



FROM
PRE-ACCESSION
TO ACCESSION

Thematic Evaluation

Support to Public
Administrative and Judicial
Capacity in Bulgaria
and Romania

of European Union
Phare Programme



European Commission
Directorate-General Enlargement

Support to Public Administrative and Judicial Capacity in Bulgaria and Romania

*Thematic Evaluation Report of the European Union
Phare Programme*

Thematic Evaluation Report

December 2006

This report has been prepared as a result of an independent review by the ECOTEC Research and Consulting being contracted under the Phare programme. The views expressed are those of the ECOTEC Research and Consulting and do not necessarily reflect those of the European Commission.

European Commission Directorate-General Enlargement
Directorate E – Evaluation Unit

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PREFACE

ECOTEC¹ is contractually required to deliver thematic evaluation reports (which overview Phare support to a sector or a topic), as well as interim evaluation (IE) reports (which examine Phare support to a cluster of programmes/projects within a sector in a single country).

This Thematic Report² was prepared at the request of the Commission Services (DG Enlargement, Evaluation Unit), whose Evaluation Plan for 2005 envisaged the production of a thematic report on Phare support to Public Administrative and Judicial Capacity (PAJC) reform in Bulgaria and Romania.

In compiling the Report, ECOTEC drew on Interim Evaluation Reports, documentation of the Commission Services and other background information.

In addition, interviews were conducted in Brussels with the Commission Services, and with the authorities in the two remaining Phare Candidate Countries, Bulgaria and Romania.

The Kick-off meeting was held on 19 July 2005 and the cut-off date for the statistical and financial data gathered for this report is 31 October 2005.

¹ The current contractor for the Centralised Interim Evaluation Facility for the EU Pre-Accession Programmes in Bulgaria and Romania and Central Office activities, the main overall objective of which is to help enhance the relevance, efficiency, effectiveness, impact and accountability of Phare pre-accession funds as a support for achieving the overall EU policy objective of accession of Bulgaria and Romania, and, via a Central Office, ensure coordination between the evaluation activities of the pre-accession instruments in the different acceding countries and second wave countries.

² The author of this Thematic Report is short term technical expert Derek Blink. Specialist advice was provided by legal advisor Dr. Rose D'Sa. The report has been reviewed and edited by ECOTEC Deputy Project Director, Richard Thomas at ECOTEC-Phare Central Office.

GLOSSARY OF ACRONYMS

AP	Accession Partnership
CC	Candidate Country
CMPA	Commission for modernisation of the public administration (Bulgaria)
CMR	Comprehensive Monitoring Report (of the Commission)
ECD	European Commission Delegation
EDF	European Development Fund
EU	European Union
FM	Financing Memorandum(a)
IB	Institution Building
IE	Interim Evaluation
IFI	International Financing Institution
IT	Information Technology
JHA	Justice and Home Affairs
MAP	Multi-Annual Programme
MS	Member State
NP	(Phare) National Programme
NPAA	National Programme for the Adoption of the <i>Acquis</i>
PAJC	Public Administrative and Judicial Capacity
PCM	Project Cycle Management
PF	Project Fiche
RR	Regular Report
SIGMA	(EC/OECD) Support for Improvement in Governance and Management
TAIEX	Technical Assistance Exchange Office
ToR	Terms of Reference

EXECUTIVE SUMMARY

Scope and objectives of the report

This report's key objectives are to evaluate the contribution which the Phare programme has made to the transposition, implementation and enforcement of 'horizontal' Public Administrative and Judicial Capacity (PAJC) development in Bulgaria and Romania, and to identify lessons learned, draw conclusions and make recommendations relevant to the planning and management of Phare programming in Bulgaria and Romania and of support to other present and future candidates.

Context of the evaluation

The obligations of EU membership are set out in the criteria established by the Copenhagen European Council (June 1993) under which PAJC is one requirement of the Political Criteria. Although adequate PAJC is a legal obligation on Member States, the notion of PAJC has never been defined. For the purpose of this evaluation, the following working definition has been adopted: *The creation and maintenance, within a system of governance, of all organisational structures, competencies and resources required of a national public administration and judiciary if they are able to take on the obligations of the Copenhagen membership criteria.*

The Commission has consistently, and with progressive emphasis, drawn candidate countries' attention to the need for adequate national standards of PAJC, because it has become increasingly apparent that the quality of candidates' PAJC was both a constraint on progress to meeting the rest of the Political Criteria and a threat to the sustainability of Phare supported activities directly related to the *acquis*.

In 2003, the Commission's Phare Programming Guide 2003 focussed support firmly on PAJC objectives, in relation to the Political Criteria (for the first time) as well as to the *acquis*. Action Plans to progress outstanding PAJC priorities, together with the 2002 'Roadmaps' for Bulgaria and Romania, were the major determinants in the programming process for 2002 and 2003 year programmes. For these two countries, Phare programming in the period 2004-06 is progressing on a multi-annual basis.

Key Evaluation Findings

Finding 1: In the absence of either a Commission or a national strategy for Phare support to PAJC early enough in the pre-accession process, the candidates are now embarked on extensive Phare-supported programmes to address outstanding PAJC obligations in a relatively short period.

PAJC development has not taken place under a strategic umbrella. Increased focus on what needs to be done to implement effectively much recent PAJC legislation and fill gaps identified in Comprehensive Monitoring Reports has exposed the very considerable amount of action still needed in order to build PAJC in Bulgaria and Romania adequate to meet the requirements of EU membership. This realisation has led to ambitious plans for greatly enhanced Phare-supported programmes (and nationally funded actions, too) for implementation in a relatively short period of time. However, because there are significant shortfalls in the human and financial resources needed if reforms are to be carried through on the scale and at the pace envisaged, it is not clear how much of what is planned can be completed before accession.

Finding 2: Implementing the many current Phare and nationally funded PAJC programmes is seriously overburdening limited administrative capacity and human resources, risking some systemic failures in implementation.

