengen Acquis, or by August 30, 2007 according to the updated Action Plan on the Measures Following Accession for 2007. However, no progress has been made on this measure so far.

The necessary quantity of EU uniform visa stickers and unified forms for affixing visas had to be printed by June 2007. So far no actions on this have been taken by either MFA or MoI. Only the Draft Plan for developing the National Visa System and connecting it to the EU Visa Information System and the VISION Visa Inquiry Open-Border Network, developed in July 2007, mentions that this deadline has been extended to the end of 2007.

The implementation of the uniform Schengen visas should begin at the date of Schengen accession.

Categories of visas

The provisions of the Foreign Nationals Act related to the types of visas, their validity, permitted length of stay and permitted number of entries were partially amended to reflect the Common Consular Instructions. Currently the Foreign Nationals Act stipulates the following categories of visas:

- type "A" visa – for airport transit;
- type "B" visa – for transiting;
- type "C" visa – for short-term stay;
- type "D" visa – for long-term stay.

The current Bulgarian legislation does not provide for "D+C" type of visas – a long-term visa issued by a Schengen Member State that can serve as a short-term visa for other Schengen states. Such visas should be implemented by the date of Schengen accession, unless this type of visas is abolished in the final version of the new Community Code on Visas.

In order to avoid any inconsistency in administrative decisions and optimise procedures, the law stipulates that the national visa for long-term stay (type "D" visa) shall be multiple entry, with a validity of 12 months. Thus, Bulgaria meets its commitments under Recommendation No 761/2005 of the EU to facilitate the issue visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research. Under the law, such type of visa may be also issued to students, post-graduate students or trainees, as well as to foreigners, sent on an assignment by a foreign employer in order to perform specific tasks, related to control and coordination of fulfilment of a contract for tourist services,

Accepting and processing visa applications. Issuing visas. Extending the duration of visas. Invalidating visas.

Under the amended Regulation Concerning the Conditions and Procedure for Issuing Visas, which has been in force since July 8, 2005 and reflects Council Decision No 354/2002, the consular services of the Bulgarian diplomatic and consular missions accept visa applications that correspond to the uniform EU form.

Visas are issued by the Bulgarian diplomatic and consular missions. As an exception, where this is required by the state interest or by extraordinary circumstances, the border control authorities at border-crossing checkpoints may issue one-time transit visas with a validity of 5 days and short-stay visas with a validity of no more than 15 days, upon coordination with the Ministry of Foreign Affairs.

Diplomatic and consular missions process visa applications and issue visas through the Visa Control System. Data on visas issued at border crossing checkpoints are entered into the system by the Visa Centre to the MFA Consular Relations Directorate.

Instructions on conducting personal interviews with foreign nationals applying for Bulgarian visa have been sent to and are being implemented by all diplomatic and consular missions of Bulgaria.

The Visa Control System has been installed in 97 out of a total of 100 missions abroad. For now the system will not be installed only in selected mission where conditions do not meet safety requirements or there are other considerations (these are the missions in Iraq, the Korean People's Democratic Republic, and the bureau in Pristina/Kosovo).

In 2006 a new version of Bulgaria's Visa System was developed, which allows for taking digital photos of visa applicants and 10 fingerprints. In 2007 all necessary technical equipment has been delivered and the infrastructure of Bulgarian consular services in Northern Africa was completed. The groundwork for installing the biometric data collection equipment in the consular services in Tunisia, Morocco, Libya, Egypt, Algeria and Jordan has also been completed.

In the 2005 the European Commission adopted Regulation No 2252/13.12.2005 and Decision No 409/28.02.2005, which stipulate that Member States should begin issuing passports with an inbuilt contact-less electronic chip no later than February 28, 2006. Pursuant to this requirement, in 2006 the Minister of Interior issued an order to create a working group assigned with developing "A Concept for the Bulgarian Identification Documents in the Framework of the European Union". The Concept was approved by the Council of Ministers on May 25, 2006. The working group then prepared a draft decision for opening a special public procurement bid and elaborated terms of reference for the development of a system for centralised personalisation of identity documents with inbuilt electronic carrier of biometric data in line with the requirements of the European Union.

