

Commission Opinion on Bulgaria's application for membership of the European Union: Introduction and Conclusion (15 July 1997)

Caption: On 15 July 1997, in an Opinion issued on Bulgaria's application for accession to the European Union, the European Commission emphasises the progress made by the country in order to comply with the political and economic criteria. However, it considers that Bulgaria is experiencing serious problems in transposing the Community acquis into national law and reaches the conclusion that the accession negotiations will be opened as soon as the country has made sufficient progress to meet the accession terms set by the Copenhagen European Council.

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A. Introduction

a) Preface

The Application for Membership

Bulgaria presented its application for membership of the European Union on 14 December 1995, and the Council of Ministers decided on 29 January 1996 to implement the procedure laid down in Article 0 of the Treaty, which provides for consultation of the Commission.

That is the framework in which the Commission submits the present Opinion, responding to the request of the European Council in Madrid in December 1995 to present the Opinion as soon as possible after the conclusion of the Intergovernmental Conference, which commenced in March 1996 and concluded in June 1997.

The Context of the Opinion

The Bulgarian application for membership is being examined at the same time as applications from nine other associated countries. Bulgaria's accession is to be seen as part of an historic process, in which the countries of Central and Eastern Europe overcome the division of the continent which has lasted for more than 40 years, and join the area of peace, stability and prosperity created by the Union.

The European Council in Copenhagen in June 1993 concluded that:

“The associated countries in Central and Eastern Europe that so desire shall become members of the Union. Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions. Membership requires:

- that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries”.

This declaration spelled out the political and economic criteria for examining the accession requests of the associated countries of Central and Eastern Europe.

The European Council in Madrid in December 1995 referred to the need, in the context of the pre-accession strategy, “to create the conditions for the gradual, harmonious integration of the applicant countries, particularly through:

- the development of the market economy,
- the adjustment of their administrative structure,
- the creation of a stable economic and monetary environment”.

In its Opinion, the Commission analyses the Bulgarian application on its merits, but according to the same criteria as the other applications, on which it is delivering Opinions at the same time. This way of

proceeding respects the wish, expressed by the European Council in Madrid, to ensure that the applicant countries are treated on an equal basis.

In addition to the individual Opinions the Commission is presenting separately to the Council, in the framework of its communication “Agenda 2000”, a general assessment of the accession requests, and its recommendations concerning the strategy for successful enlargement of the Union. At the same time, it is presenting an evaluation of the impact of enlargement on the Union’s policies.

The Contents of the Opinion

The structure of the Opinion takes account of the conclusions of the European Council in Copenhagen. It:

- describes the relations up to now between Bulgaria and the Union, particularly in the framework of the association agreement;
- analyses the situation in respect of the political conditions mentioned by the European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Bulgaria’s situation and prospects in respect of the economic conditions mentioned by the European Council (market economy, capacity to cope with competitive pressure);
- addresses the question of Bulgaria’s capacity to adopt the obligations of membership, that is the *acquis* of the Union as expressed in the Treaty, the secondary legislation, and the policies of the Union;
- makes finally a general evaluation of Bulgaria’s situation and prospects in respect of the conditions for membership of the Union, and a recommendation concerning accession negotiations.

In assessing Bulgaria in respect of the economic criteria and its capacity to assume the *acquis*, the Commission has included a prospective assessment; it has attempted to evaluate the progress which can reasonably be expected on the part of Bulgaria in the coming years, before accession, taking account of the fact that the *acquis* itself will continue to develop. For this purpose, and without prejudging the actual date of accession, the Opinion is based on a medium-term time horizon of approximately five years.

During the preparation of the Opinion, the Commission has obtained a wealth of information on Bulgaria’s situation from the Bulgarian authorities, and has utilised many other sources of information, including the member states and numerous international organisations.

b) Relations Between the European Union and Bulgaria

Historical and Geopolitical Context

Bulgaria, bounded by the Black Sea to the East, the Danube to the North and mountains along its frontiers with Greece and the former Yugoslav Republic of Macedonia, has an area of 111,000 km² and a population of 8.3 million. The existence of a Bulgarian state goes back to 681, and Bulgaria has contributed significantly to the evolution of Slavonic culture. It gained independence from the Ottoman Empire in 1878, and until 1946 was a constitutional monarchy. Bulgaria participated in the First Balkan War of 1912 against the Ottoman Empire; and in the Second the following year, in which the country lost a considerable part of its territory. Bulgaria sided with Germany during the First World War and lost further land in its aftermath; and again for much of the Second World War, though it successfully resisted the deportation of Jews from its territory. In 1944, Bulgaria joined the Allied Powers. In 1946 Bulgaria’s pre-war borders were reconfirmed.