Over the programming years 1998 – 2006, Phare has allocated (or with regard to 2006 earmarked) a total of some 712 M€ to horizontal. (non *acquis*-related) PAJC. The great majority of this is the subject of large multi-annual programmes for the period 2004 – 2006. Overall, the coverage of PAJC topics has been comprehensive, with most emphasis put on: development of the administrative and regulatory framework (legislation, regulations, procedures, manuals); anti-corruption measures; civil service training, and information technology, communications, equipment and infrastructure. National administrative capacity and financial resource is seriously overstretched. Some three quarters of contracts for 2003 programmes were due to be concluded within the last possible month (November 2005), with procedural imperatives inevitably reducing the time available to assess the quality and coherence of projects. Indeed, there are fears, more on the side of the Commission Services than of the beneficiaries, that it will not be possible successfully to contract all the currently foreseen and much more substantial 2004-2006 projects within the legal deadlines.

Finding 3: Phare has contributed positively to PAJC building, but the essential awareness of, and commitment to, the need for sound PAJC is only now beginning to build a solid base in Bulgaria and Romania.

Almost half of the projects considered by this evaluation have been the subject of interim evaluation. Taking Bulgaria and Romania together, just over half (54%) of those projects were rated ‘satisfactory’ overall, though a significant proportion of ratings for efficiency (30%) have been negative. Analysis of successive Regular Reports and Comprehensive Monitoring Reports from the Commission have shown that persistent PAJC problem areas include ones where significant, and often repeated, Phare projects have been undertaken. This may reflect the fact that until recently, despite Commission pressure and Phare support, the national administrations did not give horizontal PAJC sufficient importance. That is now changing and the tendency to under-estimate the nature and extent of PAJC and governance problems, reported upon also during the pre-accession phase of the recent new member states, is now less evident in Bulgaria and Romania, where there is an increased sense of urgency with regard to PAJC development.

Conclusions

Conclusion 1: Phare support to ‘horizontal’ PAJC reforms should have started earlier.

Although the Commission exhorted candidates to improve their PAJC from the mid 1990s onwards, the need for Phare to become more involved in supporting PAJC was highlighted by the Commission only in the year 2000. Explicit linkage of Phare support to candidates’ ‘horizontal’ PAJC activities, addressing the Political Criteria, was first reflected in the ‘Action Plans’ exercise of 2002. However, effective PAJC is essential, both for good governance and for sustainable absorption of the *acquis*. Given the time needed to effect sustainable change in this sensitive and complex area of national life, it would evidently have been better if support to ‘horizontal’ PAJC in Bulgaria and Romania had been instituted more in parallel with support to the *acquis*, and therefore started much earlier.

Conclusion 2: Phare support to horizontal PAJC in Bulgaria and Romania is now set in a domestically generated strategic context, with plausible sequencing, but beneficiaries' responsibilities and coordinating arrangements at project level are often unclear.

Especially with regard to support from 2004 onwards, the Bulgarian and Romanian authorities have taken trouble to link Phare programmes for PAJC development to needs' assessments derived from the Regular Reports and Comprehensive Monitoring Reports. The multi-annual programming for the period 2004-06 has allowed better sequencing of Phare financed interventions in terms of strategic priority and implementation logic. There has been more attention given to horizontal issues such as policy co-ordination, decision-making mechanisms and co-operation between administrative entities. At the project level, however, the modalities for this essential co-operation and co-ordination of effort between ministries, government agencies and the central and local levels of administration are only rarely set out in any operational detail.

Conclusion 3: Improving the strategic context of horizontal PAJC development in Bulgaria and Romania has not always resulted in improved PAJC project implementation, because of the administrations' limited capacity to absorb increased levels of Phare PAJC support.

Support to the various aspects of PAJC is quite comprehensive: there are very few PAJC issues for which there was or is no Phare support available or planned. But PAJC development is not commensurate with the level of support. The problem lies essentially with the candidates' policy-making, administrative, financial and human resource capacities, and not with Phare. The current pipeline of, often very sizeable, PAJC programmes and projects may overwhelm the administrations' implementation capacities in terms of systems and financial and human resources. This has obvious implications, not just for the efficient management of projects and for their potential effectiveness in achieving their objectives but also for their impact and sustainability. Moreover, providing additional domestic budgetary resources for PAJC development encounters the difficulty that both countries face pressure to limit or reduce government budgets. This may have serious implications for the candidates' ability to complete the building of necessary accession related capacities.

Conclusion 4: There is no formal process for transferring experiences from new Member States to Bulgaria and Romania.

Taking advantage of the former candidate countries' experience with accession-related PAJC development depends primarily on the insight and initiative of individual Commission and beneficiary administration officials. No attempt appears to have been made systematically to transfer new Member state lessons learned to Bulgaria and Romania, despite the similarity of their starting positions and, broadly speaking, their administrative and judicial policies and structures.

Recommendations

Recommendations particularly relevant to Bulgaria and Romania.

Recommendation 1: The Commission Services and the Bulgarian and Romanian authorities should review the prospects for securing adequate horizontal PAJC, and take any necessary additional action.

Even though multi-annual programming has been adopted for the period 2004-06, this has not prevented the “bunching up” of a large number of PAJC related support interventions, which the Bulgarian and Romanian administration are unlikely to be able to absorb effectively in the timescale currently envisaged. The present state of severe overloading makes it desirable that the Commission and the national authorities together, and in the light of peer review from existing member states, should review the magnitude of horizontal PAJC issues still to be addressed, in the regions as well as in the Capital cities, and construct a timetable on which each of these issues can realistically be dealt with, using national and other financing. In the light of such an analysis, the Commission may wish to consider whether EU initiatives going beyond the provision of Phare and Transition Facility support are needed if the existing member states, as well as Bulgaria and Romania are to be assured that the latter will, within a reasonable time, have standards of PAJC adequate fully to meet the obligations of EU membership.

Recommendation 2: The impact of any budgetary restrictions on the ability of Bulgaria and Romania to fund necessary PAJC should be investigated.

The Commission Services and the national authorities of Bulgaria and Romania are advised to consider how to reconcile the essential need to provide sufficient resources for adequate PAJC (acquis-related as well as ‘horizontal’) with budgetary restrictions required of Bulgaria and Romania, and to develop a policy to ensure that accession obligations are met.

Recommendations relevant to support to horizontal PAJC preparation in other candidate countries.

Recommendation 3: The Commission should encourage candidate countries to develop PAJC standards and competencies.

