

**NATIONAL ACTION PLAN FOR THE ADOPTION  
OF THE SCHENGEN ACQUIS  
UPDATE FOR 2005**

## **I. BORDER CONTROL**

### **Crossing internal borders**

#### *Relevant acquis*

- **Article 2 of the Convention implementing the Schengen Agreement**
- SCH/Com-ex (94) 1 rev 2 - 26.4.94 - Adjustment measures aiming to remove the obstacles and restrictions on traffic flows at road border crossing points at internal borders
- SCH/Com-ex (95) 20 rev - 20.10.95 - Approval of Doc.
- SCH/I (95) 40 rev 6 on the procedure for applying Article 2 (2) of the Convention implementing the Schengen Agreement

#### *Current situation*

At present Bulgaria has only external borders and applies uniform procedures for external border control at all border sections. All individuals who enter, leave or transit through the country are subject to mandatory passport and visa control at the border checkpoints. With a view to the future full application of the Convention implementing the Schengen Agreement, including Article 2 thereof, the Republic of Bulgaria is currently working on ensuring the necessary legal provisions and administrative capacity. An Instruction on border passport and visa control at border checkpoints was adopted in compliance with the amendments to the Ministry of the Interior Act and the Regulation on the Implementation of the Ministry of the Interior Act of 2003. A Regulation on the guarding of the river section of the state border and the inland waterways of the Republic of Bulgaria and a Regulation on the guarding of the maritime section of the state border of the Republic of Bulgaria were adopted on 19 January 2005. The mentioned secondary legislation is in accordance with the practices and recommendations of the Schengen Common Manual and the Schengen catalogue of best practices, Part 1.

#### *Measures to be taken*

### **Legislative measures**

1. Harmonising national legislation in view of introducing differentiation of border control carried out at future internal and external borders of the Republic of Bulgaria

1.1 Drafting secondary legislation aimed at further strengthening the control and management of Bulgaria's border by introducing integrated measures with the regional structures of the Ministry of the Interior in the border area

**Deadline:** 31 December 2006  
**Responsible:** Minister of the Interior

1.2 Drafting secondary legislation aimed at introducing compensatory measures in the border areas of the future EU internal borders and enhancing the interaction with other services involved in mandatory border control.

**Deadline:** 31 December 2006  
**Responsible:** Minister of the Interior

2. Concluding international bilateral agreements

2.1. between the Republic of Bulgaria and Greece

2.1.1. Approval by the Council of Ministers of a draft Agreement as a basis for negotiations between the governments of the Republic of Bulgaria and Greece on the setting up of a Contact Service for co-operation between the border guard authorities.

**Deadline:** 31 December 2005  
**Responsible:** Minister of the Interior

2.2. between the Republic of Bulgaria and Romania

2.2.1. Approval by the Council of Ministers of a draft Agreement as a basis for negotiations between the governments of the Republic of Bulgaria and Romania on the setting up a Contact Service for full-scale co-operation between the border guard authorities, the police, the customs and the services for administrative control of foreign nationals.

**Deadline:** 31 December 2005  
**Responsible:** Minister of the Interior  
Minister of Finance

### **Institutional building**

1. Elaboration and adoption of an Integrated Border Management Strategy

**Deadline:** 20 December 2005  
**Responsible:** Minister of the Interior  
Minister of Finance  
Minister of Agriculture and Forestry  
Minister of Regional Development and Public Works  
Minister of Health  
Minister of Justice

2. Setting up of joint mobile units on national level for carrying out in-depth checks in the border area (border guard authorities, police, customs, services for administrative control of foreign nationals).

**Deadline:** 30 June 2006<sup>1</sup>  
**Responsible:** Minister of the Interior  
Minister of Finance

3. Elaboration of a Programme for reconstructing and facilitating the border crossing regime at border checkpoints along the future EU internal borders (Bulgarian's borders with Romania and Greece).

**Deadline:** 31 December 2006  
**Responsible:** Minister of the Interior  
Minister of Finance  
Minister of Regional Development and Public Works

4. Implementation of the Programme for restructuring and facilitating the border-crossing regime at border checkpoints along the future EU internal borders (Bulgaria's borders with Romania and Greece).

**Deadline:** Upon full Schengen membership  
**Responsible:** Minister of Regional Development and Public Works  
Minister of Finance  
Minister of the Interior

### **Crossing external borders**

#### *Relevant acquis*

- **Articles 3, 5, 6 of the Convention implementing the Schengen Agreement**
- **Common Manual on external border control**
- SCH/Com-ex (94) decl.8 - 27.06.94 - External borders
- SCH/Com-ex (94) 16 rev - 21.11.94 - Acquisition of common entry and exit stamps at border checkpoints
- Council Decision of 29.04.2004 determining the minimum indications to be used on signs at external border crossing points /2004/581/EC/
- Council Regulation of 13.12.2004 on the requirements for the competent authorities of the Member State to stamp systematically the travel documents of third country nationals when they cross the external borders of the Member States /2133/2004/EC/
- Council Recommendation 98/C 189/02 of 28 May 1998 on the provision of forgery detection equipment at ports of entry to the European Union

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<sup>1</sup> The redefined schedule is related to the forthcoming adoption of the Integrated Border Management Strategy

### *Current situation*

The terms and conditions for crossing the state border of the Republic of Bulgaria, as well as the type and scale of mandatory border control performed are regulated in the Ministry of the Interior Act and the Regulation on its implementation, the Foreign Nationals Act and the Regulation on its implementation, the Bulgarian Identity Documents Act and the Regulation on Border Checkpoints. The above listed legislation complies with the provisions of Articles 3, 5 and 7 of the Convention implementing the Schengen Agreement.

### *Measures to be taken*

#### **Legislative measures**

##### 1. Concluding international bilateral agreements

1.1. Approval by the Council of Ministers of a draft Agreement as a basis for negotiations between the governments of the Republic of Bulgaria and Serbia and Montenegro on co-operation between border guard authorities, and sending the draft Agreement through the diplomatic channels.

**Deadline:** 30 June 2005  
**Responsible:** Minister of Interior

1.2. Approval by the Council of Ministers of a draft Agreement as a basis for negotiations between the governments of the Republic of Bulgaria and FYROM on co-operation between border guard authorities.

**Deadline:** 30 June 2005  
**Responsible:** Minister of Interior

#### **Institution building**

##### 1. Elaboration and adoption of an Integrated Border Management Strategy

**Deadline:** 20 December 2005  
**Responsible:** Minister of the Interior  
Minister of Finance  
Minister of Agriculture and Forestry  
Minister of Regional Development and Public Works  
Minister of Health  
Minister of Justice

2. Building new and restructuring existing border checkpoints along the future external borders in compliance with Schengen requirements.

**Deadline:** 31 December 2006  
**Responsible:** Minister of Regional Development and Public Works  
Minister of Finance

3. Designing, producing and introducing entry and exit stamps in accordance with Schengen requirements

**Deadline:** 31 December 2006  
**Responsible:** Minister of the Interior

### **Administrative capacity**

#### 1. Training

1.1. Training and qualification of border police officials and management staff with a focus on the provisions of the new legislation harmonised with EU and Schengen requirements in the field of border control and security and its practical enforcement.

**Deadline:** Permanent  
**Responsible:** Minister of the Interior

1.2. Setting up of a specialised “blue border” training centre for the needs of the MoI National Border Police Service, which will supplement and further develop the initial border police training provided at the Pazardjik Training Centre.

**Deadline:** 31 December 2005  
**Responsible:** Minister of the Interior

### **Technical equipment**

Providing modern technical equipment to ensure effective border guard and control with funds from the state budget, under the Phare Programme and other donors, as follows:

- Base stations for the TETRA communication system;
- Thermo-vision cameras;
- Night-vision goggles;
- All-terrain vehicles;
- Patrol boats - up to 50 GRT;
- Patrol boats - 200-400 GRT;
- River patrol boats;
- Life boat;
- Foul-weather protective clothing - maritime;
- Simulation computer equipment for training;

- Radio stations;
- Computer equipment for the Command and Communication Centre;
- Helicopter;
- IT equipment;
- Equipment for checking documents - mobile systems for checking documents;
- Minibuses and cars for carrying out operational and search activities.

