

NEGOTIATING POSITION
ON CHAPTER 2 "FREEDOM OF MOVEMENT OF PERSONS"

OVERALL POSITION

The Republic of Bulgaria accepts and will implement in full the *acquis communautaire* (in force by 31.12.1999) in the field of Free Movement of Persons, which is one of the basic elements of the internal market.

As a working hypothesis, the Bulgarian Government considers that Bulgaria will become a member of the EU as from 01.01.2007.

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

All necessary institutional infrastructures for the implementation of the *acquis* in the sphere of free movement of persons will be in place by the date of accession of the Republic of Bulgaria to the EU.

ACQUIS ADOPTION AND IMPLEMENTATION

1. Mutual Recognition of Qualifications

1. General Principles

In the field of mutual recognition of diplomas and professional qualifications, the Republic of Bulgaria has been undertaking the necessary measures for harmonisation of the national legislation with the legislation of the European Union (EU). In implementation of the NPAA a number of amendments in the Bulgarian legislation were adopted and entered into force in this sub-sector. These amendments are directed towards transposition of the EU Directives.

Summarising the data in respect of the legal initiatives in the sub-sector Mutual Recognition of Qualifications, it can be concluded that the Republic of Bulgaria is ready to implement the provisions of the Directives 89/48/EEC and 92/51/EEC *on a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration and of professional education and training*, as well as the provisions of the sectoral Directives as from the date of the accession to the EU.

In compliance with the requirements of the EU, certain amendments and supplements were adopted in the national legal framework. The legal basis that regulates the procedures of acquiring and recognising educational qualifications in the Republic of Bulgaria comprises: the Higher Education Act, the Vocational Education and Training Act and the Act on Research Degrees and Research Titles. This normative base is supplemented by secondary legislative acts and decrees related to the competence of the relevant ministries and institutions.

An important legal initiative facilitating the unification of criteria for recognition of higher education diplomas issued abroad is the adoption of the Act on the Ratification of the Convention on Recognition of Qualifications concerning Higher Education in the European Region (Lisbon Convention on Recognition, effective as of 1 July 2000).

Recognition of higher education completed in foreign higher schools is accomplished upon comparing the data of the documents presented and the requirements approved for acquiring higher education in same or similar speciality in Bulgarian higher schools.

The procedure for recognition of higher education completed abroad is regulated by the Ordinance on state requirements for recognition of higher education and periods of education completed in foreign higher schools. This procedure is organised and carried out by the Ministry of Education and Science. The competent authority for the recognition of a period of education as a part of the programme of higher education studies is the Rector of the respective higher school, whereas for the recognition of higher education completed successfully – the Minister of Education and Science.

The Vocational Education and Training Act (VETA) is in conformity with the requirements of the second general system Directive 92/51/EEC regulating the recognition of successfully completed vocational training of at least one year's duration. The implementation of the provisions of the VETA shall be supported by the activity of the National Agency for Vocational Education and Training established at the Council of Ministers. Parallel to its' other functions, the Agency shall assist in the international recognition of certificates for vocational education and training. In the context of European legal framework, the amended Ordinance on recognition of grade or level of secondary education completed and professional qualification is put forward for adoption by the Council of Ministers.

The National Information Centre for Academic Recognition and Mobility established by an order of the Minister of Education and Science as a part of the ENIC network accomplishes the certification of all types of national qualifications presented for assessment abroad.

The compatibility of the national legal acts with the EU measures in the area of recognition of educational qualifications is considerable.

2. Lawyers

The last amendments to the Bar Act aligned to a great extent the Bulgarian national legislation to the requirements of the Directives 77/249/EEC and 98/5/EC in respect of freedom to provide services by lawyers, who are foreign nationals. Significant changes shall be introduced in this area in order to achieve full harmonisation between the internal provisions and the European standards. These changes are envisaged to be realised until the end of 2004 r. through amendments to the Bar Act.

3. Architects

The normative acts already elaborated in the field of recognition of diplomas and freedom to provide services by architects respond to the requirements of the Directive 85/384/EEC.

Certain provisions of the Act on Construction of Territory (ACT), which entered into force in the beginning of 2001, were adopted to regulate technical legal capacity. In compliance with this Act, natural persons holding legal technical capacity according to speciality and degree by profession or qualification obtained shall have the right to prepare construction blueprints and to perform investigating and monitoring activities, as well as activities related to construction and supervision. The above-mentioned activities may also be carried out by legal persons in case they have natural persons holding respective legal technical capacity.

