

**INTERGOVERNMENTAL CONFERENCE
ON THE ACCESSION OF THE REPUBLIC OF BULGARIA TO THE
EUROPEAN UNION**

**NEGOTIATING POSITION
ON CHAPTER 6
COMPETITION POLICY**

OVERALL POSITION

The Republic of Bulgaria accepts and will apply in full the *acquis* in the area of competition policy, including the 1999 *acquis*.

As a working hypothesis, the Bulgarian Government considers that the Republic of Bulgaria will become member of the EU on January 1st, 2007.

No derogations or transitional periods in this area will be requested.

ACQUIS ADOPTION AND IMPLEMENTATION

The Republic of Bulgaria shares the common values, principles and objectives of the European Union in the field of competition, as provided for in the Treaty establishing the European Community and other legislation that constitute *acquis* in this Chapter.

The Republic of Bulgaria has developed the necessary capacity to apply the *acquis* in that area.

ANTITRUST RULES

The Bulgarian legislation is harmonised to a high extent with the *acquis*.

The Law on the Protection of Competition (LPC) follows the rules of the EC Treaty and the secondary legislation of the European Union.

The Methodology on Investigation and Definition of the Market Position of Undertakings in the Relevant Market transposes provisions from the secondary legislation of the Union in that area.

The Rules applicable to Undertakings, adopted in pursuance of Art.64 of the EA, create a good basis for the co-operation between the Bulgarian Commission for the Protection of Competition and the European Commission.

Bulgaria will continue working on harmonization of the existing legislation with the *acquis*. The LPC will be further developed in the period prior to accession. Bulgaria will adopt decision on block

exemptions of some categories of agreements, decisions and concerted practices, in accordance with the new EC Regulation No. 2790/1999 for Block Exemption of Vertical Restraints before the end of year 2000.

Bulgaria has the necessary administrative capacity and is in a position to implement efficiently the *acquis* in the area of antitrust.

When motivating its decisions, the CPC and the Supreme Administrative Court follow closely the practice of the EC and the European Court of Justice. The Commission for the Protection of Competition has already adopted the first decisions where the provisions of Art. 64 and 66 of the EA are directly implemented.

STATE AIDS

The legislation in the area of state aids is harmonized to a large extent with the *acquis*. The main rules are incorporated in the following legislative acts:

- Article 20 of the LPC provides legal basis for control of the compatibility of state aids with the criteria, established by the *acquis*.
- The State Budget Act, Law on financial rescuing of state enterprises, Law on the transformation and privatization of state enterprises and Regulations on the management of aid for the energy and the internal transport sectors, etc.
- The Implementing Rules for the application of the provisions on state aid referred in Art. 64(1)/iii/ and (2) pursuant to Art. 64(3) of the EA, were approved by the Council of Ministers on 28.01.1999. The European Commission prepared a proposal (14.07.1999) for a Council and Commission decision for the adoption of the implementing rules by the Association Council.

The state aid policy of Bulgaria is in accordance with the obligations under Article 64 (4)(c) of the EA for ensuring transparency in the field of state aid.

The Bulgarian Government policy is directed towards limitation of the budgetary expenses and particularly the granted state aid. A strict budget control, strong financial and taxation discipline were introduced.

The state aids are intended mainly for the following activities:

- Restructuring of the national economy, rescuing, privatising and liquidating of firms in financial difficulties, the land reform and restructuring of agriculture;
- For social protection of certain groups of the population with low purchasing power by subsidising the retail prices of some goods and services;
- For promoting the economic development of areas with low standard of living, or where there is a serious unemployment;
- Individual aid to particular companies below 100 000 Euro (“de minimis rule”).

The state aids are granted as an exception and in accordance with The State Budget Act and other related legislation. The state aids are of temporary duration. The aid for privatization is granted on the "one time, last time" condition.

A favorable tendency towards a decrease of the relative share of state aids in GDP is observed. For example, subsidies have been reduced from 2.3 % in 1997 to 2.1 % in 1998 and to 1.4 % in 1999 and are expected to be 0.9 % in year 2000.

Bulgaria started the establishment of a national state aid monitoring system that will cover all economic sectors and all the regions of the country. The implementing structures are already in place.