**Deadline:** 1 January 2007  
**Responsible:** Minister of Finance  
 Minister of the Interior

### **Provisions for airports**

#### *Relevant acquis*

- **Article 4 of the Convention implementing the Schengen Agreement**
- **Item 3.3 of the Common Manual on external border control**
- SCH/Com-ex (94) 17 rev 4 - 22.12.94 - Introducing and applying the Schengen system in airports and aerodromes
- Council Regulation of 13.12.2004 on the requirements for the competent authorities of the Member State to stamp systematically the travel documents of third country nationals when they cross the external borders of the Member States /2133/2004/EC/
- Council Recommendation 98/C 189/02 of 28 May 1998 on the provision of forgery detection equipment at ports of entry to the European Union

#### *Current situation*

At present Bulgaria has five international airports - Sofia, Varna, Bourgas, Plovdiv and Gorna Oryahovitzta, of which only the one in Sofia is a transfer airport.

Thorough passport and visa control of all passengers is carried out at all airports. Special aviation security committees are operational at all international airports. They include representatives of all agencies involved in civil aviation security.

Work on building a new passenger terminal at Sofia Airport has started, and it is expected to be ready in 2005. The new infrastructure at the Sofia Airport will allow actual separation of passenger flows (EU citizens, third country nationals).

#### *Measures to be taken*

### **Institution building**

1. Building of a new terminal at Sofia Airport.

**Deadline:** 2005  
**Responsible:** Minister of Transport and Communications  
 Minister of Finance

2. Providing technical and organisational conditions for separating passenger flows (EU citizens, third country nationals).

**Deadline:** Upon Schengen accession  
**Responsible:** Minister of Transport and Communications  
Minister of the Interior

### **Provisions for maritime and river traffic**

#### *Relevant acquis*

- **Item 3.4 of the Common Manual on external border control**
- Council Regulation of 13.12.2004 on the requirements for the competent authorities of the Member State to stamp systematically the travel documents of third country nationals when they cross the external borders of the Member States /2133/2004/EC/
- Council Recommendation 98/C 189/02 of 28 May 1998 on the provision of forgery detection equipment at ports of entry to the European Union

#### *Current situation*

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

Two pieces of secondary legislation in the field of maritime and river border guard have been elaborated under a Phare twinning project BG 0203.11 (BG02/IB-JH-06) - see the Crossing Internal Borders Section.

The Centre for coordination, control and exchange of information on Black Sea traffic - located in Bourgas - has been functioning since October 2003. Through the Centre the countries in the Black Sea region exchange information in real time on suspicious vessels in accordance with approved protocols. Currently the information exchange is carried out non-stop and covers all Black Sea states.

#### *Measures to be taken*

### **Institution building**

1. Setting up of a specialised “blue border” training centre for the needs of the MoI National Border Police Service, which will supplement and further develop the initial border police training provided at the Pazardjik Training Centre.

**Deadline:** 31 December 2005  
**Responsible:** Minister of the Interior

## **Co-operation between contracting parties**

### *Relevant acquis*

- **Article 7 of the Convention implementing the Schengen Agreement**
- SCH/Com-ex (95) 21 - 20.12.95 - Swift exchange between the Schengen States of statistical and tangible data on possible malfunctions at the external borders
- SCH/Com-ex (98) 59 Rev - 16.12.1998 - Co-ordinated deployment of document advisers
- SCH/Com-ex (99) 7 Rev 2 - 28.04.1999 - Liaison officers

### *Current situation*

An Agreement between the Government of the Republic of Bulgaria and the Government of Romania on cooperation between the border guard authorities was signed on 22 December 2004 in Sofia, providing for border police co-operation in the context of Article 7 of the Convention implementing the Schengen Agreement.

Two rounds of negotiations for concluding a new readmission agreement with Germany were carried out in 2004 and ended with an agreement in principle on the draft texts.

### *Measures to be taken*

#### **Legislative measures**

1. Approval by the Council of Ministers of the draft agreements under item 2 of the section on Crossing Internal Borders as a basis for negotiations.

**Deadline:** See the Crossing Internal Borders Section

**Responsible:** Minister of the Interior

2. Approval by the Council of Ministers of the draft agreements under item 1 of the section on Crossing External Borders as a basis for negotiations and sending the draft agreements to the relevant states through the diplomatic channels.

**Deadline:** See Crossing External Borders Section

**Responsible:** Minister of Interior

## II. VISAS

### Common visa policy

#### *Relevant acquis*

- **Art. 10 of the Convention implementing the Schengen Agreement**
- **Council Regulation 539 of 15 March 2001**, listing the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States
- **Council Regulation 2414/2001 Amending Council Regulation 539 of 15 March 2001**
- **Council Regulation 453/2003 Amending Council Regulation 539 of 15 March 2001**
- Decision of the Executive Committee on the final versions of Common Manual and Common Consular Instructions (hereinafter: CCI), Annexes 1-3 to the CCI (SCH/Com-ex (99) 13)
- Decision of the Executive Committee on the common visa policy (SCH/Com-ex (95) PV 1 rev)

#### *Current situation*

The visa policy of the Republic of Bulgaria is regulated under the *Foreign Nationals Act, the Ordinance for applying the Foreign Nationals Act and the Regulation on the Terms and Procedures for Issuing Visas*.

Amendments to the *Bulgarian Identity Documents Act* have been adopted /promulgated in State Gazette No. 29 of 31 March 2003, in force as of 63 of 15 July 2003/, introducing the following new types of documents: service passports and identity cards of foreign nationals seconded at the diplomatic or consular missions or to international organisations with a seat on the territory of the Republic of Bulgaria.

*The Regulation on the Terms and Procedures for Issuing Visas* in force as of 17 May 2002 provides for a period for visa-free stay in Bulgaria of nationals of EU Member States and of other countries on a reciprocal basis up to 90 days within 6 months.

#### *Positive visa list*

Bulgaria has signed an Agreement on lifting visa requirements with Brazil, an Agreement on introducing visa-free regime with Chile for holders of ordinary passports, in force as of 2 August 2003 and an Agreement on lifting visa requirements with Switzerland, in force as of 29 November 2003.

Since 8 November 2003 the right of visa-free residence has been extended from 30 to 90 days with Estonia and the Czech Republic.

On 11 August 2004 an Agreement between the Government of the Republic of Bulgaria and the Government of the Bolivarian Republic of Venezuela on lifting visa requirements for holders of ordinary passports has been signed.

On 10 January 2005 an Agreement between the Government of the Republic of Bulgaria and the Government of the Eastern Republic of Uruguay regarding mutual lifting of visa requirements has been signed.

The amendments to the Regulation on the terms and procedures for issuing visas of 16 March 2004 have introduced visa-free regime for nationals of Malaysia.

Bulgaria has presented draft bilateral agreements as a basis for holding negotiations and applying the necessary procedures for mutual lifting of visa requirements to the following states: Argentina, Bolivia, Guatemala, Costa Rica, Mexico, Nicaragua, Panama, Paraguay, Salvador, Singapore, Uruguay and Malaysia, and to Hong Kong and Macao as well. On 7 May 2004 diplomatic relations with Honduras have been established. Presentation of draft agreement for visa-free regime to the Honduras authorities is forthcoming. As regards Brunei Bulgaria intends to initiate negotiations for introducing visa-free regime on a reciprocal basis in near future.

The process of harmonizing the Bulgarian positive list with the new Visa Regulation depends on the willingness and promptness of the other side to exempt on a reciprocal basis Bulgarian nationals from visa requirements.

#### *Negative visa list*

Pursuant to a Council of Ministers' Decision of 15 September 2003 the visa-free agreement with Tunisia was denounced. According to the notification sent to the Tunisian side the denunciation entered in force on 1 January 2004 and after that date the nationals of Tunisia need visas in order to enter the Republic of Bulgaria.

The amendments to the Regulation on the terms and procedures for issuing visas of 16 March 2004 have introduced visa requirements for citizens of the autonomous province Kosovo, travelling with documents, issued by the United Nations Temporary Administration – UNMIK.

#### *Measures to be taken*

#### **Legislative measures**

1. Amending the visa regime in compliance with the EU Regulation of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States.

- Presenting draft agreements for introducing visa-free regime with Brunei and Honduras

**Deadline:** *31 December 2005*  
**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

- Introducing visa regime for FYR Macedonia and Serbia and Montenegro

**Deadline:** *by the date of EU accession*

**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

- Introducing visa-free regime for nationals of: Argentina, Bolivia, Brunei, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Salvador, Uruguay, Singapore, Hong Kong, Macao, holders of ordinary passports.