On July 26, 2007, with quite a considerable delay, the Council of Ministers assigned the Minister of Interior with organising and conducting a special public procurement bid for the following task: "Development of a system for centralised personalisation of identity documents with inbuilt electronic information carrier". With the same decision the Council of Ministers also approved the draft resolution of the Minister of Interior to open a special public procurement procedure. The terms of reference include: design of the system; production of prototypes of the new Bulgarian identification documents; delivery, assembly and installation of the system's components; setting up and putting the system into operation; provision of user licenses for the system's software; training of MoI staff; delivery of blank identity document forms, ready for personalisation; delivery of supplementary material and consumables; elaboration of blueprints for the construction of a National Centre for Personalisation of Identity Documents; execution of all related construction works. What is distinctive in this case is that the tender is open only to bidders who have submitted offers for *the entire assignment*.

According to the updated Action Plan on the Measures Following Accession for 2007, which was approved by the Council of Ministers on July 26, 2007, the Regulation Concerning the Conditions and Procedure for Issuing Visas and the Regulation Concerning the Conditions and Procedure for Printing, Keeping, Placing, Invalidating, Disposing of and Accounting for Bulgarian Visa Stickers had to be amended by August 30, 2007. Currently, it is unclear when the amendments to the above mentioned bylaws would be submitted for consideration to the Council of Ministers.

Representation of a state by another one in countries where the first state has no diplomatic mission or consular service

The amendments to the Foreign Nationals Act introduced the possibility for issuing visas by proxy, i.e. the diplomatic mission or consular service of one EU Member State to issue visas on behalf of another Member State. The Republic of Bulgaria and other EU Member States may conclude bilateral agreements for representation in accepting visa applications and issuing visas. (Art. 9d).

By the date of Schengen accession, Bulgaria should negotiate such agreements with other Schengen Member States.

Cooperation, exchange of information and statistics

Under Art. 26, par. 1 of the Regulation Concerning the Conditions and Procedure for Issuing Visas, all visa applications and copies of any accompanying documents submitted by the applicants should be kept in the archives of the respective diplomatic mission, consular service or border control authority. The Visa Control System keeps a record of all visa applications and issued or refused visas by types, countries, place of issuing, nationality of applicants, purpose of travel, and type of travel document.

The amendments to the Regulation Concerning the Conditions and Procedure for Issuing Visas, adopted in 2004, created a legal possibility to provide data on the number of issued, refused and unclaimed visas by type and by nationality of the applicants to EU Member States or international governmental organisations. Such information is provided for statistical purposes in a way that does not allow identification of the persons involved and with a view to creating conditions for the use of the Schengen Information System.

Visa fees

The current Bulgarian legislation (Tariff No. 3 on the fees collected for consular services in the structure of the Ministry of Foreign Affairs under the State Fees Act), provides for the following fees:

- administrative visa application fee – payable upon submission of visa applications and non-refundable in case of refusal, and
- visa fees – differentiated depending on the type and validity of visas, as well as the number of permitted transits or entries.

The fees are collected in Euro, in other convertible currencies or in local currency.

Exemption of administrative or visa fees may be granted under bilateral visa agreements or acts of the Council of Ministers or is applicable in other individual and strictly specified cases. As a rule, holders of diplomatic passports travelling on official assignments are exempt of visa fees, including administrative fees, based on reciprocity and according to the standard international practice.

No later than 6 months before the date of Schengen accession Bulgaria should introduce a uniform fee for processing visa applications.

By the date of Schengen accession all necessary actions should be taken to denounce any visa agreement provisions that envisage financial concessions.

A review of the current situation in Bulgaria's visa policy highlights several areas, which require particular attention and timely and energetic actions:

- increasing the consular service staff in Bulgarian diplomatic and consular missions;
- increasing the staff of the Visa Centre to the MFA Consular Relations Directorate and shifting to 24-hour working schedule;
- developing the consular staff selection and in-service training system;
- providing consular services in diplomatic and consular missions with the necessary technical equipment;
- establishing a backup Visa Centre.

A Plan for upgrading the National Visa System and connecting it to the EU Visa Information System and the VISION Visa Inquiry Open-Border Network was elaborated in July 2007 to meet these challenges. The Plan is expected to be approved by the Minister of Foreign Affairs and the Minister of Interior by the end of September 2007. The key stages of the Plan include:

I. Research, organisation and planning of the National Visa System:

- researching, organising and preparing the transformation of the Visa Centre to the MFA Consular Relations Directorate into a National Visa Office – this process should be completed by the end of October 2007. Measures should also be taken to ensure that the Visa Centre is fully operational on weekends and holidays;
- researching and preparing a proposal for upgrading the communication infrastructure between the diplomatic and consular missions abroad and the Visa Centre at the MFA to ensure quick communication of an increased volume of information (biometric data) – the deadline for this measure is November 30, 2007;