After the War, Bulgaria was briefly occupied by Soviet troops. In September 1946, following a referendum, the monarchy was abolished and a People’s Republic declared. By 1947 the Communist Party had fully established its control. In 1956 Todor Zhivkov came to power, and was to rule the country for over thirty

years. A highly centralised economic policy gave priority to nationalised industry, resulting in a rapid rise in industry's share in the economy. In agriculture, collectivisation was imposed and cooperatives were reorganised into larger agro-industrial complexes. From the 1970s onwards economic growth slowed; by the second half of the 1980s it came to a standstill.

In November 1989 communist rule in Bulgaria collapsed. The transition to democracy, inspired by similar developments in other former communist countries, was sudden and peaceful. Todor Zhivkov was removed from office and an interim government led the country to its first free elections since the War. Since then, Bulgarian political life has seen repeated changes of government and a significant degree of polarisation, but also respect for the constitutional order and a virtual absence of violence. Elections in June 1990 were won by the Bulgarian Socialist Party (BSP), successor of the Communist Party; but the BSP government was forced by economic crisis to resign in November 1990, to be replaced by a "programme" government. New elections in October 1991 resulted in a coalition government led by the Union of Democratic Forces (UDF); but that too was replaced by a non-party government the following year. Elections in 1994 gave a majority to a BSP government which, however, was forced by renewed economic troubles to resign in February 1997, to be replaced by an interim government. President Stoyanov, elected two months earlier with UDF support, played a substantial role in bringing the country through the ensuing political crisis to new elections in April 1997, which produced a majority for the UDF and its allies.

The strategic objective of integration with the EU has been maintained by consensus by all the governments since 1990. Bulgaria's application for Union membership, backed by a virtually unanimous endorsement from the National Assembly, was lodged on 14 December 1995. The Government Memorandum accompanying the application states: "Bulgaria's membership of the European Union constitutes a strategic goal and is a matter of national interest. It will consolidate the results of the democratic reforms which have been carried out since the beginning of the 1990s and will represent a political acknowledgement of their success. Membership of the EU will be an important factor for the further economic development of the country. The stabilisation of the democratic process and the establishment of a market economy in Bulgaria correspond to the interests of the countries in the neighbouring region and of all Europe. They will have a positive impact on the security and stability of the continent. Bulgaria's aspiration for full membership of the EU reflects the will and readiness to take part in the realisation of the vision of a united Europe living in peace, prosperity and social justice".

On 29 January 1997, during his visit to the European Parliament, President Stoyanov stated: "I would like to reaffirm, before this high forum, our determination to follow the path of integration with the European Union and realisation of common European values. This is the top priority of Bulgarian policy on which ... there exists broad consensus among the political forces. The main driving forces of the dynamic development of cooperation and ever fuller integration of our country with the European Union are: the consistent implementation of the Europe Agreement and the EU-adopted strategy of preparation of the associated states for full membership as well as the recommendations of the White Paper regarding participation in the common market ...".

On 21 May 1997, in his inaugural address to the National Assembly, the new Prime Minister Kostov stated: "Bulgaria's European choice is an expression of a consensus which has taken shape in the course of a long and painful path of Bulgarian society over the last seven years".

Contractual Relations

Diplomatic relations between the European Communities and Bulgaria were established in 1988. A Trade and Cooperation Agreement was signed in May 1990. The Europe Agreement was signed on 8 March 1993 and entered into force on 1 February 1995. An Interim Agreement covering the trade aspects of the Europe Agreement came into effect on 31 December 1993, replacing the 1990 Agreement.

The Europe Agreement is now the legal basis for relations between Bulgaria and the Union. Its aim is to provide a framework for political dialogue, promote the expansion of trade and economic relations between the parties, provide a basis for Community technical and financial assistance, and an appropriate framework

to support Bulgaria's gradual integration into the Union. The institutional framework of the Agreement provides the necessary mechanism for implementation, management and monitoring of all areas of relations. Sub-committees examine questions at a technical level. The Association Committee, at senior official level, provides for in-depth discussion of matters and often finds solutions to problems arising under the Agreement. The Association Council examines the overall status of and perspectives for relations and provides the opportunity to review Bulgaria's progress in preparation for accession.

In March 1995 the previous government set up an inter-ministerial coordination arrangement for promotion of the European integration policy. The arrangement involves a Ministerial Commission chaired by the Prime Minister, a committee at deputy-minister level chaired by the Government Secretary on European integration, various technical working groups and a European Integration Secretariat. The current government is considering modifications to these arrangements.