**Deadline:** *by the date of EU accession*

**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

### **Uniform visa - definition**

#### *Relevant acquis*

- Decision of the Executive Committee on the final versions of Common Manual and Common Consular Instructions, Part I, point 2 of CCI (SCH/Com-ex (99) 13)
- Common Consular Instructions including all amendments up to 16 December 2002 (2002/C 313/01)
- Council Regulation 539 of 15 March 2001, listing the third countries whose national must be in possession of visas when crossing the external borders of the Member States, amended by Regulation 2414/2001 and 453/2003

#### *Current situation*

Art. 9, para. 1 of the Foreign Nationals Act contains a definition of “visa”. According to it a visa is a permit authorising entry, stay, transit or airport transfer through the territory of the Republic of Bulgaria.

The definition is contained also in Art. 1, para. 1 of the Regulation on the terms and procedures for Issuing Visas.

#### *Measures to be taken*

### **Legislative measures**

1. Introducing a legal definition of uniform visa, valid for the territories of all Contracting Parties.

**Deadline:** *By the date of Schengen accession*

**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

### **Uniform visa format and security of documents**

#### *Relevant acquis*

- Council Regulation 1683/95/(EC) (SCH/Com-ex (99) 13), amended by Council Regulation 334/2002(EC) of 18 February 2002.

#### *Current situation*

A new unified Bulgarian visa sticker of the type 'Visa 2001' has been elaborated. It complies with EU requirements and further includes a photograph of the visa holder. The new visa stickers meet very high requirements concerning the security of documents. Personal data are being personalised by ink-jet technology.

A Regulation on the terms and conditions for printing, storing, affixing, cancelling, destroying and reporting Bulgarian visa stickers (Council of Ministers' Decree № 92 of 22 April 2003, State Gazette, No. 40 of 29 April 2003, in force as of 29 April 2003) has been adopted.

The time schedule for installing and putting into operation by mid 2004 the technical equipment for issuing the new Bulgarian visas in all diplomatic and consular missions has been implemented.

In the diplomatic and consular missions of the Republic of Bulgaria in Afghanistan (Kabul), Iraq (Baghdad), Peoples' Democratic Republic of Korea (Pyongyang) the Visa Control System will not be introduced at the current stage due to security reasons. In Ethiopia (Addis Ababa) the system will not be installed because there are only buildings there and visas are not issued. In Benghazi (Libya) all visas and temporary passports issued are put into the system through the Embassy in Tripoli.

So far the new visa control system "Visa 2001" has been introduced in 89 /including the recently opened General Consulate in Podgoritza/ from all 94 diplomatic and consular missions.

#### *Measures to be taken*

##### **Institution building**

1. Introduction of the uniform EU visa sticker.

**Deadline:** *By the date of EU accession*

**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

2. Introduction of the uniform Schengen visas

**Deadline:** *By full Schengen membership*

**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

## Categories of visas

### *Relevant acquis*

- **Articles 9-17, 18 of the Convention Implementing the Schengen Agreement**
- Decision of the Executive Committee on the final versions of Common Manual and Common Consular Instructions, Part I, points 2.1.1-2.1.4 and Annex 14 to CCI (SCH/Com-ex (99) 13)
- Decision of the Executive Committee on the exchange of statistics on issued visas (SCH/Com-ex (98) 12)
- Annex 3 to CCI listing countries under ATV obligation (SCH/Com-ex (99) 13)
- Council Decision of 28 July 2003 on the amendment of Annex 3 to CCI listing countries under ATV obligation (2003/586/EC)

### *Current situation*

The types of visas are listed in Art. 9, para 3 of the Foreign Nationals Act and they fully comply with the Convention Implementing the Schengen Agreement and the Decision of the Executive Committee on the final versions of the Common Manual and the Common Consular Instructions. The Act stipulates the following types of visas: airport transfer, transit, short-term, long-term, group visas, and visas issued at the border. Group visa may be issued for one or two transits or for one or two entries and short-term stay for a total of 30 days.

Art. 6 of the new Regulation on the terms and procedure for issuing visas reflects the types of visas in accordance with the Foreign Nationals Act.

The new Regulation on the terms and procedure for issuing visas provides detailed regulations for issuing airport transfer visas that are in compliance with the Joint Action of 4 May 1996 on Airport Transit Arrangements and Annex 3 of the Common Consular Instruction for the diplomatic missions and consular services. The list of states whose nationals must be in a possession of airport transfer visa is enclosed in Annex 3 of the new Visa Regulation and includes the following states: Angola, Afghanistan, Bangladesh, Ghana, Ethiopia, Eritrea, Iraq, Iran, Democratic Republic of Congo, Liberia, Nigeria, Pakistan, Somalia, Sudan, and Sri Lanka. Two more states are included in the list that are not listed in Annex 3 of the Common Consular Instructions (Liberia and Sudan). Including more states whose nationals must be in a possession of airport transfer visas in the list is in compliance with the Schengen acquis, especially if those are states that present high immigration risk.

The Bulgarian diplomatic and consular missions are ready to issue airport transfer visas, and border passport visa control authorities are ready to process them.

### *Measures to be taken*

1. Amending the Regulation on the Terms and Procedure for Issuing Visas and introducing long-term visa type “C+D” which will at the same time constitute a valid

unified short-term visa for a period of time no longer than three months from the initial date of validity.

**Deadline:** Upon Schengen membership  
**Responsible:** Minister of Foreign Affairs

### Visa issuance

#### *Relevant acquis*

- **Article 12 of the Convention Implementing the Schengen Agreement**
- Decision of the Executive Committee on extending the uniform visas (SCH/Com-ex (93) 21)
- Decision of the Executive Committee on the common principles for cancelling, rescinding or shortening the length of validity of the uniform visa (SCH/Com-ex (93) 24)
- Decision of the Executive Committee on the issue of uniform visas at the borders (SCH/Com-ex (94) 2)
- Decision of the Executive Committee on the stamping of passports of visa applicants (SCH/Com-ex (98) 21)
- Decision of the Executive Committee on compilation of a Manual of documents to which a visa may be affixed (SCH/Com-ex (98) 56)
- Decision of the Executive Committee on the final versions of Common Manual and Common Consular Instructions (SCH/Com-ex (99) 13)
- Decision of the Executive Committee concerning the compilation of a Manual of documents to which a visa may be affixed (SCH/Com-ex (99) 14)
- Council Regulation (EC) 333/2002 of 18 February 2002 on uniform format of documents to which visa may be affixed issued by a member-state to persons whose travel document is not acknowledged by the member-state which issued the uniform document
- Council Decision of 25 April 2002 for revising Part III and adding Annex 16 to the Common Consular Instructions.
- Council Regulation No. 415/2003 of 27 February 2003 on the issue of visas at the border, including the issue of such visas to seamen in transit
- Council Decision of 22 December 2003 amending Part V, point 1.4, of the Common Consular Instructions and Part I, point 4.1.2 of the Common Manual as regards inclusion of the requirement to be in possession of travel medical insurance as one of the supporting documents for the grant of a uniform entry visa
- Council Decision of 22 December 2003 amending the third subparagraph (Basic criteria for examining applications) of Part V of the Common Consular Instructions

#### *Current situation*

Pursuant to Art. 9, para. 5 of the Foreign Nationals Act and to Art. 30 para. 1 of the Regulation on the Terms and Procedure for Issuing Visas, only the **diplomatic and consular missions of the Republic of Bulgaria** are authorised to issue visas.

The consular official sends each visa application to the Visa Centre with the Ministry of Foreign Affairs. In principle diplomatic and consular missions may only issue visas after permission from the Visa Centre. According to Art. 30 para. 2 the Minister of Foreign Affairs upon proposal from the Consular Relations Directorate can authorise certain consular officials to decide on the issuance or refusal of airport transfer visas, transit visas or short-term visas. Before a decision is made, the competent officials must consult the information data bases of the Ministry of Foreign Affairs and the Ministry of the Interior and check the declared data and the presented documents. In exceptional cases (humanitarian emergencies that have not been caused by the visa applicant /e.g. health problems, death of a relative, etc./ or for reasons related to state interests) the consular official may issue airport transfer visa, transit visa or short-term-stay visa (up to 10 days) without observing the consultation procedure envisaged under Art. 30, para. 3 of the Visa Regulation. The Visa Centre and the border control bodies must however be informed about the visa issued, as well as the category of the issued visa, the number of the visa sticker, the personal data of the visa holder, the aim of the visit and especially the reasons for derogating the consultation procedure.