- researching and preparing a general financial framework for the resources necessary to develop national interfaces for VIS and VISION, adapt the consular services' infrastructure and implement the Visa System – the deadline for this measure is January 31, 2008;
- researching and identifying legal and organisational changes that need to be made to develop and link the National Visa System to the EU Visa Information System (VIS) and the VISION Visa Inquiry Open-Border Network – the deadline for this measure is June 30, 2008;

II. *Design and development of the national interface to connect to VIS and VISION:*

- organising meetings to exchange experience with leading EU experts on national interface development – by the end of the second trimester of 2008;
- elaborating a technical project to upgrade the central subsystem of the Bulgarian Visa System and develop national interfaces for VIS and VISION – by mid 2010;
- designing (by the end of the second trimester of 2008) and implementing (by the third trimester of 2008) the national interface to connect to the VISION Visa Inquiry Open-Border Network;
- installing and verifying the operability of the main and backup network interface (LNI) connecting the National Visa System to the sTesta Network – by June 30, 2009;
- designing (in the first and second trimester of 2008) and implementing (by the third trimester of 2008) the national interface to connect to the VIS;
- conducting internal compatibility tests of the national VIS interface with the use of a CD-Simulator – by March 30, 2010;
- conducting VIS compatibility tests – by June 30, 2010;
- conducting integrations tests of the national interface connecting to the VISION Visa Inquiry Open-Border Network – by June 30, 2010;
- achieving full technical capacity to connect the National Visa System and the data exchange system to VIS and VISION – by July 30, 2010.

III. *Human and material resources:*

- designing, printing and implementing new visa stickers consistent with EU and Schengen requirements – by the end of 2007;
- conducting needs assessment and drafting a proposal for the necessary human resources to ensure that the MFA Visa Centre would operate on a 24-hour basis when the National Visa System connects to the EU Visa Information System (VIS) and the VISION Visa Inquiry Open-Border Network – by the end of 2008;
- training Visa Centre staff – training would be organised periodically and is expected to be completed in the second trimester of 2010;
- elaborating terms of reference and organising a public procurement bid to build and equip a computer centre for the National Visa System and the national interface connecting to the EU Visa Information System (VIS) and the VISION Visa Inquiry Open-Border Network – by the end of March 2008 with implementation planned for the end of 2008;
- elaborating terms of reference and organising a public procurement bid for the delivery of hardware and software equipment to design and develop the national interface connecting to the VISION Visa Inquiry Open-Border Network and the EU Visa

Information System (VIS) – by mid 2008, with implementation planned for the end of the third trimester of 2008;

- elaborating terms of reference and organising a public procurement bid to modernise and upgrade the communication systems linking the diplomatic and consular missions abroad with the MFA Visa Centre in order to ensure quick communication and transfer of data: building a VPN network to connect the MFA Visa Centre to the consular services abroad – bidding should be completed by the end of the first trimester of 2008, while implementation is planned for the end of the third trimester of 2008;
- elaborating terms of reference and organising a public procurement bid for the delivery of hardware and software equipment for the National Visa System and the national interfaces connecting to the EU Visa Information System (VIS) and the VISION Visa Inquiry Open-Border Network – bidding should be completed by the end of the second trimester of 2008, while implementation is planned for the end of 2009;
- elaborating terms of reference and organising a public procurement bid to modernise and upgrade the protected communication systems of Bulgaria's diplomatic and consular missions in order to meet Schengen criteria and ensure high level of security, operability and personal data protection in the exchange of visa-related information – by June 30, 2009;
- elaborating terms of reference and organising public procurement bids to reorganise consular services according to the provisions of the Schengen acquis – bidding should be completed by the end of the second trimester of 2008, while implementation is planned for the third trimester of 2008, the second and trimester of 2009 and the second trimester of 2010.

V. Migration

Migration is a global phenomenon, which in the last few years has been attracting increasing attention and has been raising much concern not only in the general public in Europe, but also in national and supranational institutions. The recent instances of illegal migration flow from Africa to Mediterranean European states, as well as the existing terrorist threats, further colour debates on the issue and public perceptions. That is why fighting illegal migration became a serious challenge both for the EU as a whole, and for the individual Member States.

The European Union responded to the new situation with a variety of policies, ranging from strengthened border control, active measures against human trafficking, improved regulations for granting asylum, greater focus on integration policies and enhanced cooperation with third countries in order to control migration flows. One of the main commitments of the European Union in this respect is to introduce by the end of 2010 a Common European Asylum System as part of the overall migration policy of the EU.