The obligations falling on member states under the Political Criteria, such as the obligation to have adequate PAJC, should, in principle, be dealt with no differently from those obligations deriving from the *acquis*. The Commission should therefore encourage candidate countries to develop adequate PAJC standards and the competencies to meet the requirements of membership and to operate the *acquis*. Attainment of adequate standards and competencies should involve exchange of good practice through, for instance, establishing peer review groups as is currently done for *acquis* chapters.

Recommendation 4: The Commission should promote and support a benchmarking approach to horizontal public administration and judicial reforms.

Each candidate country should manage a national benchmarking exercise of horizontal PAJC reform. The Commission should provide promotional and methodological support for benchmarking by providing information about good practice and by identifying experts on such reforms. Implementation support should be provided through Member States Twinning.

Additional methodological and implementation support could be provided through an expanded SIGMA programme. The national benchmarking exercise should begin as early as practicable in the pre accession process.

Recommendation 5: More emphasis should be put on building networks between candidates and member states.

In order to assist the process of transferring lessons learned by member states, particularly new member states, to candidate countries, the Commission should make more use of the tools of dialogue and permanent networking between member states and candidates, where practicable from the start of any pre-accession period. This should cover all the accession criteria and give PAJC issues of governance and administrative and judicial reform at least as much prominence as the *acquis*. To promote good governance and viable administration and judicial capacity within the candidates, these networks should include parliamentarians, media and representatives of the constituent bodies of civil society. Such networking, and peer review of candidates' progress, should be introduced early in the pre-accession period.

Recommendation 6: The administrative and financial obligations put on national administrations by support programmes should be tailored to develop their capacity to manage and absorb them.

The Commission Services should start support programmes for PAJC at the same time as for the *acquis* and keep under review the pace at which any candidate country is able to introduce PAJC reforms. Phare-type interventions should be planned so as to avoid the 'bunching up' of PAJC related interventions, as is currently happening in Bulgaria and Romania, by matching the scale of interventions to the growth in the related capacities and human and financial resources required.

MAIN REPORT

1. INTRODUCTION

1.1. Context

1. The issue of public administrative and judicial capacity, as one of the requirements of EU membership, and therefore a suitable area for Phare support, derives from the criteria established by the Copenhagen European Council (June 1993) and specifically from the first of these, the political criteria. The *Copenhagen criteria* are:

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

2. In the years since 1993, PAJC related reform efforts have been considered in terms of 'best practice', rather than a fixed model to be adopted. Although adequate PAJC to enable the Copenhagen criteria for membership to be met is a legal obligation on MS³, exactly what is encompassed by the notion of PAJC has never been defined. However, for the purpose of this evaluation, a definition of PAJC is nevertheless required and the following working definition has been adopted for this report: *The creation and maintenance, within a system of governance, of all organisational structures, competencies and resources required of a national public administration and judiciary if they are able to take on the obligations of the Copenhagen membership criteria.*

3. The Commission has, with increasing urgency, drawn candidate countries' attention to the need for adequate national standards of PAJC. Reference to this need was made in Commission and Council documents from the mid-'90s onwards. The emphasis given to this need increased over time, as it became apparent that the quality of candidates' PAJC was both a constraint on progress to meeting the Political Criteria and a threat to the sustainability of Phare supported activities directly related to the *acquis*. Similarly, the Regular Reports (RRs) for all the (then) Candidate Countries which acceded on 1 May 2004 and the Comprehensive Monitoring Reports (CMRs) for Bulgaria and Romania have all highlighted where improvements are needed in PAJC.⁴

4. Recognising that weak public administration in Candidate Countries was a limiting factor on progress towards accession, one of the key proposals in the Commission Communication on the Phare 2000 Review⁵, was to: "...revisit the issue of fundamental public administration reform... Phare's possible intervention in this area is warranted because general public administration problems are repeatedly cited in regular reports and negotiations as

³ This is a complex issue: While there is no specific *acquis* for the exact manner in which the public administration and/or the judiciary is organised in any Member States, it is arguably not correct to say that there is no *acquis* with regard to their capability to implement and/or enforce Community Law. It should be noted, in particular, that under Article 10 of the EC Treaty, *Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks...* The Court of Justice has referred to the 'principle of co-operation', laid down in Article 10, and emphasised that a Member State's duty to take all appropriate measures to fulfil its Community obligations also extends to all authorities of the Member States, including the judiciary.

⁴ The most recent CMRs for Bulgaria and Romania were issued by the European Commission on 26 October 2005.

⁵ Phare 2000 Review: Strengthening Preparations for Membership. Communication from Mr. Verheugen. COM(2002)3103/2 of October 2000.

constraining applicant countries' capacity to meet EU accession requirements... Public administration reform is a key determinant as to whether new member states can function within the Union. However, much remains to be done before accession to develop a suitable public service culture, to reduce the opportunities for widespread corruption and increase the results from current anti-corruption programmes, to develop inter-ministerial co-ordination and to ensure that the many talented people who work in public administrations have the resources, remuneration and motivation to do the jobs that accession will demand and the public increasingly expects. The instruments used in the Phare programme risk being undermined by systemic failings in national administrations..."

5. Subsequently, the Commission Communication of June 2002⁶ further emphasised the importance of PAJC by making outstanding requirements of the Political Criteria in general and PAJC in particular the subject of detailed national Action Plans. The Action Plans were finalized in the second quarter of 2002. A summary report on the exercise was made to the Council in June 2002⁷. It is noteworthy that the 1 May 2004 enlargement was the first in which the candidates were obliged to subject the standard of their PAJC to scrutiny in this way.

6. Therefore, in 2003, the Commission's Phare Programming Guide 2003 focussed support firmly on PAJC objectives, both in relation to the Political Criteria (for the first time) as well as to the *acquis*. It stated that the Action Plans to progress outstanding PAJC priorities would be the major determinant in the programming process for 2002 and 2003 year programmes.