The missions of the Republic of Bulgaria to all countries, considered high-risk in terms of illegal immigration, are connected to the Visa Centre at the Ministry of Foreign Affairs. Extra control measures are applied towards visa applicants from those countries. In addition to travel documents, they are required to submit at the Bulgarian diplomatic or consular missions papers certifying the aim of the travel.

Pursuant to Art. 9, para. 6 “in exceptional cases, where it is compelling for reasons related to state interests, or extraordinary circumstances or for humanitarian reasons, as well as in emergency cases, or if so provided in an international treaty ratified by the Republic of Bulgaria and in force for the country, **the passport control authorities at the border checkpoints** may in co-ordination with the aliens’ administrative control services or with the Consular Relations Directorate of the Ministry of Foreign Affairs issue single-entry visas for airport transfer, transit and a short-term-stay visas of up to 10 days.” The new Visa Regulation provides the necessary secondary legislation and regulates in detail the process of visa issuance at the borders in compliance with the Schengen acquis.

In 2003 the administrative capacity of the Visa Centre of the Bulgarian Ministry of Foreign Affairs was increased by 25% and the Visa Centre was structured into a department consisting of three sections: “Visas”, “Temporary Passports” and “Foreign Nationals”. A new section on “Visa and Migration Policy” was set up at the Consular Affairs Directorate to exercise methodological guidance on the visa policy and its harmonisation with the European acquis, the migration processes, the fight against illegal migration and their harmonization with the Schengen requirements.

*To date the new version of the visa control system has been introduced in 89 /including the recently opened General Consulate in Podgoritz/ from all 94 Bulgarian diplomatic and consular missions, all of them being connected to the Visa Centre.*

The Republic of Bulgaria is ready to practically co-operate on local level with regard to harmonisation of visa policy in all third countries and has instructed its missions to co-operate on consular matters with the EU Member States whenever possible.

## *Measures to be taken*

### **Legislative measures**

1. Adoption of Instructions on the issue of visas at the border, including the issue of such visas to seamen

**Deadline:** 30 June 2005

**Responsible:** Minister of Foreign Affairs  
Minister of the Interior  
Minister of Transport and Communications

2. Amendment to the existing legislation with the purpose of creating a legal framework for issuing Schengen visas

- Implementation of the acquis provisions on territorial validity of visas
- Adoption of rules on consultation procedures

**Deadline:** By EU accession

**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

- harmonisation of the visa application with the Schengen visa application as provided for in Decision No. 354/2002

**Deadline:** By EU accession

**Responsible:** Minister of Foreign Affairs

- termination of the Visa Agreements regulating a preferential visa regime inconsistent with that envisaged in the Schengen acquis, in the parts providing such preferences

**Deadline:** By EU accession

**Responsible:** Minister of Foreign Affairs

The regulations closely related to the issuance of uniform visas will be enforced after lifting controls at the internal Bulgarian-EU borders.

### **Institution building**

1. Providing technical equipment to meet EU requirements as regards minimal technical standards and training of staff on the detection of forged documents.

**Deadline:** **Technical equipment:** By EU accession

**training:** permanent  
**Responsible:** Minister of Foreign Affairs

2. Accession to the VISION system (See Section VIII “Schengen Information System”)

**Deadline:** 24 months after receiving the technical specifications

**Responsible:** Minister of Foreign Affairs

Minister of the Interior

### **Visas with limited territorial validity**

#### *Relevant acquis*

- **Art. 10, para. 3, Art. 11, para. 2, Art. 14, para. 1, Art. 16 of the Convention Implementing the Schengen Agreement**
- Decision of the Executive Committee on the final versions of the Common Manual and the Common Consular Instructions, Part IV and V, paragraph 3 of CCI (SCH/Com-ex (99) 13)
- Declaration of the Executive Committee on issuing visas with limited territorial validity and exchanging information on VLTVs which have been issued (SCH/Com-ex (95) decl 4)

#### *Current situation*

The Republic of Bulgaria is not in a position to issue VLTVs before fully implementing the Schengen Agreement.

#### *Measures to be taken*

### **Legislative measures**

1. Creation of the legal basis for issuing visas with limited territorial validity, regulation of the procedures and guarantees for their observance.

**Deadline:** Upon full Schengen membership

**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

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

#### *Relevant acquis*

- Decision of the Executive Committee on the final versions of the Common Manual and the Common Consular Instructions, Part II, paragraph 1.2, 2.3 of CCI (SCH/Com-ex (99) 13)
- Council Decision of 22 December 2003 amending point 1.2 of Part II of CCI

*Current situation*

At this stage the Republic of Bulgaria is not in a position to implement the instruments on representation between the Schengen countries.

*Measures to be taken*

**Legislative measures**

1. Adoption of rules on representation of another country authorising it to issue entry visas to the territory of Bulgaria and the Bulgarian representation to be authorised to issue visas to another country of destination (Schengen country).

**Deadline:**           **elaboration:** by EU accession  
**application:** upon full Schengen membership  
**Responsible:**       Minister of Foreign Affairs

**Co-operation, exchange of information and statistics**

*Relevant acquis*

- Decision of the Executive Committee on the exchange of statistical information on the issue of visas (SCH/Com-ex (94) 25)
- Declaration of the Executive Committee on issuing visas with limited territorial validity and exchanging information on VLTVs which have been issued (SCH/Com-ex (95) decl 4)
- Decision of the Executive Committee on the exchange of statistics on issued visas (SCH/Com-ex (98) 12)
- Decision of the Executive Committee on the final versions of the Common Manual and the Common Consular Instructions (SCH/Com-ex (99) 13)

*Current situation*

Pursuant to Art. 26, para 1 of the new Regulation on the Terms and Procedure for Issuing Visas, visa applications and all copies of documents enclosed to it are kept in the archive of the diplomatic or consular mission or at the border passport control body. The new Visa Control system has an option for keeping a record of all requested, granted and denied visas by types, countries, place of issuance, citizenship of applicants, purpose of travel, type of travel documents, etc. On the basis of this statistics, pursuant to § 1 of the Regulation on the Terms and Procedure for Issuing Visas, in the beginning of each calendar year the Minister of Foreign Affairs and the Minister of the Interior

submit to the Council of Ministers a report on the migration policy and the need to introduce amendments in the migration and visa policy of the Republic of Bulgaria.

For the purpose of achieving full compliance with Schengen requirements and creating prerequisites for using the Schengen Information System, amendments to the Regulation on the terms and procedures for issuing visas have been adopted /promulgated in State Gazette No. 21 of 16 March 2004, in force as of 16 March 2004/, introducing the possibility for providing EU Member States or International Governmental Organizations with statistic data on the number of issued, refused and not received visas /in a way that does not allow people to be identified/ according to citizenship and type of visas.

### **Visa fees**

#### *Relevant acquis*

- Declaration of the Executive Committee on the harmonisation of visa fees (SCH/Com-ex (95) decl. 5)
- Declaration of the Executive Committee on the introduction of uniform fees for issuing visas (SCH/Com-ex (96) decl. 4)
- Decision of the Executive Committee on the final versions of the Common Manual and the Common Consular Instructions (SCH/Com-ex (99) 13)
- Council Decision of 20 December 2002 on amendments to Part VII and Annex 12 of the Common Consular Instructions and Annex 14a of the Common Manual
- Council Decision of 13 June 2003 on amendments to Annex 12 of the Common Consular Instructions and Annex 14a of the Common Manual on visa fees (2003/454/EC)

#### *Current situation*

Visa fees are defined in TARIFF No. 3 on the fees collected for consular services in the Ministry of Foreign Affairs system under the State Fees Act. Currently, in compliance with international agreements, the nationals of Zimbabwe, China, Nicaragua, Peoples' Democratic Republic of Korea and Albania are exempt from visa fees.

TARIFF No. 3 was amended in 2003 /State Gazette No. 34 of 15 April 2003/. According to the amendments, the fees provided in the Tariff are fixed in EURO instead of USD and in the cases when the fees are collected abroad in the relevant local currency, they are set in accordance with the official exchange rate of the EURO.

#### *Measures to be taken*

### **Legislative measures**

1. Introducing uniform visa fees upon introducing the uniform Schengen visa in compliance with the fees defined in the EU *acquis*.