The Republic of Bulgaria has repeatedly stated its position that a comprehensive approach is needed, which requires active dialog among the origin, transit and destination countries on all aspects of the migration process, as well as on coordinating development policies, sharing responsibility, organising legal migration, integration, protection of refugees, border control, re-admission, and efforts to fight illegal migration and human trafficking.

After its accession to the EU Bulgaria has become an attractive target for citizens of "risk" countries not only as a transit destination, but also as a possible end point. The main factors influencing migration processes include the weak economic development of the countries of origin, the geographic location of Bulgaria and the demand for workforce in the developed EU countries.

Conditions governing the movement of foreign nationals

The amendments to the Foreign Nationals in the Republic of Bulgaria Act (promulgated SG, issue 63 of 02.08.2005), which entered into force on January 1, 2007, require that foreigners entering the country declare at border crossing checkpoints the purpose of their visit and specify the address where they would be staying by filling in an address form. The amendments have been introduced to meet the requirements of the Convention Implementing the Schengen Agreement related to the need to standardise the time criterion for registration of foreign nationals.

The amendments to the Bulgarian Identification Documents Act adopted in 2006 introduced the following documents consistent with the EU requirements in this area: card for long-term stay in the Republic of Bulgaria; card for permanent residence in the Republic of Bulgaria; refugee card; temporary refugee card; certificate for refugee traveling abroad; certificate for a person without citizenship traveling abroad; temporary certificate for leaving the Republic of Bulgaria; temporary card for a foreigner; certificate for return of a foreigner to the Republic of Bulgaria.

An automated information system was put into operation to maintain and update the National Register of Foreigners staying in the Republic of Bulgaria for a period longer than 3 months. The system is accessible at the national and regional level.

An automated information system "Administrative coercive measures imposed on Bulgarian and foreign nationals" has been developed and put into operation. It maintains updated information on prohibition to leave the country imposed on Bulgarian and foreign nationals, prohibition to enter the country imposed on foreign nationals and data on foreign nationals who have been expelled from the country.

The MoI Migration Directorate has elaborated a Manual on implementation of relevant laws and secondary legislation, which regulates the co-operation with other state authorities exercising administrative control over foreign nationals.

With the accession of Bulgaria to the European Union the legal provisions regulating the stay of EU citizens and their family members in our country changed significantly. The Law on entry, sojourn, and leave of EU citizens and their family members in and from the Republic of Bulgaria entered into force on January 1, 2007. This act regulates all aspects related to the sojourn of

citizens of EU Member States, countries of the European Economic Area and the Swiss Confederation in the Republic of Bulgaria. The most important feature of the act is the distinction made between the legal regime applicable to EU citizens and that applicable to third country nationals whose stay in Bulgaria is regulated by the Foreign Nationals in the Republic of Bulgaria Act. The main principle stipulated in the act is the introduction of a registration regime for the sojourn in Bulgaria of EU citizens and their family members who are also EU citizens.

With the latest amendments to the Foreign Nationals in the Republic of Bulgaria Act adopted in 2007, the national legislation was fully harmonised with the *acquis communautaire* regarding the status of foreign nationals. The provisions of the following acts have been incorporated: Council Directive 2003/110/EC on assistance in cases of transit for the purposes of removal by air; Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents; Council Directive 2003/86/EC on the right to family reunification; Council Directive 2001/51/EC supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of June 14, 1985; Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals; Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data, as well as some of the provisions of Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.

The most important amendments include:

- the adoption of specific provisions regulating the long-term stay of foreign nationals who have received residence permits in another EU Member State. This created a legal possibility for foreign nationals who have received residence permits in another EU Member State to be granted the right to stay in the Republic of Bulgaria for periods longer than 3 months and to be accompanied or joined by their family members;

- the adoption of specific provisions regulating the right to appeal expulsion orders in court and creating legal guarantees for the right of foreign nationals to seek effective remedy before an independent institutions, as required by Art. 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

- the adoption of provisions consistent with Art. 4 of Council Directive 2001/51/EC regarding the effectiveness of penalties imposed on carriers;

- the adoption of specific provisions regulating the recognition by the Republic of Bulgaria of decisions on the expulsion of third country nationals taken by competent authorities in EU Member States;

- the adoption of provisions requiring carriers to communicate strictly specified passenger data to the units of the General Border Police Directorate upon request;

- the introduction of administrative sanctions for failure to meet obligations stipulated by law.