7. ***The 2002 Roadmaps for Bulgaria and Romania highlighted additional support for PAJC development.*** Where Bulgaria and Romania are concerned, the 2002 Roadmaps⁸ stressed that special efforts would be made to assist Bulgaria and Romania with PAJC building: *"While alignment of legislation is essential, this needs to be accompanied by appropriate judicial and administrative capacity to implement and enforce the acquis...As regards Bulgaria and Romania, the Gothenburg European Council in 2001 stated that candidate countries must make "continued progress ... in transposing, implementing and enforcing the acquis. They will have to pay particular attention to putting in place adequate administrative structures, to reforming judicial systems and the civil service, Special efforts will be devoted to assisting Bulgaria and Romania."*

8. ***Longer term, multi-annual perspective was built into EU support programming from 2004 onwards.*** Beyond Phare, and with regard to the Transition Facility, Article 34 of the Accession Treaty for the newly acceded MS states that: *"assistance shall address the continued need for strengthening institutional capacity in certain areas."* Among these areas are: *'justice and home affairs (strengthening of the judicial system, external border controls, anti-corruption strategy, strengthening of law enforcement capacities) [and] strengthening public administration according to needs identified in the Commission's comprehensive monitoring reports which are not covered by the Structural Funds.'*

⁶ Communication from the Commission on the Actions Plans for administrative and judicial capacity, and the monitoring of commitments made by the negotiating countries in the accession negotiations, Brussels, 5 June 2002; COM(2002)256 final.

⁷ Communication from the Commission on the Action Plans for administrative and judicial capacity, and the monitoring of commitments made by the negotiating countries in the accession negotiations, Brussels, 05 June 2002, COM(2002) 256 final.

⁸ Communication from the Commission to the Council and the European Parliament, Roadmaps for Bulgaria and Romania, Brussels, 13 November 2002, COM(2002) 0624/3 final.

9. For the two remaining Phare recipients, Bulgaria and Romania, Phare programming in the period 2004-06 is progressing on a multi-annual basis. The relevant programmes should be implemented by end-2009. Following accession of these countries, a similar Transition Facility will be put into place, with the result that the timescale for Phare-type support may extend until 2010-11.

1.2. Objectives

10. This report's key objective is to make an in-depth examination of the Phare support which Bulgaria and Romania have received to strengthen their public administrative reform and to build their judicial capacity, in order to extract lessons learned and make recommendations of relevance to future programming and implementation of Phare and the Transition Facility in those countries and also of relevance to support to other current and prospective candidates.

11. The findings, conclusions and recommendations of the Consolidated Summary Report⁹ produced by the previous IE contractor (The EMS Consortium), in relation to PAJC, have been taken as benchmarks, validated, updated and, as the case may be, augmented in the light of the specific circumstances of Bulgaria and Romania in mid-2005.

1.3. Scope and methodology

12. PAJC concerns:

- firstly, *acquis*-specific issues, where the nature of the *acquis* component concerned explicitly demands, often in some detail, a particular capacity of PAJC performance, i.e. the institutions, procedures and standards of civil servants, the judiciary, judicial administration and executive bodies, required to comply with all the Copenhagen criteria and thus underpin adequate 'delivery' of the *acquis* to citizens.
- secondly, horizontal – or not directly *acquis*-related – PAJC issues, which are not sector specific, but are needed to provide the institutional stability to guarantee the four categories or topics (guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities) which constitute the *Political Criteria*.

13. Support to *acquis*-specific PAJC has been extensively evaluated by successive monitoring and interim evaluation contractors in IE reports, as well as in thematic reports on sectors and on topics such as Twinning¹⁰.

14. The present report therefore concentrates on Phare support under the Copenhagen Political Criteria in the areas of horizontal public administration reform and judicial capacity building¹¹ and references to 'PAJC' throughout the report have that meaning, unless indicated otherwise. In some cases, the word 'horizontal' is added where there is a risk of ambiguity.

15. The terms of reference (ToR) for this thematic report (Annex 1) specified key evaluation questions, covering three aspects of PAJC related Phare assistance to Bulgaria and Romania, namely strategy, implementation and results.

⁹ EMS Consolidated Summary Report – Pre-Accession to Accession – Interim Evaluation of Phare Support Allocated in 1999-2002 and Implemented until November 2003, EMS Consortium, Brussels, March 2004. This report was debriefed by the DG ELARG's Evaluation Unit on March 26, 2004 and presented to the Phare Management Committee on 17 June 2004.

¹⁰ See http://europa.eu.int/comm/enlargement/phare_evaluation_reports_interim.htm.

¹¹ A recent thematic evaluation, *Review of the European Union Phare Assistance to Roma Minorities*, has covered the key supported component of the third and fourth topics under the Political Criteria, human rights and respect for and protection of minorities. This report is also available on the website referred to in the preceding footnote.

16. To find answers to the key evaluation question, interviews were conducted with a large number of Commission officials within the relevant Commission Services in Brussels and at the EC Delegations (ECD) in Bucharest and Sofia; with Bulgarian and Romanian officials at the central level of administration and, in the case of Bulgaria, at municipal level; with staff of beneficiary entities (including judicial training institutions, but excluding court administrators and/or judges), as well as with officials at the representation of Romania to the EU in Brussels (See full list of interviews at Annex 7).

17. The interviews were supported by a review of relevant Commission and Candidate Country documentation (Annex 8), project performance information on PAJC related programmes for Bulgaria and Romania for the period 1998-2004, as well as past and future programming information covering the period 1998-2006. The analysis of programming information, consisting of Financing Memoranda and Project Fiches published on DG Enlargement's website¹², focused on the period 2002-2006, in order to assess any Phare PAJC strategy re-enforcement over that period. Project performance was extracted from relevant IE reports prepared by Ecotec and its predecessor, the EMS Consortium, and overall performance was observed from the Commission's RRs and CMRs.

18. The database of PAJC related programmes and projects (Annex 2) constructed from these data includes 135 projects with a total Phare allocation of 712 M€ (including allocations for, respectively, investment (i.e. supplies and works) for a total of 410 M€ and institution building (IB, i.e. long- and short-term technical assistance, and Twinning) totalling 302 M€ Phare allocations for PAJC in Bulgaria and Romania are recorded at Annex 3.

19. Chapter 2 of this report sets out the findings of the evaluation in relation to strategy, implementation and results. Chapter 3 identifies remaining challenges. Chapter 4 draws conclusions, focussing on the scope of PAJC and related support delivery, and makes recommendations.