The Pre-Accession Strategy

Implementation of the Europe Agreement and the White Paper

The institutional framework of the Europe Agreement is fully operational, and functioning in accordance with the agreed timetable. Three meetings have taken place of the Association Council, and two of the Association Committee. Nine multidisciplinary sub-committees have been established and are meeting regularly. The EU-Bulgaria Joint Parliamentary Committee has met three times.

Implementation issues have occurred in respect of compensation for Bulgaria for the late entry into force of the Agreement, the alignment of tariffs and quotas for Bulgaria's exports to those applicable to the Visegrad countries, and the adaptation of the Europe Agreement following the Uruguay Round and the Union's most recent enlargement. All these issues have been solved.

The Commission's White Paper of 1995 on the Internal Market set out the legislation which the candidate countries would need to transpose and implement in order to apply the *acquis*, and identified elements essential to the implementation of the single market (known as Stage I measures) which would need priority attention. In response to the White Paper the Bulgarian Government adopted a "Strategy for implementing the recommendations of the White Paper" in May 1996. The document provides a comprehensive survey of existing Bulgarian legislation in the light of requirements emanating from the *acquis*. It also gives a timetable for the process of legislative approximation and defines the government bodies responsible. Under the auspices of the Ministry of Justice (recently renamed the Ministry of Justice and Legal European Integration) a legislative council was given the role of ensuring the compatibility of draft legislation to EU laws and practices. The new government has promised a national strategy for accelerating preparation for EU membership.

Bulgaria is making good progress under the Europe Agreement. There have been few problems on trade issues. The weakness of Bulgaria's internal coordination structures has made it difficult to exploit the Agreement fully, but the new government is committed to improving these.

Structured Dialogue

Bulgaria has participated in the Structured Dialogue, seeing it as an instrument in its preparation for accession. Bulgaria has submitted position papers to various meetings, including a paper on Bulgaria's pre-accession policy.

Phare

The total PHARE budget for 1990-1995 was 476 MECU, and the allocation for 1996 62.5 MECU. Over the past two years, the overall contracting rate has risen to 70%. Lack of momentum for reform has made assistance for enterprise restructuring, the financial sector, privatisation and agriculture less successful, but this is changing with the new government's reform programme.

The Cross-Border Cooperation programme with Greece has faced important implementation delays due to Bulgaria's inability to match its constructive regional role with administrative and management measures. More than 40 MECU have not been used; no new budget was allocated in 1996 or 1997.

Participation in Community Programmes

In 1996 Bulgaria became eligible to participate in Community programmes under the Additional Protocol to the Europe Agreement. Discussion has started of Bulgarian participation in Youth for Europe and SAVE from 1998. Preparations are also under way for participation in Socrates and Leonardo.

Trade Relations

Economic relations between Bulgaria and the Union have developed positively over the past six years. EU imports from Bulgaria increased by 260% over those years, to 1.83 BECU in 1995. The most important products are iron, steel, base metals, textiles, agricultural and chemical products. EU exports increased by 37% over the same period, to 2.05 BECU in 1995. The most important sectors are machinery and equipment, agricultural products, textiles and chemicals. Bulgaria's four main EU trading partners are Germany, the United Kingdom, Italy and Greece. Trade between Bulgaria and its non-EU neighbours is modest.

General Evaluation

Since 1989 relations between Bulgaria and the Union have evolved positively. There have been no significant policy obstacles to overcome though Bulgaria will need to amend its Constitution so that nationals of EU Member States can acquire (other than by inheritance) land, and to tighten its border controls. But Bulgaria's progress in integration has been hampered by its political and economic problems and by the continuing weakness of its administrative structures. The new government is committed tackling these.

[...]

C. Summary and Conclusions

Bulgaria submitted its application for membership of the European Union on 14 December 1995. Its request is part of the historic process of ending the division of Europe and consolidating the establishment of democracy across the continent.

In accordance with the provisions of Article O of the Treaty, the Commission has, at the request of the Council, prepared an Opinion on Bulgaria's request for membership.

Bulgaria's preparation for membership is going forward notably on the basis of the Europe Agreement which entered into force in February 1995. The Bulgarian government has attached importance to implementation of the White Paper of May 1995 on the Internal Market, another essential element of the pre-accession strategy putting in place in May 1996 an implementation programme.