**Deadline:** upon full Schengen membership  
**Responsible:** Minister of Foreign Affairs

2. Amending the agreements (based on international agreements or other grounds) in connection with abolishing visa fees

**Deadline:** by EU accession  
**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

### III. MIGRATION

#### Conditions governing the movement of aliens

##### *Relevant acquis*

- Art. 20 - 22 of the Convention Implementing the Schengen Agreement
- SCH/Com-ex (96) Decl. 5 - 18.04.1996 - Definition of the concept of an alien
- SCH/Com-ex Decl. (98) 57 - 16.12.1998 - Introduction of a harmonised form for invitations, proof of accommodation, and the acceptance of obligations of maintenance support
- Council Resolution of 20 June 1994 on limitation of admission of third-country nationals to the territory of the Member States for employment
- Council Resolution of 30 November 1994 relating to the limitations on the admission of third-country nationals to the territory of the Member States for the purpose of pursuing activities as self-employed persons
- Council Resolution of 30 November 1994 on the admission of third-country nationals to the territory of the Member States for study purposes
- Council Regulation 1030/02 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L157, p. 1-7, 15 June 2002)
- Resolution of 4 March 1996 on the status of third-country nationals residing on a long-term basis in the territory of the Member States (OJ C80, p.2, 18 March 1996)
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L251(2003))

##### *Current situation*

Pursuant to the Foreign Nationals Act an alien can enter the Republic of Bulgaria if she/he possesses a valid travel document or other substituting document as well as visa for entry, stay or transit through the country, if required.

In the case of an international treaty to which the Republic of Bulgaria is a party or a unilaterally introduced visa-free regime, the nationals of those states can enter and stay in Bulgaria without a visa for a specified period of time (30, 60 or 90 days).

Foreign nationals wishing to stay in the Republic of Bulgaria for a period of over three months must obtain a permit by the administrative control services and the Migration Directorate of the Ministry of the Interior. The terms and procedures, as well as the necessary documents for issuing a permit are specified in the Foreign Nationals Act and the Regulation on its implementation.

The amendments to the Foreign Nationals Act of 22 April 2003 are in compliance with the following EU acquis: Convention implementing the Schengen Agreement; Council of Europe Convention No. 108 of 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data; Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement; Council Resolution No. 397Y1216(01) of 4 December 1997 on measures to be adopted on the combating of marriages of convenience; Regulation

2001/51/EC of 28 June 2001, supplementing the Convention implementing the Schengen Agreement, introducing a set of obligations for carriers of aliens.

The Bulgarian Identity Documents Act introduced specimen of alien's documents compliant with EU requirements: alien's card for long-term stay in the Republic of Bulgaria, alien's card for permanent stay in the Republic of Bulgaria, refugee's card, temporary refugee's card, refugee's travel document, travel document issued to a stateless persons, temporary travel document for leaving the Republic of Bulgaria, temporary alien's card, travel document for return of an alien to the Republic of Bulgaria.

An automated information system has been developed and put into operation for maintaining and updating the national register on aliens, staying for over three months in the territory of the Republic of Bulgaria. Access to the system has been provided on a 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 compulsorily taken out of the country.

On 26 February 2004 a Migration Directorate was established within the Ministry of the Interior in accordance with the amendments to the Ministry of the Interior Act, adopted by the National Assembly (State Gazette No. 103 of 25 November 2003). The Migration Directorate is a specialised body with national competence for carrying out administrative control over aliens' stay in the Republic of Bulgaria and implementing the migration policy of the Republic of Bulgaria.

#### *Measures to be taken*

#### **Institution building**

1. Setting up a special facility for temporary accommodation of aliens staying illegally in Bulgaria in Sofia.

**Deadline:** 31 December 2005  
**Responsible:** Minister of the Interior

2. Setting up a special facility for temporary accommodation of aliens staying illegally in Bulgaria at Bulgaria's border with Turkey.

**Deadline:** 20 December 2005  
**Responsible:** Minister of the Interior  
Minister of Regional Development and Public Works  
Minister of Finance

3. Provision of training for the officials of the Migration Directorate.

**Deadline:** 20 December 2005  
**Responsible:** Minister of the Interior

4. Elaboration of a Manual of the Migration Directorate on development, implementation of relevant laws and secondary legislation, to regulate co-operation with other state bodies competent in the field of administrative control of foreign nationals.

**Deadline:** 30 September 2005  
**Responsible:** Minister of the Interior

### **Expulsion/deportation of aliens**

#### *Relevant acquis*

- Art. 23 - 25 of the Convention Implementing the Schengen Agreement
- SCH/Com-ex (97) 39 Rev. - 15.12.1997 - Guiding principles for means of proof and indicative evidence within the framework of readmission agreements between Schengen States
- SCH/Com-ex (98) 10 - 21.04.1998 - Co-operation between the Contracting Parties in returning aliens by air
- SCH/Com-ex (98) 18 Rev - 23.06.1998 - Measures to be taken in respect of countries posing problems with regard to the issue of documents required to remove their nationals from Schengen territory
- SCH/Com-ex (96) decl. 7, Rev - 27.06.1996 - Transfer and readmission policy between the Schengen States
- SCH/Com-ex (97) decl.14, Rev - 15.12.1997 - Measures towards Third States giving rise to readmission problems
- SCH/Com-ex (98) 37, Definition 2 - Action Plan on illegal immigration
- Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third-country nationals (OJ L149, p. 34-36, 2 June 2001)
- Recommendation of 30 November 1992 regarding practices followed by Member States on expulsion (WGI 1266)
- Recommendation of 1 June 1993 concerning checks on and expulsion of third-country nationals residing or working without authorisation: (WGI 1516)
- Recommendation of 30 November 1994 concerning a specimen bilateral readmission agreement between a Member State of the European Union and a third country (OJ C274, 19 September 1996)
- Schengen Catalogue vol. 1: External Borders + Removal and Readmission of 28 February 2002

#### *Current situation*

As to January 2005 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.

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.

All readmission agreements 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.

The Foreign Nationals Act provides the procedure and the grounds for expulsion of aliens as an administrative measure removing from the country, within a short period of time, a foreign national who has “committed an offence or has no grounds to stay in the country”. The legal framework of expulsion is aligned with the EU acquis, which renders it an effective tool for combating illegal migration.

A Regulation of the Minister of the Interior has been adopted (promulgated in the State Gazette No. 12 of 2004), stipulating the order for the accommodation, stay and release of foreign nationals with regard to the special facilities as well as the structure, the organisation of work and the management of the facilities.

### **Co-operation, information exchange and statistics**

#### *Current situation*

The Republic of Bulgaria takes part in the exchange of statistical data on illegal migration within CIREFI on a regular basis.

### **Carriers liability**

#### *Relevant acquis*

- Art. 26 - 27 of the Convention Implementing the Schengen Agreement
- Council Directive No. 51/01 of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L187, p. 45-46, 10 July 2001).

#### *Current situation*

Under the Bulgarian legislation currently in force - the Foreign Nationals Act - the officials of air companies, travel and transport agencies or other agencies transporting foreign nationals to and/or from the Republic of Bulgaria, are required before providing a service to check the validity of aliens' travel documents and the observance of the other requirements set in the law. As of 1998, according to the Foreign Nationals Act

administrative punitive sanctions can be imposed on officials who have violated those requirements.

On 9 April 2003 the National Assembly adopted amendments to the Foreign Nationals Act (State Gazette No. 37 of 22 April 2003). The adopted amendments are in compliance with the relevant EU acquis on carriers' liability, combating marriages of convenience etc.

## **IV. POLICE AND SECURITY**

### **Cross-border police co-operation**

#### *Relevant acquis*

- Art. 39-46 of the Convention Implementing the Schengen Agreement
- SCH/Com-ex (99) 18 - 28.04.99 - Improvement of police co-operation in preventing and detecting offences
- SCH/Com-ex (98) 51 Rev. 3 - 16.12.1998 - Cross-border police co-operation in the area of crime prevention and detection when requested
- SCH/Com-ex. (98) 52 - 16.12.1998 - Handbook on cross-border police co-operation
- SCH/Com-ex. (95) Decl. 2 - 29.06.95 - Police co-operation
- SCH/Com-ex. (99) 5 - 28.04.1999 - SIRENE Manual
- SCH/Com-ex. (99) 6 - 28.04.1999 - Telecommunication
- SCH/Com-ex. (93) Decl. 5 - 14.12.93 - SIRENE Manual
- SCH/Com-ex. (95) Decl. 3 - 20.12.95 - Cross-border police co-operation
- Council recommendation of 8 May 2003 on a model agreement for setting up a joint investigation team (JIT) (2003/C121/01)
- Schengen Catalogue vol. 4: Police co-operation of June 2003

#### *Current situation*

Police co-operation is performed on the basis of the following legal instruments: Ministry of the Interior Act, Regulation on the Implementation of the Ministry of the Interior Act, Customs Act, Penal Code, Penal Procedure Code, bilateral intergovernmental or interagency agreements on a Ministry of the Interior level.