20. As noted above, the Consolidated Summary Report addressed Phare support to PAJC development in the (then) 8 Phare beneficiary Candidate Countries. It noted that *more remains to be done on building administrative and judicial capacity... The pervasive adverse effects of weak PAJC need to be further addressed*. The findings of other relevant IEs and thematic reports since early 2004 have confirmed these findings, including their relevance to Bulgaria and Romania.

21. ECOTEC's recent thematic report on Support to Justice and Home Affairs¹³ acknowledges the close relationship between the broad area of JHA (related to the concept of freedom, security and justice) and PAJC development. As a consequence, some programmes and projects covered in the JHA report also make an appearance in the present report, although their treatment here is strictly limited to general policy, management and human resources issues.

¹² http://europa.eu.int/comm/enlargement/fiche_projet/index.cfm

¹³ ZZ/JHA/0533. Available at

http://europa.eu.int/comm/enlargement/phare_evaluation_pdf/zz_jha_0533_fv_e4_pub_210206.pdf

2. STRATEGY, IMPLEMENTATION AND RESULTS

22. The three sections in this chapter set out findings with regard to the past and current strategies for the use of Phare; the state of programme and project implementation, and the achievement of results with regard to Phare-supported PAJC activities in Bulgaria and Romania.

STRATEGY

2.1. Phare Support Strategy for PAJC has not been strategically conceived.

23. *The Commission had not formulated a formal PAJC support strategy in the past.* The EMS consortium's March 2004 Consolidated Summary Report noted that the Commission had not formulated a specific strategy for public administrative reform and judicial capacity building overall. The Accession Partnerships (AP) and the National Programmes for the Adoption of the Acquis (NPAA), whilst noting the need for upgrading public administrations in general terms, focused on the requirements of the *acquis*, and the 2002 Action Plans for Administrative and Judicial Capacity, while listing outstanding horizontal PAJC components, did not sequence, prioritise or correlate common components of them.

24. Given that the 2002 Roadmaps, as well as the 2003 CMR, similarly called for increased attention for public administration reform and judicial capacity building, while similarly not providing any strategic orientations, the question arises whether the formulation of such a strategy has been embarked upon subsequently.

25. *A formal Commission PAJC support strategy remains unformulated, for a number of reasons.* All respondents within the Commission Services and within the administrative structures and beneficiaries in Bulgaria and Romania, who were contacted during the fieldwork for the present report, agreed that there was no formal Commission Phare support strategy for PAJC, in the form of a single, stand-alone document. Several respondents ventured reasons for the absence of such a strategy, some of which are familiar from fieldwork performed at the end of 2003 and early in 2004 in preparation for the Consolidated Summary Report.

- *No EU model for PAJC.* The fact that – within the European Union – there is no single model for a well-functioning public administrative and judicial system. Adequate PAJC across the MS takes diverse shapes and forms. Since a strategy should focus on the ‘how’ of achieving stated objectives, and the structures and mechanisms within MS vary widely, the formulation of a PAJC strategy is hindered, some argue, by the lack of a single way to achieve PAJC objectives.
- *No basis for a Phare PAJC support strategy.* The fact that the European Union itself has no single strategy for PAJC makes the formulation of a Phare support strategy awkward, because the temptation to base a support strategy on a particular model would be hard to resist.
- *No need for a Phare PAJC support strategy postulated by the Commission Services and Bulgaria and Romania.* Most respondents within the Commission Services queried the need for a formal, specific Phare support strategy for PAJC, and many respondents within the Bulgarian and Romanian administrations agreed. A common reason for the

Box 1: Strategy weariness as evidenced by interviewees' responses:

“We have strategies for anything these days, will one more make a difference?”

“Strategies should be more precise than just stating objectives, most of them do not.”

“We prefer a model to follow to a strategy. More concrete and easier to implement.”

reservations with regard to a formal support strategy seems to amount to ‘strategy weariness’ (Text box 1).

- ***Formulating a PAJC strategy and a Phare PAJC support strategy now does not sit well with Bulgarian and Romanian administrative pre-occupations.*** Within the Commission Services doubts were expressed whether the necessarily sophisticated character of an overall PAJC strategy and the accompanying Phare support strategy for PAJC would meet the current accession preparation needs of upper and middle level management in the Bulgarian and Romanian administrations, in view of their continued pre-occupation with directly *acquis*-related issues.

26. ***There are no current plans to formulate PAJC and Phare PAJC support strategies for Bulgaria and Romania from 2006 onwards.*** Whether or not the reasons set out above are compelling, the fact is that, at the time of writing, there is neither a single EC sponsored PAJC strategy for Bulgaria and Romania, nor an accompanying specific, stand-alone Phare support strategy for PAJC for the two countries. Moreover, there appear to be no plans to formulate such strategies in the future, in particular the programming year 2006.¹⁴

2.2. Support strategy has been embodied in Phare working documents.

27. To assess to what extent EU-financed assistance to PAJC has been subjected to increased strategic thinking on the part of the Commission since early 2004, one must turn to the Financing Memoranda (FM) and the accompanying Standard Summary Project Fiches (PF) for the individual Phare NPs for Bulgaria and Romania for the period 2004-06.

28. ***Phare support to PAJC in Bulgaria and Romania is set in a domestically generated strategic context.*** An inspection of the PFs for PAJC related projects in the 2004 Phare NPs for Bulgaria and Romania shows that these contain a measure of strategic orientation, in that:

- the project write-ups are clearly set in the context of work performed under earlier Phare financed projects;
- in the case of Bulgaria, projects are placed in the context of the Bulgarian Government’s own (revised) Strategy for the Modernisation of the Public Administration (adopted in September 2003)¹⁵. The same applies to the PFs for the 2005 Phare NP for Bulgaria;
- in the case of Romania, the 2004 PAJC related projects are set in the context of the (updated) Strategy of the Government concerning the Acceleration of Public Administration Reform for the period 2004-06;¹⁶
- the write-up in the PFs of the linkages with other projects on PAJC (earlier and on-going, as well as those funded by other donors) is generally of better quality, offering a better strategic underpinning.