The elaboration of constructional schemes and plans for certain types and levels of investment projects of respective types of buildings and equipment of the basic special and urban planning, is carried out only by designers – natural persons holding an additional document certifying legal capacity in special design beside the legal technical capacity. The terms and conditions for acquiring special legal capacity in design shall be determined by a separate law.

According to the provisions of the ACT, foreign natural and legal persons are entitled to accomplish investigations and to present blueprints for sites on the territory of Bulgaria under the cumulative requirements of possessing legal technical capacity recognised in accordance with their national legislation and to win a competition, or in case they have been appointed as an implementing agency under the terms and conditions of the Public Procurement Act.

If the above-mentioned conditions are not met, the foreign natural and legal persons are entitled to accomplish investigations and to present blueprints only in collaboration with Bulgarian designers.

These requirements apply to natural and legal persons coming from states that provide Bulgarian designers with the same rights as well as for local companies comprising only of foreign natural or/and legal persons.

4. Medical and Paramedical specialists

Almost full compliance has been achieved with the main Council Directives in this field (93/16/EEC, 78/686/EEC, 78/687/EEC, 85/432/EEC, 85/433/EEC, 80/154/EEC, 80/155/EEC, 77/452/EEC, and 77/453/EEC). In respect of the directives on mutual recognition of diplomas of doctors, dentists and specialists in pharmacy, a full correspondence can be found between the subjects included in the national study programmes and those stipulated in the directives, moreover, certain study programmes in Bulgaria are more extended. The conformity covers:

- the denomination of the medical activities exercised by persons holding respective titles;
- the denomination of the diplomas, certificates and other evidence of formal qualification in respective medical professions in EU Member-States;
- the minimum requirements for applying for a course of education in medical specialities;

- the requirement for a final examination that shall guarantee the knowledge and skills acquired;
- the minimum requirements for the length of the curricula or of the horary;
- the minimum length of the theoretical tuition and of the clinical (practical) training;
- the minimum requirements concerning the subjects in theoretical tuition and clinical training in the respective specialities;
- the nomenclature of medical specialities recognised in all member-states as a post-graduate specialization;
- the list of medical specialities in which specialisation shall be accomplished in more than two EU member-states.

The existing discrepancies between the minimum length of the specialisations recognised in the EU Member States (Council Directive 93/16/EEC) and the terms for post-graduate tuition in respective specialities in Bulgaria shall be removed by the adoption of a new Ordinance on post-graduate tuition in the healthcare system in 2001.

In the context of the ongoing reforms, taking place in the organisation and structure of the national healthcare system upon adoption of the Act on the Medical Establishments and of the Public Health Act, it is envisaged to elaborate several new secondary legislative acts determining the procedures for recognition of diplomas and qualifications.

As a measure enforcing the administrative capacity in this area, it is envisaged to establish a unit at the Ministry of Health with the task to facilitate the work on recognition of diplomas, certificates and other evidence of formal qualification in medical specialities.

5. Veterinary surgeons

The curricula in the speciality of veterinary medicine in Bulgaria are to a great extent in conformity with requirements of the Directives 78/1026/EEC and 78/1027/EEC. The recognition of diplomas of foreign nationals, acquired in speciality of veterinary medicine is provided for in the Act on Veterinary Activity. According to this act, foreign nationals are entitled to carry out activities as veterinary surgeons if “they have successfully passed examination in an accredited higher education establishment with approved curriculum”. The recognition of diplomas and professional qualifications is provided for in the Rules for Implementation of the Act on Veterinary Activity.

Responsible Institutions:

The Ministry of Education and Science (MES): MES is the state authority responsible for implementation of the national policy in the education sector. In conformity with the approved state educational requirements, it establishes the procedures for recognition and legalization of the diplomas of persons having completed their education abroad. The competent authorities for recognition of the acquired higher education and for successfully completed period of education in higher schools abroad are: the Minister of Education and Science and respectively the Rector of the relevant higher school. The Minister of Education and Science appoints a Public commission, which makes decisions on recognitions. The Minister

of Education and Science approves the Rules of Procedure of the *Centre for Competitive system for education and management of higher education*, which will assist MES in carrying out the reform in higher education.

The National Information Centre for Academic Recognition and Mobility with the MES assists the activities related to recognition of higher education.

The Ministry of Labour and Social Policy heads an Inter-institutional working group with the Co-ordination Council for EU-Accession on the issues of free movement of persons, including the mutual recognition of diplomas and vocational qualifications.

The Ministry of Justice is the responsible institution for recognition of professional qualifications for the lawyers' profession.

The Ministry of Justice is responsible jointly with the Supreme Lawyers' Council for harmonisation of national legislation with the requirements of Directives 77/249/EEC and 98/5/EC through amendments to the Bar Act.