Expulsion/deportation of foreign nationals

Currently, Bulgaria has concluded readmission agreements with the following countries: Albania, Austria, Benelux, Czech Republic, Croatia, Denmark, Estonia, Finland, France, FR Yugoslavia, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lebanon, Macedonia, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, UK, Ukraine, Uzbekistan. Within the EU such agreements have not been signed only with Malta, Lithuania and Cyprus. Negotiations with the latter two countries are underway. Bulgaria has concluded readmission agreements with all neighbouring countries with the exception of Turkey.

In 2006 Bulgaria signed a new Readmission and Transiting Agreement with Germany and an Agreement with Bosnia and Herzegovina for readmission of illegally staying own citizens and third country nationals and an Implementation Protocol to the Agreement. The said readmission agreements define the terms and procedures for return of nationals of one of the Contracting parties, illegally staying in the territory of the other Contracting party. They also regulate the

transfer of third-country nationals (i.e. not nationals of the states of the Contracting parties) through the territory of one of the Contracting Parties.

Currently there is no need to renegotiate any readmission agreements with third countries, because for the most part they are consistent with the Framework Document of the EU in this field. In case of contradictions, Community law shall apply, which has precedence over national legislation. As regards the readmission agreements signed with EU Member States, they could be reconsidered only after Bulgaria's accession to the Schengen area.

The Foreign Nationals Act regulates the procedure and the grounds for expulsion of foreign nationals as an administrative measure, which permits foreign nationals who have "committed an offence" or have "no grounds to stay in the country" to be expelled within a short period. The purpose of this measure is to effectively counter illegal migration.

A Regulation of the Minister of the Interior has been adopted in 2004 (promulgated, SG, issue 12 of 2004), stipulating the procedure for the accommodation, stay and release of foreign nationals in special facilities as well as the structure, operation and management of such facilities.

Obligation of carriers

The Foreign Nationals in the Republic of Bulgaria Act stipulates that officials of airlines, tourist and travel companies or other agents transporting foreign nationals to and/or from the Republic of Bulgaria, before performing the service, are obliged to establish the validity of the travel document of the foreign national and the presence of other documents required by law. The Foreign Nationals Act also provide for administrative sanctions to be imposed to carriers or officials who have violated these provisions.

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On July 19, 2007 pursuant to § 1 of the Concluding Provisions of the Regulation Concerning the Conditions and Procedure for Issuing Visas, the Council of Ministers approved a Report on the Migration Situation in the Republic of Bulgaria in 2006. The Report examines the migration of foreign and Bulgarian nationals, as well as the process of labour migration; the current visa policy of Bulgaria; the harmonisation of Bulgarian legislation and practice with the migration and visa policy *acquis*; the main tendencies in the development of the migration situation. According to the Report the migration situation in the country in 2006 was characterised by an increased traffic of travellers across the borders, a decreased number of issued permits for long-term stay in the country, a growing number of EU citizens residing on a long-term basis in Bulgaria and a decline in the number of third-country nationals.

Based on the data provided in the Report, the following main tendencies in the development of the migration situation in Bulgaria could be identified:

- the interest of citizens of EU Member States to settle in our country continues to grow;
- the number of third-country nationals residing on a long-term basis in the Republic of Bulgaria is declining;
- the number of work permits issued to foreign nationals is growing.

Based on the analysis of the migration situation, the Report outlines several projections, the most important of which are:

- in 2007 the number of imposed coercive administrative measures is expected to decrease in view of the entry into force, since 01.01.2007, of the Law on entry, sojourn, and leave of EU citizens;
- from an economic point of view, the dynamic of the migration processes in the country may influence labour market conditions and social assistance;
- the number of EU citizens residing on a long-term basis in Bulgaria is expected to increase;
- the number of asylum-seekers is expected to increase over the next years in view of Bulgaria's membership in the EU;
- the movement of workforce in border regions is expected to increase.