29. It is clear that the Commission Services and the Bulgarian and Romanian authorities have gone to considerable trouble to link the 2004 programmes to strategic considerations with regard to PAJC in the form of frequent references to needs’ assessment and gap analysis in the RRs and CMRs, as well as cross-linking with other projects.

30. ***Cross-linking of PAJC support efforts at project level often remains unclear.*** However, although the PFs for the 2004 programming year are generally more detailed than in previous years, and cross-linkage is identified, the details of how cross linking with other projects and the entities responsible for their implementation should take place operationally is

¹⁴ In both countries, the programming for the 2006 Phare NPs started in the week of 11 September 2005.

¹⁵ The first version of this strategy was adopted early in 2002.

¹⁶ The PFs for the 2005 Phare NP for Romania were not yet available at the time of writing.

often left unanswered. In the 2004 NP for Romania for example, the Sector Programme Fiche 2004-06 for a programme dealing with public administration reform¹⁷ contains for each (sub-) project wording to the effect, that *these activities will require co-operation with Ministries of Administration and Interior, Public Finances, the HR Departments from central and local administration*. The procedure to be adopted to secure this co-operation is not made explicit in this, or in other PFs. The same applies to the PFs for PAJC related projects under the Bulgarian 2004 and 2005 Phare NPs.

31. ***Plausible sequencing of interventions has been attempted in PFs.*** Notwithstanding the observation in the previous paragraph, the relevant 2004 PFs for both countries (as well as the 2005 PFs for Bulgaria) demonstrate an attempt to establish a plausible sequencing of programmes and projects, based on: (a) perceived strategic priority; and (b) implementation logic.

32. ***Different views on the part of the Commission Services and national stakeholders with regard to strategic coherence and sequencing.*** The interviews carried out for this thematic report offer a somewhat mixed picture with regard to past and present strategic continuity in PAJC related programming. Representatives of the Bulgarian and Romanian bodies involved tended to have positive opinions on the strategic coherence and sequencing of relevant programmes and projects in the FMs and accompanying PFs.

33. However, Commission officials in the Delegations expressed reservations in this respect. Several pointed to the fact that strategic continuity on paper does not necessarily translate into strategy-based implementation in an environment with insufficient and inadequately trained human resources in the beneficiaries' administrations, and inadequately developed policy preparation and implementation capabilities. Limited absorptive capacity of the Bulgarian and Romanian administrations was cited more than once as a substantial hindrance at this juncture and was foreseen to continue to apply for the next three years, until 2009 at least, i.e. until after the likely date of accession of both countries.

2.3. Recently, national strategies for PAJC have been prepared.

34. Background reviews provided by monitors and evaluators to DG Enlargement's Evaluation Unit over the past two years put forward the hypothesis that the annually focused Phare cycle had not encouraged candidates to develop a strategic approach to support planning (including the planning of Phare and domestic resources) overall. This was seen to apply to PAJC related interventions. For the present report, the question therefore arises whether Bulgaria and Romania have managed to develop PAJC related strategies of late and, if so, whether these strategies are applied in practice.

35. ***Bulgaria has formulated public administrative and judicial reform strategies, especially since 2003.*** As noted above, Bulgaria formulated a revised Strategy for the Modernisation of the Public Administration in 2003. A Council for Modernisation of the Public Administration (CMPA) was established at the end of the same year, to co-ordinate strategy implementation. The principal document underpinning the work of the CMPA is the 'Roadmap'. In April 2005, the Government of Bulgaria published a 'White Paper'¹⁸, setting out a vision for a future public administration founded on effectiveness, impartiality and loyalty.

¹⁷ RO 2004/016-772.01.03 - Support to Public Administration Reform in Romania.

¹⁸ *For a Modern Public Administration – A White Paper setting out Achievements and Challenges for the Public Administration of Bulgaria in the European Union*, Government of Bulgaria, Sofia, April 2005. Although elections mid-2005 have led to a change in government, this government is founded on largely the same coalition of parties and it is expected that the new government will base its future actions in this field on the White Paper.

36. The White Paper focuses on: (i) improving service delivery; (ii) better policy making; (iii) budget, control and accountability; and (iv) [the principles for good governance in] the public service. Under each of these headings, it describes the standards to be met and outlines the work that needs to be done. The White Paper does not go into the detail of how and with which resources to do the work. It is to be noted that the PFs for the 2005 Phare NP for Bulgaria generally do not make reference to the White Paper, perhaps because, since it was adopted in April 2005, it was too recent for the internalisation of its content in the programming process.

37. With respect to the judiciary, Bulgaria formulated the Strategy for the Reform of the Bulgarian Judiciary in 2001. An update of the Strategy, as well as an accompanying Action Plan, taking account of the Roadmap, was updated in April 2003 and has influenced the programming of Phare assistance under the 2003, 2004 and 2005 NPs for Bulgaria.

38. ***Bulgaria's multi-annual Phare programming for 2004-06 also contains strategic priorities related to PAJC.*** With regard to Phare assistance overall, the Ministry of Finance published, in November 2003, the Multi-Annual Phare Programming Document, covering the period 2004-06. This document sets out the objectives and results to be achieved for all sectors, including public administrative and judicial reform and gives the requirements in terms of future assistance with regard to listed 'strategic priorities' for each of the years of the three-year period. There are few references to that document in the PFs for PAJC related projects under the 2003, 2004 and 2005 Programmes, although Bulgarian officials often referred to it during the interviews carried out for the present report.

39. The above three documents are complemented by more detailed strategies for particular components of judicial and public administrative reform, although it must be stressed that most of these specific strategies appear to be stand-alone documents with no clear link to the more umbrella documentation referred to above. For the judiciary, the Bulgarian Judicial IT-Strategy (with accompanying Action Plan, adopted in April 2003) and the Strategy for the Fight against Corruption in the Judiciary (February 2004) are relevant in this context. For the public administration overall, there exists a National Anti-Corruption Strategy (with the accompanying Programme for the Implementation of the Anti-Corruption Strategy, dating from 2004). All three documents are referred to in Phare programming documentation for 2004 and 2005 and underpin the PAJC related projects set out in the relevant PFs.