To date Bulgaria has concluded and is implementing 26 inter-ministerial and intergovernmental co-operation agreements on combating crime with European countries - 2 trilateral and 24 bilateral agreements, of which eight with EU Member States (Greece, Austria, Germany, Belgium, Italy, Spain, Ireland and France), and five with new EU Member States (Hungary, the Czech Republic, Slovakia, Poland and Slovenia). Intergovernmental agreements have been concluded with Croatia, FYROM and Serbia, and bilateral inter-ministerial agreements are being implemented with Turkey, Albania, the Russian Federation, Ukraine, Moldova, Belarus and Armenia.

A contact point for international operational police co-operation (National Contact Point) has been set up, headed by the Chief Secretary of the Ministry of the Interior.

On 10 April 2003 the Council of Ministers adopted amendments to the Regulation on the Implementation of the Ministry of the Interior Act regulating the activities of the National Contact Point for general police co-operation, and providing the terms and procedures for the operation of foreign police officials on the territory of Bulgaria.

The Ministry of the Interior of Bulgaria has seconded liaison officers to Ankara, Belgrade, Rome, Prague, Skopje, Moscow, SECI Centre in Bucharest, Warsaw, Paris, Berlin, Madrid, Vienna, Athens and Europol.

On 31 July 2003 the National Assembly of the Republic of Bulgaria adopted a Law on the Ratification of the Agreement on Co-operation between the Republic of Bulgaria

and the European Police Office (Europol), signed on 17 June 2003, in Sofia (State Gazette No. 71 of 12 August 2003).

Pursuant to the Agreement on Co-operation between the Republic of Bulgaria and EUROPOL of 1 March 2004 a contact unit with Europol has been established. The new unit is an element of the coordinated model of the National Contact Point.

#### *Measures to be taken*

#### **Legislative measures**

1. Approval of draft intergovernmental agreements as a basis for negotiations on general police co-operation with Turkey and Albania<sup>1</sup>.

**Deadline:** 30 June 2005

**Responsible:** Minister of the Interior

#### **Institution building**

1. Further strengthening of the National Contact Point (NCP)<sup>2</sup>.

**Deadline:** Ongoing

**Responsible:** Minister of the Interior

2. Setting up of a unified digital communication system for police co-operation.

**Deadline:** **Design:** 31 December 2005

**Operational:** *upon full membership in Schengen*

**Responsible:** Minister of the Interior

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<sup>1</sup> The drafts aim at updating the existing bilateral legal framework through the introduction of provisions regulating personal data protection in line with the relevant EU acquis.

<sup>2</sup> For ease of reference the unit for international operational police co-operation is called NCP (National Contact Point).

## V. JUDICIAL CO-OPERATION

### Legal assistance in criminal matters

#### *Relevant acquis*

#### ➤ **Article 48-53 of the Convention Implementing the Schengen Agreement**

#### *Current situation*

Republic of Bulgaria ratified the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol. They are in force as of 1995 and, pursuant to Art. 5, para. 4 of the Constitution of the Republic of Bulgaria, they constitute part of the national legislation and supersede any domestic legislation stipulating otherwise. In 1997 new provisions were introduced to regulate legal assistance in criminal matters through amendments to the Penal Procedure Code - the new Section V “Legal assistance in criminal matters” of Chapter 22 “Special Proceedings”.

As regards legal assistance in cases of violating tax and financial legislation (Art.50 of the Schengen Convention), Bulgaria has made a Declaration under Art. 8(2) of the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, which states that Bulgaria will comply with Chapter I of the Protocol only in relation to offences which constitute a crime under the Bulgarian criminal legislation. The requests for legal assistance (Art. 51) are performed in accordance with this Declaration.

Bulgaria signed the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters on 8 November 2001 in Strasbourg. On 18 February 2004 the National Assembly adopted a Law on the Ratification of the Second Additional Protocol.

On 30 September 2004 The National Assembly adopted Amendments and Supplements to the Penal Procedure Code (State Gazette № 89/ 12.10.2004). With the amendments to the Penal Procedure Code introducing the provisions of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (2001) has been achieved compliance of the Bulgarian legislation with the Convention on Mutual Assistance for criminal cases between the Member-States of EU from 2000 and art. 52 from Schengen Convention.

The National Assembly adopted amendments to the Law on the Ratification of the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol, the Convention on the Transfer of Sentenced Persons and the European Convention on Extradition and its two Additional Protocols (State Gazette No. 103/25.11.2003) withdrawing the reservation under Art. 2 of the European Convention on Mutual Assistance in Criminal Matters requiring dual criminality in requests for legal assistance in criminal matters.

The Bulgarian Ministry of Justice is the central authority responsible for receiving and sending requests for legal assistance to and from other countries, as well as for forwarding the requests to the competent authorities for implementation. Direct contacts between the judicial authorities have not yet been well developed (Art.53) mostly

because of the limited command of foreign languages possessed by magistrates working in this field.

*Measures to be taken*

1. Delivery of specialised training, especially foreign language training, for magistrates dealing with legal assistance; technical equipment (computers with appropriate software); provision of lists of contact persons in the local competent bodies of EU Member States with a view to establishing direct contacts.

**Deadline:** ongoing  
**Responsible:** Minister of Justice

**Application of the *ne bis in idem* principle**

*Relevant acquis*

➤ **Article 54-58 of the Convention Implementing the Schengen Agreement**

*Current situation*

In accordance with Art. 4, para.3 of the Bulgarian Penal Procedure Code, when an agreement for legal assistance with another state contains a relevant provision, Bulgarian authorities do not initiate criminal proceedings if such have already been initiated by the competent authorities of the other state or if a sentence delivered by a court of the other state has become effective for the same offence and for the same person. The existence of such an agreement allows enforcement of judgements of the courts of the other state. The Schengen Convention is also such an agreement. Even in the absence of such an agreement the preliminary detention and the served sentence abroad are deducted, or if they are of different nature, are taken into consideration by the Bulgarian court in determining the punishment when the offence falls under the jurisdiction of the Bulgarian justice authorities (Art.7 of the Penal Code). The National Assembly ratified the European Convention on the International Validity of Criminal Judgements (Hague, 1970) and the European Convention on the Transfer of Proceedings in Criminal Matters (Strasbourg, 1972) on 28 January 2004 (State Gazette No. 11/10.02.2004).

*Measures to be taken*

1. Specialized training for magistrates and experts from the Ministry of Justice on the implementation of international instruments that Republic of Bulgaria has joined during 2004.

**Deadline:** ongoing  
**Responsible:** Minister of Justice

## **Extradition**

### *Relevant acquis*

- **Article 59-66 of the Convention Implementing the Schengen Agreement**

### *Current situation*

On 27 April 1994 the Republic of Bulgaria ratified the European Convention on Extradition and the two Additional Protocols thereto. With a view to setting up a clearly formulated legal framework and mechanisms for better practical implementation of the provisions related to extradition, new provisions were introduced in the Penal Procedure Code in 1997 regulating the process of handing over persons to another state to be tried or serve a sentence. These amendments reflect the respective texts of the European Convention and the Protocols thereto as well as the reservations and declarations made by Bulgaria - Chapter 22, Section II. The reservation made under Art. 12 of the Convention, which used to complicate the process of considering and deciding on extradition requests was withdrawn in 2001 (State Gazette No. 32 of 3 April 2001).

The Republic of Bulgaria is prepared to increase the scope of application of its activities under the European Convention on Extradition and the its Protocols in compliance with the provisions of the Schengen Convention as regards extradition. Art. 62, para. 2 of the Schengen Convention complies with Art. 4 of the Second Additional Protocol to the Council of Europe Convention. Bulgaria has made a declaration under Art. 8, para. 2 of the Second Additional Protocol whereby it allows extradition for financial crimes, which are punishable under the Bulgarian Penal Code. The current practice in Bulgaria is in full compliance with the provision of Art. 65 of the Schengen Convention.

On 14 May 2003 the National Assembly adopted amendments to the Penal Procedure Code envisaging a quick extradition procedure (Art. 440b).