The Ministry of Health is the responsible institution on recognition of qualifications in the area of medical and paramedical activities. The Minister of Education and Science jointly with the Minister of Health elaborates drafts for the unified state requirements for acquisition of higher medical education and for post-graduate education. The Minister of Health designates the medical establishments where practical training of medical staff is carried out. Terms and conditions and financing of post-graduate education as well as acquiring a speciality within the system of health care are determined by an Ordinance of the Minister of Health jointly by the Minister of Education and Science and the Minister of Finances.

The Ministry of Regional Development and Public Works is the institution responsible for recognition of qualification in "Architect's" profession. The Minister of Regional Development and Public Works gives opinion and proposals for harmonization of Bulgarian legislation with the EU law in the field of the regional development and public works.

The Ministry of Agriculture and Forestry is the institution in charge with the recognition of professional qualifications in the area of veterinary medicine.

The National Veterinary Medicine Service (NVMS) jointly with the Union of Veterinary Doctors in Bulgaria organises and manages the activities related to the improvement of qualification of veterinary medical specialists. The head of the NVMS jointly with the Deans of the faculties of veterinary medicine and the Union of the veterinary doctors in Bulgaria determines the units of NVMS, where practical training of the students is to be carried out.

The National Agency for Evaluation and Accreditation with the Council of Ministers is the competent institution responsible for evaluation of the quality of higher education, for evaluation and accreditation of established institutions within the system of higher education, for evaluation of the specialities of the higher schools.

The National Agency of Vocational Education and Training with the Council of Ministers is the competent authority responsible for accreditation and licensing of

activities within the system of vocational education and training and the co-ordination of institutions related to professional orientation, training and education; creates and maintains register of the Centres for vocational training and the Centres for information and professional orientation.

The Centre for Development of the Human Resources was created by a Decision of the Council of Ministers. The activity of the Centre being dissemination of information concerning programmes, purpose and priorities of the EU in vocational education and training, and ensuring the effective participation in Community programmes. It consists of 5 units – the Bulgarian National Observatory, the National Co-ordination Unit “Leonardo da Vinci”, the National Research Institute for Professional Guidance, the Resource Centre on the Accession Programme to the European Structural Funds and the Centre for Accomplishment of Programmes.

II. Citizens’ rights

1. Right of Residence

The Republic of Bulgaria has achieved progress in the transposition of the *acquis communautaire* into the Bulgarian legislation. A considerable number of amendments have been made to the existing national legislation as well as new legislation has been adopted in order to transpose the *acquis communautaire*, regulating the right of residence (Directives 90/364/EEC, 90/365/EEC, 93/96/EEC, 73/148/EEC, 64/221/EEC).

The Foreign Nationals in the Republic of Bulgaria Act (FNRBA) and the Rules for Implementation of the FNRBA regulate the terms and conditions of foreigners’ entry, residence and exit.

The terms and conditions for civil registration of natural persons in the Republic of Bulgaria (all Bulgarian citizens, foreign nationals permanently residing legally, stateless persons who reside permanently and predominantly in the country and persons who have been granted a refugee status or asylum) are regulated by the Act on the Civil Registration.

The Act on amendment of the FNRBA was adopted in April 2001.

The amendments in FNRBA with relevance to free movement of persons, are directed towards extension of family reunification of foreign nationals with long-term residence in the Republic of Bulgaria. All other amendments are related to Chapter 24 “Justice and home affairs” and Chapter 3 “Freedom to provide services”.

The whole matter regulating the Bulgarian identification documents (IDs) as well as the passport and visa rules are in conformity with the EU legislation.

The Bulgarian Identification Documents Act (BIDA) regulates the terms and conditions for issuing, usage and storage of the Bulgarian IDs. The organisation of the activities on the issuing of Bulgarian IDs is regulated by the Implementing Rules of BIDA.

BIDA as well as the Ordinance on the Terms and Conditions for Obtaining Visa from Bulgarian Diplomatic and Consular Missions are in conformity with the provisions of Council Regulation (EEC) 1683/95. The new Bulgarian visa sticker is completely harmonised with the format prescribed by ISO 7810. It contains all data and protections required by the Regulation. It is envisaged to introduce the new Bulgarian sticker during 2001.

In conformity with the BIDA, Bulgarian ID (passport of a citizen of the Republic of Bulgaria), issued before its entrance into force (05.07.1999) must be replaced by personal IDs till the end of 2001. Since 01.01.2001 only the new type of Bulgarian passport for travelling abroad is valid (diplomatic passport, seaman's passport and passport of a Bulgarian citizen), which complies with the EU requirements for the unified sample for passports, and is one of documents having the best protection in Europe.