In preparing its Opinion, the Commission has applied the criteria established at the Copenhagen European Council of June 1993. The Conclusions of this Council stated that those candidate countries of Central and Eastern Europe who wish to do so shall become members of the Union if they meet the following conditions:

- stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the ability to cope with competitive pressures

and market forces within the Union;

- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

A judgement on these three groups of criteria - political, economic, and the ability to take on the acquis - depends also on the capacity of a country's administrative and legal systems to put into effect the principles of democracy and the market economy and to apply and enforce the acquis in practice.

The method followed in preparing these Opinions has been to analyse the situation in each candidate country, looking forward to the medium term prospects, and taking into account progress accomplished and reforms already under way. For the political criteria, the Commission has analysed the current situation, going beyond a formal account of the institutions to examine how democracy and the rule of law operate in practice.

1. Political Criteria

Bulgaria has democratic institutions whose stability seems now secure. They need to be reinforced by fuller respect in practice for the rule of law, at all levels of public administration. Elections are free and fair and led to alternation of power in 1994 and 1997.

Some gaps remain in respect for fundamental rights, though the new government elected in April 1997 has announced a series of positive reforms. Considerable efforts are needed to pursue the fight against corruption, to improve the operation of the judicial system and to protect individual liberties in the face of too frequent abuses by the police and secret services.

The Turkish minority seems well integrated, but this is not so for the Roma.

The current improvement following the arrival in power of a new government permits the conclusion that Bulgaria is on the way to satisfying the political criteria set by the Copenhagen European Council.

2. Economic Criteria

Despite some first steps taken in 1991, Bulgaria is still only at the start of the process of structural transformation. The new government has clearly undertaken to the IMF, the World Bank, and the European Commission, that it will set in train rapid reforms in order to free prices and start privatisation. This policy should permit recovery from the situation created by the crisis of recent months which saw a negative growth (-10.9% of GDP in 1996), worsening public deficits, hyper-inflation (311% in 1996) and depreciation of the currency.

Bulgaria has a population of 8.3 million and its GDP per capita is 24% of the EU average. The agricultural sector employs more than 20% of the working population and provides 13% of the Gross Value Added. It still has severe structural difficulties despite recent privatisation. Trade with the EU has grown significantly and now represents 35% of Bulgaria's external trade.

On the basis of its analysis, the Commission's judgement as to Bulgaria's ability to meet the economic criteria established at Copenhagen is as follows:

Bulgaria's progress in the creation of a market economy has been limited by the absence of a commitment to market-oriented economic policies. Early liberalisation of trade and prices was partially reversed, and price controls were not removed until this year. It is only since the crisis at the end of last year, and the recent change of government that consensus about the desirability of economic reforms has begun to develop.

Bulgaria will not be able to cope with competitive pressure and market forces within the Union in the medium term. If the authorities can translate their renewed commitment to economic transition into

successful and sustained action, a turnaround in Bulgaria's prospects is possible. However, the country has been set back by six largely wasted years. Incomplete land reform has hampered the emergence of a modern agricultural sector; slow privatisation and economic instability have weakened state enterprises and delayed the development of a dynamic private sector.

3. Capacity to take on the obligations of membership

Bulgaria's ability to take on the *acquis* has been evaluated according to a number of indicators:

- the obligations set out in the Europe Agreement, particularly those relating to the right of establishment, national treatment, free circulation of goods, intellectual property and public procurement;
- implementation of the measures set out in the White Paper as essential for establishing the single market;
- progressive transposition of the other parts of the *acquis*.

Bulgaria has made considerable efforts to meet its obligations under the Europe Agreement. The Agreement has been implemented without major problems and according to the timetable for implementation set out in it. Most of the problems related to implementation have been resolved. But the weakness of the national coordination mechanisms have prevented full exploitation of its potential. The new government has decided to reinforce these structures. Bulgaria has an unsatisfactorily low rate of transposition of the rules and the directives set out in the White Paper.

Bulgarian legislation only incorporates a small part of the *acquis* for the fundamental elements of the single market, except for certain aspects of free circulation of goods. The scale of progress to be achieved requires very substantial and sustained efforts both in approximation of legislation and in creation of structures enabling it to be implemented. Complete restructuring of the financial sector, in order to re-establish public and investor confidence in it, is among the highest priorities, and the government recognises this.

The weakness of public administration is a major problem, putting in question both the rate and the quality of approximation of legislation. The various structures needed to apply the legislation on the single market are not currently capable of playing their roles.

As for the other parts of the *acquis* Bulgaria should not have particular difficulty in applying the *acquis* in the medium term, provided it maintains its current transposition and modernisation efforts, in the following sectors: education, training and youth; research and technological development; fisheries; small and medium enterprises; international trade relations; and development.