### *Measures to be taken*

1. Specialized training for magistrates and experts from the Ministry of justice in the field of extradition

**Deadline:** ongoing  
**Responsible:** Minister of Justice

## **Transfer of enforcement of criminal judgements**

### *Relevant acquis*

- **Article 67-69 of the Convention Implementing the Schengen Agreement**

### *Current situation*

In 1994 Bulgaria ratified the Convention on the Transfer of Sentenced Persons. The Bulgarian Penal Procedure Code contains provisions regulating the handing over of sentenced persons to serve their sentence in their country of origin.

The Republic of Bulgaria signed the Additional Protocol to the Council of Europe Convention on the Transfer of Sentenced Persons (18.12.1997) on 9 October 2003 in Sofia. On 28 January 2004 the National Assembly adopted a Law on the Ratification of the Additional Protocol to the Council of Europe Convention on the Transfer of Sentenced Persons (State Gazette No. 11 of 10 February 2004). With the amendments of the Penal Procedure Code from 30 September 2004 (State Gazette № 89/ 12.10.2004) introducing the provisions of the Additional Protocol to the Council of Europe Convention on the Transfer of Sentenced Persons (1997) has been achieved a compliance of the Bulgarian Legislation with Art. 68 and 69 of the Convention Implementing the Schengen Agreement.

### *Measures to be taken*

1. Specialized training for magistrates and experts from the Ministry of Justice in the field of transfer of sentenced persons.

**Deadline:** ongoing  
**Responsible:** Minister of Justice

## VI. FIGHT AGAINST NARCOTIC DRUGS

### *Relevant acquis*

- Articles 71-73, 75-76 of the Convention Implementing the Schengen Agreement
- SCH/Com-ex (93) 9 - 14.12.93 - Affirmation of the Declarations of the Ministers and Secretaries of State against Narcotic Drugs and Psychotropic Substances
- SCH/Com-ex (94) 28 Rev. - 22.12.1994 - Certificate provided for in Article 75 on the Transportation of Narcotic Drugs and/or Psychotropic Substances
- SCH/Com-ex (99) 1 Rev. 2. - 28.4.1999 - The Current Situation related to Drugs
- SCH/Com-ex (96) Decl. 2 Rev. - 18.04.96 - The Approach to Problems with Drug Terrorism and Illegal Drugs Flows

### *Current situation*

The Republic of Bulgaria has ratified and promulgated the UN Conventions in this area. The national legislation is in compliance with the provisions of the Convention implementing the Schengen Agreement. It covers a system of legal acts including *inter alia*:

- *Narcotic Drugs and Precursors Control Act* (NDPCA) (1999)
- *Penal Code* (as amended in 2000 in view of the entry into force of the NDPCA)
- *Ministry of the Interior Act* (1997) and *Customs Act* (1998)
- *Penal Procedure Code* (as amended in 1999 in view of the entry into force of the NDPCA)
- *Regulation on Precursors Control* (2000).

On 21 May 2003 the Republic of Bulgaria signed the Council of Europe Agreement on Illicit Traffic by Sea, implementing Article 17 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Bulgaria has elaborated and adopted a five-year National Anti-Drugs Strategy 2003 - 2008 and an Action Plan for its implementation.

The law enforcement authorities responsible for countering drug trafficking and supply reduction work in close co-operation based on their legally defined powers, tasks and activities. Detection of illegal drug shipments or cross-border transit deliveries is an obligation of the customs authorities, who actively apply the risk assessment method in their work. The customs authorities use dogs for detecting attempts to smuggle drugs through border checkpoints.

The National Service for Combating Organised Crime is the competent authority responsible for detecting attempts to organise illegal trafficking from the territory of Bulgaria, as well as detecting the setting up of depots for temporary storage and reloading of narcotic drugs and laboratories for production of precursors and psychotropic substances. The local police authorities are responsible for counteracting street distribution of drugs. Pursuant to the amendments to the Penal Code (State Gazette, No. 50 and No. 57 of 2003), customs investigators designated by an order of the Minister of Finance investigate Bulgarian nationals with regard to crimes under Art. 242, para. 2 of the Penal Code (smuggling of narcotic drugs and precursors).

Pursuant to the amendments to the Penal Procedure Code adopted in September 2003 (promulgated in the State Gazette, No. 89 of 12 October 2004), to be in force as of 12 April 2005, the preliminary investigation of crimes related to narcotic drugs and precursors is entrusted with the police investigation bodies (doznateli)<sup>4</sup>. The preliminary investigation of crimes related to narcotic drugs and precursors is only performed by the National Investigative Service in cases where perpetrators are foreign nationals or where Bulgarian nationals have committed a crime abroad.

As regards controlled deliveries (Article 73 of the Schengen Convention), a new paragraph 4 of Article 465 was adopted (in force as of 16 October 2004) as part of the above amendments to the Penal Procedure Code. According to this provision the Supreme Prosecutor's Office of Cassation is the competent authority for submitting requests to other states for investigation by undercover agents, by controlled deliveries and transborder surveillance and for the decision of the investigative authorities of other states on such requests.

A National Drug Intelligence Unit has been functioning since 1 October 2004, comprising representatives of all executive power bodies involved in the detection and dismantling of drug trafficking and supply: the competent services of the Ministry of the Interior - the National Service for Combating Organised Crime, the National Police Service, the National Border Police Service and the National Security Service - as well as the Customs Agency and the Financial Intelligence Agency with the Ministry of Finance.

Since the end of 2002 the National Focal Point with the European Monitoring Centre for Drugs and Drug Addictions (EMCDDA) has been permanently established in the National Addictions Centre with the Ministry of Health.

#### *Measures to be taken*

#### **Legislative measures**

1. Adoption of Regulation on the Organisation and the Activity of the National Focal Point with the European Monitoring Centre for Drugs and Drug Addictions (EMCDDA).

**Deadline:** 30 June 2005  
**Responsible:** Minister of Health

2. Adoption of secondary legislation concerning the form and the content of the document allowing import and export of narcotic drugs by individuals for medical purposes.

**Deadline:** 31 December 2005

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<sup>4</sup> The amendments do not refer to the competences of the customs bodies related to the investigation of drug smuggling.

**Responsible:** Minister of Health

3. Conclusion of intergovernmental agreement on police co-operation with Bosnia and Herzegovina.

**Deadline:** 31 December 2006<sup>5</sup>

**Responsible:** Minister of the Interior

### **Institution building**

**1. Finalising the training of the staff of the National Drugs Intelligence Unit.**

**Deadline:** 30 September 2005

**Responsible:** Minister of the Interior  
Minister of Finance

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<sup>5</sup> In view of the forthcoming structural reforms and reorganization of the Ministry of the Interior of Bosnia and Herzegovina the deadline for the conclusion of the Agreement had to be redefined.

## VII. FIREARMS AND AMMUNITIONS

### *Relevant acquis*

- Article 91 of the Convention Implementing the Schengen Agreement
- SCH/Com-ex (99) 10 - 28.04.1999 Illegal Trade in Arms

### *Current situation*

In the Republic of Bulgaria the control of activities related to firearms and ammunitions carried out by natural or legal persons and dealers within the meaning of the Commerce Act is stipulated in the Explosives, Firearms and Ammunitions Control Act and the Regulation on its Implementation. Furthermore, separate provisions, regulating activities involving firearms and ammunitions are contained in the following acts:

- Foreign Trade in Arms and Dual-Use Goods and Technologies Control Act;
- Regulation on the Implementation of the Foreign Trade in Arms and Dual-Use Goods and Technologies Control Act;
- Hunting and Game Preservation Act;
- Regulation on the Implementation of the Hunting and Game Preservation Act;
- Regulation No. 2/2000 on the Design of Facilities for Production and Storage of Explosives, Firearms and Ammunitions;
- Regulation No. I - 69/2000 on the Terms and Procedures for Assessing the Psychological Eligibility for Handling Firearms and Ammunitions;
- Decree No. 233/2000 on the Foreign Trade Regime of the Republic of Bulgaria.

A large part of the provisions contained in the acting Bulgarian legislation have already been aligned with the Convention implementing the Schengen Agreement.