The analysis of passenger traffic across border crossing checkpoints for the period January 1 – April 30, 2007 corroborates these conclusions and projections. The following tendencies can be identified:

- With regard to the number of Bulgarian nationals travelling abroad, there is a 1% increase compared to the same period in 2006. Passenger traffic across the internal borders of EU has decreased by 1%, while there is a 1.6% increase at the external borders. The number of Bulgarian nationals who have been refused to exit the country has increased by 38% compared to the same period in 2006. The share of those refused to cross the internal borders of EU is significantly higher – 87% of the total. It could be concluded that despite the accession of Bulgaria to the EU and the introduction of minimal border control for EU citizens, including Bulgarian nationals, the number of Bulgarians who have been refused to exit the country remains relatively high. Checks are conducted with the risk analysis method. Since the beginning of the year there has been a significant increase in the number of Bulgarian nationals passing through the border crossing checkpoints at the Bulgarian-Macedonian border. This is partly due to the fact that Bulgaria introduced visas for citizens of Macedonia and Serbia, some of whom have been actively engaged in the so-called “suitcase trade” until the end of 2006. Currently, this trade has been undertaken by Bulgarian nationals who do not need visas to travel to Macedonia and Serbia.
- With regard to the number of third-country nationals crossing the borders, there is a 38% decrease compared to the same period in 2006. This is due mainly to the fact that Bulgaria introduced visas for citizens of neighbouring countries and discontinued the practice of issuing state revenue stamps to Turkish citizens at border crossing checkpoints. There is a significant increase in the number of third-country nationals arrested in an attempt to illegally cross the border – 43.5% compared to the same period in 2006.

Based on the above mentioned data, one could safely conclude that as an external border of the EU, Bulgaria would continue to face increasing migration pressure over the next years. This calls for reconsidering the existing migration control and regulation mechanisms, as well as developing without delay a long-term strategy and concept for managing these processes. An integration programme needs to be urgently developed and implemented. To this end, the Inter-institutional working group on migration and integration of immigrants to Bulgaria initiated the elaboration of a national strategy, which would help formulate a clearer vision for the future state policy in this area.

Unfortunately, we cannot say that the government policy towards managing migration has been consistent enough so far. Moreover, migration as a phenomenon goes beyond the development and implementation of purely legislative and administrative instruments to control borders and foreign nationals. A multidisciplinary approach is required, which would combine social, economic, educational, political, health-related and other aspects. An approach, which would involve the active participation of the media, the local authorities, the employers' associations and trade unions, as well as other non-governmental organisations. An approach, which would recognise the existence of three main groups of migrants – immigrants, emigrants and refugees, and would offer the best possible solutions for each of them. Given the demographic problem of Bulgaria and its ageing population, the emigration of Bulgarian nationals poses no danger for Europe, but should be recognised as a risk factor for our country. Specific solutions should be sought to retain, but also bring back Bulgarian emigrants. Bulgaria is becoming an increasingly attractive destination for economic immigrants. The effective integration of these persons in society, while preserving their national identity, is a key element in the formulation and implementation of Bulgaria's migration policy. Successful migration management and control entails measures to guarantee a high-quality inflow of immigrants towards our economy by identifying which economic sectors could face workforce deficiency. It is particularly important for Bulgaria to have a clear vision which are the regions from which it would like to attract immigrants, so that it could defend its national interest in awarding citizenship to such persons. A concrete step in this direction could be the adoption of special measures, including legislative provisions, to attract foreign nationals of Bulgarian descent from the Black Sea region, the Balkans and from other parts of the world, and to encourage them to settle and work in the country. Bulgaria does not remain unaffected by the global trend towards significant decrease in the number of asylum-

seekers. Nevertheless, asylum policies need to be improved towards introducing a unified approach to the assessment of asylum applications, intensifying the dialog with the countries of origin, and creating mechanisms for voluntary repatriation.

Administrative capacity

On 26 February 2004 a Migration Directorate was established within the Ministry of Interior in accordance with the amendments to the Ministry of Interior Act (promulgated SG, issue 103 of 25.11.2003). The Migration Directorate is a specialised structural unit with national competence in exercising administrative control over the sojourn of foreign nationals in the Republic of Bulgaria and implementing the migration policy of the Republic of Bulgaria. The creation of a migration control authority was explicitly envisaged in the Roadmap for the Accession of Bulgaria to the EU. With the Implementing Regulation to the MoI Act (promulgated, SG, issue 47 of 9.06.2006, amended, SG, issue 24 of 20.03.2007), the Migration Directorate became one of the key units with the National Police Service.

Over the last few years a number of measures have been taken to strengthen the administrative capacity of migration control authorities in line with the European standards in this area. 55 new employees were appointed only in 2005.

A Twinning-light project to improve the administrative capacity of the Migration Directorate was successfully completed in 2006. The project was implemented in partnership with the Migration Service of Belgium and the overall objective was to improve the system of administrative control of residence of foreign nationals in the Republic of Bulgaria.