By contrast Bulgaria will need to make substantial efforts in order to apply the *acquis* in the fields of telecommunications (particularly price structures), audio-visual, taxation, statistics, consumer protection and customs.

Integration into the European market could pose serious difficulties for Bulgarian industry in the medium term. Many sectors still face important re-structuring and privatisation needs.

For the environment, very important efforts will be needed including massive investment and strengthening of administrative capacity to enforce legislation. Full compliance with the *acquis* could be expected only in the very long term and would require increased levels of public expenditure.

Bulgaria has made some progress in meeting the transport *acquis*, but serious recent difficulties have held this process back. It must accelerate its efforts in particular in the maritime, air and road freight sectors. Bulgaria must also provide the investment necessary for extending the European transport network, which is an essential element for the effective operation of the single market.

Bulgaria still needs to make substantial efforts to align its procedures in employment and social affairs with

EU standards. Progress is needed in particular on labour law and the structure of the labour inspectorate, since these have neither formal autonomy nor the necessary means to fulfil their role properly.

For regional policy, Bulgaria will have to achieve significant preparatory steps, in particular on financial control and the coordination of the different actors involved in policy in this field, before it can effectively use structural funds.

Bulgaria must put in place fundamental reforms of its agricultural sector before it can meet the obligations of accession. Considerable progress is needed on restructuring of the sector; on the agrifood industry; on agricultural policies and on health and quality controls. A particular effort will be needed on the administrative structures responsible for administering the CAP.

For energy, increased efforts must be achieved to prepare for accession, in particular on monopoly operations, price fixing and state intervention in the solid fuel sector. Bulgaria has a nuclear power station at Kozloduy, which produces around 40% of the country's electricity. It must in the medium term modernise the units for which this is possible, so that they meet internationally accepted standards; and keep its undertaking to close those which cannot be modernised according to the conditions set in the 1993 Agreement. Bulgaria must make a number of modifications to its legislation to comply with Community rules in the nuclear sector and to respect international regimes.

On the basis of the analysis of its capacity to apply the *acquis*, it is not yet possible to be sure when Bulgaria could become able to take and implement the measures necessary to remove the controls at borders between Bulgaria and member states of the Union.

Bulgarian participation in the third stage of economic and monetary union, which implies coordination of economic policy and complete liberalisation of capital movements, poses serious problems in current circumstances, given the substantial structural reforms which still need to be achieved. It is premature to judge whether Bulgaria will be in a position, by the time of its accession, to participate in the Euro area. That will depend on how far the success of its structural transformation enables it to achieve and sustain permanently the convergence criteria. These are, however, not a condition for membership.

Bulgaria faces a particular challenge in justice and home affairs, given the serious difficulties which it faces in these sectors. Only by considerably improving the efficiency of the institutions responsible for action in these fields will Bulgaria become able to apply the *acquis*.

Bulgaria should be able to fulfil its obligations under the common foreign and security policy.

It has considerably improved its relations with its neighbours and settled almost all its disputes with them.

4. Administrative and legal capacity

Bulgaria's administrative structures will need a major and sustained effort of reform if it is to become able to apply the *acquis* effectively.

The capacity of the judicial system to ensure uniform application of Community law is of importance for achieving the single market. It is difficult in current circumstances to judge Bulgaria's prospects in this sector.

Conclusion

In the light of these considerations, the Commission concludes that :

- the current improvement in Bulgaria, following the arrival in power of a new government, indicates that Bulgaria is on its way to satisfy the political criteria;

- Bulgaria's progress in the creation of a market economy has been limited by the absence of a commitment to market-oriented economic policies; it would not be able to cope with competitive pressure and market forces within the Union in the medium term, but it would still face serious difficulties to cope with competitive pressure and market forces within the Union in the medium term;

- despite the progress that has been made, Bulgaria has neither transposed nor taken on the essential elements of the *acquis*, particularly as regards the internal market. It is therefore uncertain whether Bulgaria will be in a position to assume the obligations of membership in the medium term. In addition, considerable efforts will be needed in the areas of environment, transport, energy, justice and home affairs as well as agriculture. More generally, substantial administrative reform will be indispensable if Bulgaria is to have the structures to apply and enforce the *acquis* effectively.

In the light of these considerations, the Commission considers that negotiations for accession to the European Union should be opened with Bulgaria as soon as it has made sufficient progress in satisfying the conditions of membership defined by the European Council in Copenhagen.

The reinforced pre-accession strategy will help Bulgaria to prepare itself better to meet the obligations of membership, and to take action to improve the shortcomings identified in the Opinions. The Commission will present a report no later than the end of 1998 on the progress Bulgaria has achieved.