Responsible Authorities:

The Ministry of Foreign Affairs – “Consular Relations” Directorate of the Ministry of Foreign Affairs performs diplomatic and legal protection of the rights of Bulgarian citizens and legal entities abroad; implements the visa policy of the country and the consular servicing of Bulgarian and foreign legal and natural persons.

The Ministry of Interior – some of the basic activities of the Ministry are: effecting control over the regime for residence of foreign nationals and issuing IDs.

The National Border Police Service is the service responsible for the border control and observance of the border control (passport and visa control of persons crossing country's border). Jointly with other public authorities it takes part in preservation of public order, defending citizens' rights and freedoms.

2. The right to vote

Art.19 of the Treaty Establishing the European Community (TEC) entitles each citizen of the Union living in a Member State of which he is not a citizen to vote and to be candidate in local elections in the Member State on whose territory he lives under the same conditions as the citizens of the same country (par.1) as well as the right to vote and apply for candidate in the elections for the European Parliament in the Member State where he lives under the same conditions as the citizens of the same country (par.2). On the basis of these provisions of the Treaty, Directives 94/80/EC and 93/109/EC governing in details the way and procedures to accomplish the rights under the Treaty were adopted.

Art.42, par.1 of the 1991 Constitution of the Republic of Bulgaria requires Bulgarian citizenship as an absolute legal prerequisite for granting active voting right. The incompatibility of the constitutional norm with the text of the Treaty and of the above-mentioned Directives makes necessary a revision of the Constitution in its part at the moment of Bulgaria's accession to the EU. Apart from the constitutional regulation at the moment of accession changes will occur in the Local Elections Act Art.3 and Art.4 of which read – “Bulgarian citizens over 18 year of age having address registration in the respective district or municipality shall be entitled the right to vote for municipal council and mayors”, “Bulgarian citizens who do not possess other

citizenship, have election rights and address registration, shall have the right to be elected as members of the municipal council and mayors”.

Specific legislation governing the elections of the European Parliament, which will be effective at the time of the accession to the EU is envisaged in order to achieve the full compliance with Council Directive 93/109/EC.

Responsible Authorities:

The Ministry of Justice – concerning transposition of the acquis in that sub-sector.

The Central electoral commission, Regional and municipal electoral commissions - concerning implementation of the legislation and for holding election for members of municipal councils and for mayors.

III. Freedom of movement of workers

The current national legislation and regulations in the field of free movement of workers is in conformity with the main requirements of the *acquis communautaire* (Regulation 1612/68) concerning:

- prevention discrimination of legally employed citizens of the Member States,
- equal treatment of foreign employees with regard to the conditions of labour and compensation,
- settling of employment relations of the foreign employees employed by local employers according to the provisions of the Bulgarian employment legislation
- tripartite co-operation in implementation of the national policy on the labour market.

Amendments in the Act on Protection against Unemployment and Employment Promotion (APUEP) and the Regulation for its implementation are envisaged, concerning the equal treatment of citizens of Member States in the following cases:

- seeking a job and being employed,
- new employment in case of unemployment, equal access to mediation services provided by the territorial divisions of the National Employment Service (NES),
- access for the members of families of employees from the Member States to the labour market.

In view of the legal framework for the implementation of *acquis communautaire* in the “Freedom of Movement of Workers” sub-sector, a Bill of Amendment (BA) to the Act on Protection at Unemployment and Employment Promotion has been prepared and should be adopted by the end of 2001. New Ordinance on Work Permits of Foreign Nationals in the Republic of Bulgaria is now being drafted, it will be adopted and implemented after the BA to APUEP enters into force (the first trimester of 2002).

The amendments in the above-mentioned legal acts will provide the necessary framework provision of equal treatment of the employees migrating from the EU countries, on the labour market in the Republic of Bulgaria.

The proposed amendments in APUEP provide for the possibility of removal of the permission regime for both employment of citizens of member states in Bulgaria and

employment of Bulgarian citizens in the member states by signing of the bilateral or multilateral agreements.

The amendments in the legislation are also related to a future gradual joining EURES by Bulgaria. They are aimed at achieving a legal framework enabling the National Employment Service to co-operate with the employment services of the Member States in order to prepare and implement a procedure of acting as an agent for the employment of either Member States' citizens on the territory of the Republic of Bulgaria or Bulgarian citizens in the Member States.