Six-month training sessions were organised for newly appointed employees of the Migration Directorate at the MoI Academy and at other training centres. A number of study visits to migration services of EU Member States were made. Seminars on different aspects of the Directorate's activity are being regularly organised at the central level and in the Directorate's regional units. Ongoing in-service training is also receiving due attention. Officers have attended training courses at the MoI Academy and have improved their professional capacity in conducting high-risk police operations, controlling migration, etc. Significant emphasis is also placed on language training.

Institution building

In the beginning of 2006, the first special facility for temporary accommodation of foreign nationals became operational in Sofia, Busmantsi. The centre has the capacity to accommodate 400 persons. It is staffed with psychologists who conduct individual sessions with the residents to establish their attitude towards voluntary repatriation. The social workers of the centre have developed a training programme to encourage voluntary repatriation.

Works began in 2007 to build a second facility in the town of Lyubimets at the southern Bulgarian border, which would serve up to 350 persons. The establishment of this centre is justified by the need to accommodate the foreign nationals who have been found to reside illegally in the country until a decision is taken for their expulsion. The centre is expected to become operational by the date of accession to the Schengen area.

Later on, conditional on the development of the migration situation and the availability of financial resources, Bulgaria is planning to build other special facilities.

A transiting centre for refugees is being built in the village of Pustrogor, Haskovo region, under a project financed by the Phare Programme. Construction works have begun in June 2006.

Migration control is facilitated by the border control information system, the visa coordination system, and the AIS for MoI search activities.

Asylum

The provisions of Art. 63 of the Amsterdam Treaty and the conclusions of the Tampere summit on the creation of a Common Asylum System brought about a dynamic development in EU legislation on asylum and refugees over the last few years. Only for the period 2003–2005, for instance, the EU institutions have adopted four new directives and two regulations concerning refugees and other foreign nationals who need international protection. These EU acts, however, *do not fall* within the scope of the Schengen *acquis*. Therefore, the focus here is placed only on the recent, extremely important amendments to the Asylum and Refugees Act (SG, issue 52 of 29.06.2007), which transpose into Bulgarian legislation the provisions of the following EU acts: Regulation 343/2003 (Dublin Regulation), Regulation 1560/2003, Regulation 2725/2000 (EURODAC Regulations), Regulation 407/2002, Directive 2001/55/EU, Directive 2003/9/EO, Directive 2003/86/EO; Directive 2004/83/EO, Directive 2005/85/EO.

With the entry into force of the Treaty of accession of the Republic of Bulgaria to the EU the Dublin Regulation and the EURODAC Regulations, which are immediately applicable to Member States, become part of the national legislation. That is why the amendments to the Asylum and Refugees Act introduced provisions concerning the competent national authority and the act, which it would issue, the opening of Dublin proceedings and of factual proceedings, the transfer of foreign nationals and the coordination between the State Agency for Refugees and the services exercising administrative control over foreign nationals in the Republic of Bulgaria. A Twinning project “Implementation of the EU Acquis in the field of asylum – Dublin II and EURODAC Regulations” was implemented in 2006 to further support the competent authorities.

To ensure full compliance with the EU regulations, the Asylum and Refugees Act specifies the grounds for refusing, terminating and revoking different types of protections, as well as for discontinuing proceedings for the provision of status.

One of the achievements of the Act are the comprehensive provisions guaranteeing one of the fundamental rights of foreign nationals seeking protection: to be issued an identification document valid for the Republic of Bulgaria. These amendments introduce a distinction between foreign nationals who have received asylum, refugee status or humanitarian status and other foreign nationals under the Asylum and Refugees Act. Foreign nationals for whom one of the three types of proceedings under the Asylum and Refugees Act has been opened or who have been granted temporary protection can hardly be issued Bulgarian identification documents because in most cases their identity cannot be established beyond doubt for lack of national identification documents. For these reasons, EU Member States usually refrain from issuing identity documents to foreign nationals whose status has not yet been established. In order to make a clear distinction between the document issued by the State Agency for Refugees and the other documents under the Bulgarian Identification Documents Act, the term “registration card” was introduced.

With the amendments to the Asylum and Refugees Act, the State Agency for Refugees became the competent institution for managing resources provided by the European Refugee Fund. The Act also introduced extended judicial control over the acts issued by the chairperson of the State Agency for Refugees.