40. In the case of Bulgaria, the programming documentation for PAJC-related projects for 2004 and 2005 is set firmly in a multi-annual context for the period 2004-2006. The 2004 PFs provide the outlines of three-year programmes for components of PAJC, albeit based on annual funding allocations. The 2004 PFs set out the 2004 activities in detail, but also look forward to activities to be undertaken under the 2005 and 2006 programmes. The 2005 PFs attempt to consider what is likely to be achieved from the 2004 programme and, in some cases, suggest modification of the initial plan of activities, including budgetary re-allocations.

41. ***Romania has likewise formulated a strategic setting for PAJC.*** The picture for Romania is similar, but somewhat more fragmented. The *Sector Programme Fiche for Support to Public Administration Reform in Romania* (2004/016-772.01.03) makes reference to the strategy for accelerating public administration reform, adopted by the Government in 2001 and updated in 2004. The updated strategy is used to underpin a set of 3 public administration priority areas: (i) civil service reform; (ii) decentralisation and de-concentration of public services and, (iii) the policy formulation process.

42. The Sector PF is set in the overall context of the Multi-Annual Programme (MAP) 2004-06 for Phare assistance to Romania, which establishes a three-year programme base for that assistance, funded from three individual annual allocations for those programming years.

43. Also in the case of Romania, the overall public administration reform strategy is complemented by more detailed strategies for individual components of PAJC, including an Informational System Strategy (under development with assistance from the United Kingdom's Department for International Development, DFID) and the Strategy for the Reform of the Judiciary (September 2003), which focuses on: (i) the independence and professionalism of the judiciary; (ii) improving its administration and access to justice, and (iii) improving the management of the courts. The latter underpins the orientation of the Phare assistance set out in the Sector PF for the 2004 NP for Romania for the three-year period 2004-06.

2.4. Since 2002, the emphasis of Phare support to PAJC has shifted.

44. The review of available documentation (Annex 8) shows, and respondents' replies during the interviews for this report confirmed, a number of changes in the Phare support strategy in the most recent years, notably the following.

45. *Phare support for PAJC has largely shifted from amending the legislative framework to issues of implementation and enforcement.* Since 2002, this shift can be observed virtually across the board, from attention to increasing adherence to the ethics code for civil servants, through efforts to enhance inter-ministerial co-operation in practice, to supporting measures geared towards ensuring the independence in practice of the magistracy and/or judiciary. Of particular importance is the increasing attention to measures in support of the fight against corruption, an issue highlighted in successive CMRs and RRs for Bulgaria and Romania and increasingly reflected in programming.

46. *The PFs for the 2004 NPs reflect more attention for 'horizontal' PAJC problems, for example where policing is concerned.* More attention is for instance being given to the co-operation between the police and the judicial investigative services in Bulgaria. In Romania, Phare has contributed to defining the dividing line between the respective roles of the police (maintaining law and order) and the gendarmerie (re-establishing same), abolishing those functions of the latter which competed with generally accepted functions of the police. Although support for the police and gendarmerie properly belongs to the Justice and Home Affairs sector, this improvement illustrates a change in long-held views on the division of administrative responsibilities between the two entities, which is a 'horizontal' PAJC issue.

2.5. Strategic requirements strain national administrative capacity.

47. *An improved strategic setting for PAJC may not (yet) have resulted in improved PAJC related project implementation.* In the case of both countries it is extremely difficult to assess whether the strategic orientation on PAJC overall and the more detailed strategies for individual aspects of public administration reform and judicial capacity building contribute to improved implementation. The fact that more attention to strategic thinking emerges from the PFs since 2004 does not necessarily mean that programme and project implementation can keep pace with enhanced strategy development. The opinions canvassed during the interviews for this report cast some doubt in this connection.

48. ***PAJC related assistance for 2004-06 might exceed administrations' absorptive capacities.*** A first remark that can be made is that the 'pipeline' of PAJC related projects for the period 2004-06 is very substantial and, in the opinion of many respondents especially within the Commission Services, exceeds the administrative capacity for project implementation. This would mean that the trend experienced in recent years where the commitment and disbursement deadlines for quite a number of programmes had to be extended will continue.

49. Many respondents, including some within the Commission Services, opined that the timing and volume of currently programmed Phare support for PAJC is heavily influenced by the Commission's reaction to the content of the CMRs and the identification of issues still to be addressed therein. The uptake of these issues in terms of formulating matching projects is generally deemed adequate in terms of CMR coverage, leaving aside the implementation capacities on the beneficiary institutions. Factoring in these implementation capacities, however, creates a distinct impression that the volume and number of PAJC related projects in the 2004 and 2005 programmes may represent 'too much of a good thing'.

50. ***Domestic measures to improve administrations' human resources and management capacities have not yet yielded all the intended results.*** Although both Bulgaria and Romania have recently (in the course of 2004) taken steps to enhance the quality and quantity of human resources in the administration dealing with the planning and implementation of Phare supported PAJC related measures (through across-the-board salary increases, special remuneration for key officials and 'public managers', as well as specialised training), the impact of these initiatives has not yet fully materialised, in terms of adequate numbers of trained staff, as the CMRs for 2005 make clear.

51. It is therefore not primarily the lack of a formal, specific Phare support strategy as such which may negatively affect the implementation of PAJC related plans and activities in the next two years (until end-2007), but the sheer volume of available Phare support for PAJC, which threatens to overwhelm the beneficiary administrations.

2.6. Candidates have not benefited from lessons learned in New Member States.

52. Given that the eight former Candidate Countries which joined the EU on 1 May 2004, were and are recipients of Phare and Transition Facility assistance, a part of which relates to PAJC, and given that there is a great deal in common in terms of the systems from which all ten Phare countries were emerging, the question may well be asked whether the experience of the Commission Services and the countries concerned has influenced the approach to Phare support for PAJC in Bulgaria and Romania, since 2004. The research and interviews conducted for this thematic report lead to the following observations on this point.

53. ***There is no formal process for transferring PAJC related programming experience from former Candidate Countries to Bulgaria and Romania, other than monitoring and evaluation reporting.*** There appears to have been no formalised process for drawing conclusions and recommendations from the programming process for Phare assistance for PAJC and the implementation of it from the body of experience gained in the eight new MS. The CMRs and RRs for the (then) Candidate Countries presented, *inter alia*, the development of PAJC at annual intervals, but these were limited to 'snapshots' of the state of affairs at any one time, without going into the operational detail of Phare programmes and projects in support of PAJC development. The most comprehensive assessment of the eight new MSs'

experience with PAJC and Phare support to it seems to have been offered by monitoring and evaluation reports prepared by outside contractors.