The Explosives, Firearms and Ammunitions Control Act (EFACA) fully reflects the requirements of Art. 4, paras 1 and 2, and Art. 5 of the Council Directive 91/477/EC. Detailed regulation is provided of the terms for issuing and revoking firearms permits. Furthermore, traders are obliged to keep a register on firearms containing information on the type, brand, calibre and number of the firearm; the names and address of the supplier; the names and address of the person who has acquired the firearm. The Ministry of the Interior executes control over these registers. According to the law, the Ministry of the Interior bodies provide mandatory instructions on safety in relation to storing, carrying and using explosives, firearms and ammunitions in compliance with the security measures regulated by law, and check whether the above-mentioned register are regularly kept.

The Regulation on the Implementation of the Explosives, Firearms and Ammunitions Control Act were amended by a Council of Ministers Decree No. 56/05.03.2003 (State Gazette No. 24 of 14.03.2003). The amendments introduce more detailed regulation concerning the requirements related to carrying and storing firearms.

Further progress in this field was achieved by introducing new forms for licences for carrying, purchasing, selling, import, export and transit of firearms and ammunitions containing series and number as of 1 January 2003.

In 2004 the Automated Information System “Police – Control on Generally Hazardous Materials” operating at the Ministry of Interior has been further developed by gradually starting the establishment of a Centralised Register of Firearms according to the requirements of the Control of Explosives, Firearms and Ammunitions Control Act and the Convention implementing the Schengen Agreement.

*Measures to be taken*

**Institution building**

1. Setting up a centralised register on firearms (for control and facilitating activities under Art. 91 of the Convention implementing the Schengen Agreement).

**Deadline:** 31 December 2005

**Responsible:** Minister of the Interior

## VIII. OPERATION AND USE OF THE SCHENGEN INFORMATION SYSTEM

### *Relevant acquis*

- **Art. 92 - 119 of the Convention Implementing the Schengen Agreement**
- SCH/Com-ex (97) 2 Rev. 2 - 25.04.1997 - Awarding the Tender for the SIS II Preliminary Study
- SCH/Com-ex (97) 24 - 7.10.1997 - Future of the SIS
- SCH/Com-ex (97) 35 - 15.12.1997 - Amendment to the C.SIS Financial Regulations
- SCH/Com-ex (98) 11 - 21.04.1998 - C.SIS with 15/18 connections - SIS
- SCH/Com-ex (99) 4 - 28.04.1999 - C.SIS Installation Costs
- SCH/Com-ex (94) Decl. 14. Rev. - 22.12.1994 - SIS
- SCH/Com-ex (97) Decl.- 12 - 7.10.97 - List of the Central Authorities Competent for the national component of the SIS
- SCH/Com-ex (99) Decl. 2 Rev. - 28.04.1999 - SIS Structure

### *Current situation*

The Ministry of the Interior operates centralised information databases, which are integrated and include: a population register, a register of the foreign nationals staying permanently or on a long-term basis in the country, refugees and stateless persons, a register of issued identity documents (passports, ID cards, driving licenses, residence permits for permanent or long-term stay of foreign nationals in the country, documents for stay or travel abroad of refugees and stateless persons), a register of motor vehicles, a register of individuals with police registration and criminal record, register of travels abroad of Bulgarian nationals and vehicles, register of the travel of foreign nationals and vehicles through Bulgaria, a register of issued visas and rejected visa applications. The population register and the register of issued visas contain digital photographs of the persons, which are accessible by computer. An automated information database of the foreign nationals of the Republic of Bulgaria is being developed.

A new Automated Information System (AIS) ‘Searched Vehicles’ has been set up in the framework of a Phare 1999 project. The system is operational with real data and is part of the AIS for the MoI search activities. The AIS ‘Searched Vehicles’ fully complies with the SIS requirements.

Subsystems for searched persons and identity documents/blanc documents have been set up and became operational with real data in the framework of a project under the Phare 2002 Programme “Implementing the National Schengen Action Plan: setting up a national information system in accordance with Schengen requirements” and as part of the AIS for the MoI search activities.

The AIS for the MoI search activities that is being set up will include all categories of objects according to the Schengen acquis, which will allow future integration in the common Schengen Information System. The new subsystems for searched vehicles, searched persons and identity documents/blank documents as well as the overall AIS for the MoI search activities are being operated in full conformity with the security and data protection requirements.

The centralised register “Objects under surveillance” is being operated in parallel with the introduced subsystems of the AIS for MoI search activities and contains information on searched persons (including persons searched by INTERPOL), searched vehicles, imposed sanctions banning entry into or exit from the country of Bulgarian and foreign nationals, imposed administrative sanctions for breaches of the passport and visa regime, stolen or lost

Bulgarian or foreign identity documents and blank forms for identity documents as well as tasks to control persons and vehicles in BCP areas. After putting the final version of the AIS for MoI search activities into operation, the exploitation of the centralised register “Objects under surveillance” will be ceased.

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 services of the general and specialised administration of the Ministry, the regional directorates of the interior, the regional border sections, 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.

Migration control is supported by an information system for border control and a system for visa consultation and issuance.

### *Measures to be taken*

#### **Institution building**

1. Following the development of SIS-II and carrying out the respective preparation. Providing further training of experts in this field and exchange of experience with Schengen Member States.

**Deadline:** permanent  
**Responsible:** Minister of the Interior

#### **Technical aspects**

1. Further development of a centralised information database for storing data in compliance with the information scope of the Schengen Information System. Creation of a national search system.

1.1 Creation of subsystem for searched objects (stolen weapons and banknotes) with a view to confiscate or use them as evidence in criminal proceedings (Art. 100 of the Convention implementing the Schengen Agreement) as well as for objects of discrete surveillance or specific control (Art. 99 of the Convention implementing the Schengen Agreement).

**Deadline:** 30 June 2005  
**Responsible:** Minister of the Interior

1.2 Bringing the existing security and data protection measures in line with Art. 118 of the Convention implementing the Schengen Agreement through implementing the provisions of the Classified Information Protection Act to the respective information systems.

**Deadline:** 31 December 2005  
**Responsible:** Minister of the Interior

2. Developing the technical and communication infrastructure in view of ensuring access of the competent authorities to the data contained in the centralised information databases mentioned in the previous item in accordance with Art. 101 of the Convention implementing the Schengen Agreement.

**Deadline:** 31 December 2006  
**Responsible:** Minister of the Interior  
Minister of Foreign Affairs  
Minister of Finance  
Minister of Justice

3. Building a National Schengen Information System (N.SIS)

**Deadline:** 18 months after receiving the technical specifications  
**Responsible:** Minister of the Interior

4. Setting up the information and communication system of the SIRENE Bureau.

**Deadline:** 18 months after receiving the technical specifications  
**Responsible:** Minister of the Interior

5. Developing the visa issuing system in compliance with the requirements of the Convention implementing the Schengen Agreement and the Common Consular Instruction.

**Deadline:** 31 December 2006  
**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

6. Developing the information and communication structure of the visa issuing system in view of joining the VISION network.

**Deadline:** 12 months after receiving the technical specifications  
**Responsible:** Minister of Foreign Affairs  
Minister of the Interior

7. Joining SIS-II, VISION and SIRENE.

**Deadline:** 24 months after receiving the technical specifications  
**Responsible:** Minister of the Interior

## **IX. PERSONAL DATA PROTECTION**

### *Relevant acquis*

- **Art. 126 - 130 of the Convention Implementing the Schengen Agreement**

### *Current situation*

The Personal Data Protection Act entered into force on 1 January 2002. In June 2002 the National Assembly ratified the Council of Europe Convention No. 108 of 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data (State Gazette, No. 56 of 7 June 2002).

The Commission for Personal Data Protection was constituted in May 2002 by Decision of the National Assembly (State Gazette, No. 54 of 31 May 2002). Pursuant to the Personal Data Protection Act, the Commission is an independent state body that provides protection to individuals with regard to the processing of their personal data and with regard to providing access to those data, and controls the observance of the law. In compliance with the Personal Data Protection Act the Commission has drafted and adopted its Rules of Procedure (State Gazette, No. 71 of 23 July 2002, amended State Gazette, No. 9 of 31 January 2003).

Amendments to the Ministry of the Interior Act were introduced related to the information work of the Ministry whereby the use and protection of personal data in the police sector is regulated in compliance with the European instruments in this area. The new provisions reflect the basic principles of the Council of Europe Convention No. 108 of 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data as well as the requirements of Recommendation R 87(15) on the use of personal data in the police sector.

### *Measures to be taken*

#### **Institution building**

1. Further training of the officials responsible for the security of the information systems.

**Deadline:** 31 December 2005

**Responsible:** Minister of the Interior