Responsible institutions:

The Ministry of Labour and Social Policy (MLSP) – elaborates, co-ordinates and implements the state policy in the area of unemployment protection and employment promotion, labour market and social protection, mediation services and information for employment of Bulgarian citizens in other countries.

The Minister of Labour and Social Policy exercises control over the preparation, conclusion and implementation of international agreements in the area of labour market to which the Government is a party.

MLSP issues licenses for performing mediation services for information and employment by legal and natural persons.

MLSP heads the inter-institutional working group with the Coordination Council on EU Accession on free movement of persons issues.

The National Employment Service (NES) – performs mediation services toward information and employment. It provides information for vacant working places; employment mediation services for employers and for citizens; vocational information and consultation services; unemployment benefits. The National Employment Service grants working permits to foreign nationals in Bulgaria.

The NES consists of a Central Headquarters, specialised units and territorial divisions – the regional employment services and labour offices.

The Ministry of Interior - has competences in the right to residence in the Republic of Bulgaria.

IV. Coordination of social security schemes

Financially balanced and stable social security system with sufficient administrative capacity has been established, based on the 3-pillar pension insurance model, which shall allow coordination with the various European social security schemes.

The Republic of Bulgaria is preparing for implementation of the provisions of Council Regulation 1408/71/EEC in the pre-accession period on the basis of the Draft Decision of the Association Council EU-Bulgaria regarding the social security coordination.

The Bulgarian legislation in the field of *health insurance* corresponds to a considerable extent to the EU standards.

As a fundamental act in this field, the Health Insurance Act does not envisage *overlapping of periods of health insurance*, i.e. the Republic of Bulgaria does not expect to face difficulties with regard to the implementation of the relevant section of Regulation 1408/71/EEC.

As concerns *the export of benefits in kind* the discrepancies between the Bulgarian and EU legislation regulating the health insurance will be removed by the date of accession to the European Union.

With regard to the regulation of the expected financial transfers, Bulgaria will undertake negotiations to reach bilateral agreements analogous to the agreements referred to in Article 36 of Regulation 1408/71.

In mid-term prospect it is envisaged to improve the legislation aimed towards co-ordination of *the social security schemes in cases of unemployment* of the Republic of Bulgaria and EU Member States and to establish a procedure for implementation of this coordinated mechanism by the date of accession.

It is envisaged to establish an Information Centre on health system and social security.

Responsible institutions:

Competent authority:

The Minister of Labour and Social Policy, as central sole body of the executive authority analyses, evaluates and prognoses the level of social security and of social services; controls preparation, conclusion and implementation of international agreements in the area of labour market policy, social policy and social security; takes part in exercising the control over the activities of the Funds for Compulsory and Voluntary Social Insurance.

The Minister of Health, as central sole body of the executive authority pursues state policy in the health care, coordinates the activities of the Ministry of Health with the National Health Insurance Fund; takes part in the preparation and conclusion of bi- and multilateral international agreements in the health care system and coordinates the actions for their fulfilment; exercises the specialised supervision over the implementation of compulsory and voluntary health insurance.

Competent institutions:

The National Employment Service manages the Vocational Training and Unemployment Fund and pays unemployment benefits. The National Employment Service consists of a Central Headquarters, specialised structures and territorial divisions (regional employment services and labour offices).

The National Social Security Institute manages the state social security and reports its activities to the National Assembly (The Parliament). The National Social Security Institute has territorial divisions.

The National Health Insurance Fund implements the compulsory health insurance (a system for social health protection of the population guaranteeing a package of health services). The National Health Insurance Fund consists of a Central Headquarters and Regional Health Insurance Funds, which have their structures at the municipalities.

The State Agency for Social Insurance Supervision with the Council of Ministers licenses and supervises the activity of the social insurance companies operating in the area of supplementary voluntary insurance including pension, health and unemployment insurance. A Council on Supplementary Social Insurance (CSSI) is established with the Agency. CSSI makes decisions on: granting and waving licenses for supplementary social insurance; issuing permissions for merging, take-over, separation and division of supplementary social insurance companies; opening a procedure for insolvency of a supplementary social insurance company; approval of the list of the depository banks in co-ordination with the Bulgarian National Bank.

The intensive work on the establishment and strengthening of the administrative and judicial capacity, necessary for the implementation of the EU provisions on the coordination of social security schemes targets complete responsibilities in this area by 01.01.2007.

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The Bulgarian Government proposes negotiations on Chapter 2 “Freedom of movement of persons” to be temporarily closed on the basis of the existing *acquis communautaire*.

Bulgaria is ready to open additional negotiations before the end of the Intergovernmental Conference, if necessary, due to the adoption of new *acquis* in this chapter.