VI. CONCLUSION

The accession of to the Republic of Bulgaria to the Schengen area, with its complexity, lengthiness and intricacy, could be compared only to the process of the country's accession to the European Union. Nevertheless, neither the media, nor the non-governmental organizations are adequately informed about this process, and hence, the general public is also largely unaware of it. At the same time, government institutions seem to jealously keep "the area" to themselves. This can be evidenced by the contradictory statements of high-ranking government officials. Until June 2007 the officially declared deadline for Bulgaria's accession to Schengen was 2009, while in its decision of August 1, 2007 the Council of Ministers set the planned deadline for the country's entry into the Schengen area in the year 2011. This deadline now seems realistic, since Bulgaria has declared that it would be ready to start the Schengen evaluation as of January 1, 2008 and the evaluation process itself takes 2-3 years at an average. However, we cannot refrain from mentioning that Romania has set the planned deadline for its accession to the Schengen area for the year 2010.

Along with the Schengen evaluation process, a number of projects should be implemented over the next few years in the area of border control, migration management, and visa policy. We could expect that Bulgaria would pay particular attention to the development of the technical infrastructure for joining SIS-II, the infrastructure of the National Visa System and the national interface connecting to the EU Visa Information System (VIS) and the VISION Visa Inquiry Open-Border Network.

All this requires concrete steps and proactive approach not only on behalf of the government institutions involved in the process, but also on behalf of non-governmental organisations and the media who have already accumulated considerable experience and expertise in the process of Bulgaria's accession to the European Union. It is particularly important to involve NGOs not only as a reliable partner, but also as an impartial actor capable of providing the necessary checks and balances. This would ensure greater visibility, transparency and efficiency in the work of government institutions and would strengthen public confidence, which would benefit all stakeholders involved.

The full membership of Bulgaria in the EU and the risk of opening pre-trial proceedings under Art. 226 and Art. 227 of the Treaty establishing the European Community, provided an additional incentive for the executive and the legislative branch of government to transpose the Schengen acquis according to the commitments made. We could therefore conclude that the process of incorporating the Schengen acquis into the national legislation is generally progressing within the set deadlines with only a few delays, which affect the adoption of secondary legislation.

Specific suggestions could be made in the following areas:

- *Adopting amendments to Ordinance No 84 of April 17, 2007 on the Cash-flow and Schengen Facility Management and Supervision Procedure* – the current legal provisions create conditions for lack of transparency and limit the possibility to exercise effective control over the development and implementation of Annual Indicative Programmes and the National Indicative Programme. No provisions exist for these programmes to be coordinated among institutions or approved by the Council of Ministers.
- *Creating a special body or empowering an existing agency to exercise control over the fulfilment of already assumed commitments* – an independent supervising authority should be created, preferably with the involvement of NGOs as observers, to exercise control over the fulfilment of commitments made in the process of Schengen accession, including the implementation of the individual programmes and projects and the efficient appropriation of financial resources, as well as the activity of the Schengen Facility Management, Monitoring and Supervision Committee.
- *Guaranteeing the access to public information by maximizing the use of the Internet* – for the most part, the information on legislative measure being taken, projects being implemented, thematic strategic documents being approved (national plans, strategies, action plans, schedules, etc.) constitutes public information and as such should be made accessible by posting it on the

websites of the respective government institutions. It turns out that most websites either do not contain such documents or their information has not been updated in the last few years.

- *Strengthening cooperation with non-EU member countries neighbouring Bulgaria and signing intergovernmental agreements on small border traffic* – this step would also contribute to regulating and facilitating the traffic of passengers from territories where minorities of Bulgarian descent live. Such agreements would have a social, but also and economic impact on those territories.

- *Pursuing a more active foreign policy to secure a commitment on behalf of Greece on signing an agreement on joint border-crossing control (“one-stop control” at border crossing checkpoints)* – the unjustified delay in concluding such agreement creates obstacles to the introduction of „one-stop control” at border crossing checkpoints along the Bulgarian-Greek border. This requires that Bulgaria adopts a more active foreign policy to secure a political commitment on behalf of Greece.

Another problem, which still remains unresolved, is the inadequate cooperation and coordination of actions, as well as the attempt on behalf of some government agencies to act as the sole driving force of the Schengen accession process, which impedes the formulation and implementation of the government’s policy in this area.

Over the next three years the Republic of Bulgaria, now a full member of the EU, responsible for the Eastern external borders of the Union, would travel the road towards accession to the Schengen area. Although much has been achieved so far, extremely important administrative and institutional steps still need to be made. The success of this endeavour depends not only on the systematic and targeted efforts of government institutions, but also on the active position of civil society. Only then the area of freedom, security and justice could become a reality, in which we, as Bulgarians and European citizens, would be able to take our dignified place.