The Commission for the Protection of Competition controls the state aid according to Art.20 of the Law on the Protection of Competition. The Commission is in charge of and started the enforcement of the provision of the Law. In year 2000 it initiated *ex officio* investigation for the compatibility of state aid granted to public undertakings in the form of financial advantages.

The Ministry of Finance monitors the state aid on the basis of the Council of Ministers Regulation No.263/96, amended by Regulation No.215/99. According to Art. 1 of the draft for Implementing Rules the monitoring authority on state aid in Bulgaria is the Ministry of Finance.

A Memorandum for cooperation between the Ministry of Finance and the Commission for the Protection of Competition in state aid area was signed in September 1999.

Bulgaria meets the EC requirements for ensuring transparency in the field of state aid.

A state aid inventory was elaborated in 1996 and updated in 1998 with a consulting assistance financed by the PHARE Program. The inventorying based on a computerized database included all state aid schemes and individual state aids granted in Bulgaria in the period 1996-1998, along with an analysis of the existing state aid in view of their compatibility with the Europe Agreement.

The inventory includes 16 state aid schemes for granting aid to 134 individual recipients, which are undertakings from the energy sector, machinery and equipment, coal industry, metallurgy, transport, telecommunications, agriculture, etc. There is no available systematic data for 1998 concerning the regional aid in Bulgaria due to regional administrative reform and establishing of the new 28 administrative regions. The information system for collecting data on a regional level is being set up at present and the regional data will be included in the next updating of the inventory.

The preparation and submission of annual reports to the European Commission is another requirement for transparency. The annual reports on state aid, elaborated by State aid Department of the Ministry of Finance for 1997 and 1998 contain analyses of the results from the realization of the main state aid schemes in the national economy. The reports have been elaborated to a great extent under the standard format of the European Commission, its requirements and methodology. Bulgaria is working towards complete observance of the methodology and improvement of the report quality. At present the Annual Report for 1999 is being prepared and will be submitted in due time.

SPECIAL TREATMENT

The Republic of Bulgaria requests to be treated as an area, identical to the areas of the Community described under Art.87.3,"a" of the EC Treaty.

The need of a special treatment is justified on the basis of economic disparities between Bulgaria and EU.

STATE MONOPOLIES OF A COMMERCIAL CHARACTER

The Constitution of Republic of Bulgaria has detailed provisions on activities for which state monopoly can be established by law. The LPC states that any other monopolistic position, realized in contradiction to the Constitution's prohibitions, should be considered null & void.

The practice on the LPC' implementation indicates that any activity of a state monopoly of a commercial character is assessed according to the free competition principles.

UNDERTAKINGS WITH SPECIAL AND EXCLUSIVE RIGHTS

The LPC incorporates the provision of Art.86 of the EC Treaty. According to Art.2 (1), p.3 of the LPC, the undertakings to which the state has assigned the provision of services of public interest are subject to the application of the LPC in so far as the Law does not hinder the fulfillment of those tasks and the competition in the country is not affected to a significant extent.

Bulgaria adopted laws and prepared drafts of new laws embodying the new regulatory approach in some key economic sectors such as transport, telecommunications and energy and providing the necessary conditions for free competition on the relevant markets.

The Traffic and Road Transportation Act warrant equal and non-discriminatory access to the transportation activity; Maritime space, Inland Waterways and Ports Act aims at the liberalization of these sectors too. A draft Law on the Railways is under consideration at the Parliament.

The Telecommunications Law allows for a process of deregulation, which process is under way.

The terminal equipment, telecommunication networks and services market is liberalized, except for: the fixed public voice telephony and the provision of transmission capacity via leased lines until the end of 2002. There are two mobile operators in Bulgaria: one analogue NMT 450i and one GSM 900. Spectrum has been allocated for a second GSM operator. No special or exclusive rights have been granted for the provision of satellite services and equipment.

One state-owned postal operator and several private courier services providers operate on the territory of the country. The draft Postal Services law will be adopted during year 2000 and will provide for full liberalization of the postal market on the 01.01.2003.

The Energy Act provides for a competitive market through restructuring and accountancy separation between the production and transportation facilities.

Independent regulative bodies are already in place and functioning: The State Agency on Energy and Energy Resources, State Agency on Energy Efficiency, State Telecommunications Commission.