54. ***Transfer by the Commission of new MS experience has primarily depended on individual Commission officials' experience and knowledge.*** The Commission Services have of late and increasingly referred the Bulgarian and Romanian authorities to the administrations in the new MS and urged the former to take advantage of the latter's experiences with *acquis*-related and 'horizontal' PAJC. However, no compilation has been made of the new MS's operational experiences. In these circumstances, reference to similar problems and the solutions arrived at in the new MS depends on the experience, knowledge and initiative of individual officials within the Commission Services at headquarters and in the Delegations.

55. ***For the candidates' administrations, new MS experience transfer has similarly depended primarily on individual officers' initiative.*** High- and middle-ranking officials within the Bulgarian and Romanian administrations increasingly consult their counterparts in the new MS on issues which they know arose in the pre-accession process. The participation of Bulgarian and Romanian officials in a wide variety of networks, many of which related to the pre-accession process, offers many opportunities for such consultation. However, seeking contact with counterparts in the new MS appears to depend largely on Bulgarian and Romanian officials' own initiative and is therefore likely to be based on imperfect knowledge of the whole range of new MSs' problems and solutions, and is therefore necessarily *ad hoc*.

56. ***New MS experts are involved in PAJC related projects in Bulgaria and Romania, but so far to a limited degree.*** New MSs' experience with PAJC development is made available to Bulgaria and Romania through the involvement of consultants from the new MS in technical assistance projects in the two countries and the involvement of officials in the new MSs' administrations in Twinning projects. So far, the involvement of experts and administrators from the new MS has been rather limited, judging by comments made during the interviews for this report. It is understandable that most experienced new MSs' officials are likely to be needed in their own country in the early years of their accession, to finalise and embed the extensive new systems associated with EU membership. There is, nevertheless, room for greater deployment of new MSs' specific expertise on PAJC in the pre-accession context, but some Bulgarian and Romanian interviewees indicated that they preferred expertise from the 'old' MS. This preference was particularly marked where judicial capacity building is concerned.

IMPLEMENTATION

2.7. Phare has given substantial financial support to PAJC

57. ***The PAJC related components of successive Phare NPs for Bulgaria and Romania are not always readily identifiable.*** It is difficult to identify with precision the elements of subsequent Phare NPs for Bulgaria and Romania that relate to horizontal PAJC development. First, there is the difficulty of separating horizontal PAJC programmes and projects related to the general improvement of the judiciary (prosecutor's office, judges, court management and training of magistrates) from those *acquis*-related programmes and projects aiming at improving the operations of the police, border guards and customs services, especially where improved co-operation between entities in the pre-trial area is concerned. Second, a choice has to be made with regard to those elements of Phare NPs that appear in the various FMs and PFs under *acquis*-related headings such as 'agriculture' or 'environment', but which actually

contain a large proportion of horizontal PAJC activities related to improving general, rather than specifically *acquis*-related public administration in those areas.

58. *The large number of PAJC related projects considered in this report cover a wide range of topics for the period 1998-2006.* This thematic report focuses on Phare's contribution to programmes and projects covering public administration reform and judicial capacity building in the 'horizontal' sense, and all such programmes and projects have been included in a database.

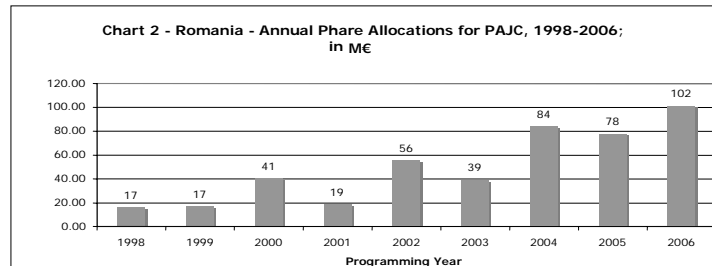
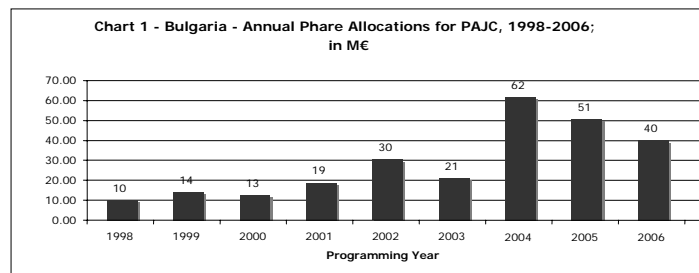
59. The database thus created contains all relevant projects under the Phare NPs for Bulgaria and Romania over the period 1998-2006. It should be noted that in the case of Romania, the FMs and PFs for the 2005 NP had not yet been approved by the Phare Management Committee and that the database only contains projects for the years 2005 and 2006 identified, in the context of the three-year Multi-Annual Programme 2004-06, in the 2004 NP. The same applies to a limited number of PAJC related projects for 2006, as identified in the 2004 NP for Bulgaria and, in some cases, slightly modified under the 2005 NP for that country.

60. The total number of programmes (encompassing more than one project or, perhaps more correctly, contract) and single projects included in the database amounts to 135, of which 84 are for Bulgaria and 51 for Romania.

Phare PAJC support to the two countries is also substantial in terms of funds allocated.

61. The volume of support for PAJC has increased substantially, especially under the 2004 Phare NPs for Bulgaria and Romania. The increase amounts to some 220% for the period 2004-06, in comparison with the three-year period 2001-03. This reflects the increased recognition, particularly by the Commission Services, but also to some extent by the national authorities, that effective horizontal PAJC is crucial for the effective completion of the pre-accession agenda and for meeting the obligations of membership of the EU. It also reflects the fact that horizontal PAJC has, since 2000, been considered an appropriate topic for Phare support.

62. The total value of the 135 programmes and projects listed in the database amounts to 712.17 M€ with country totals of 259.75 M€ for Bulgaria and 452.42 M€ for Romania. Charts 1 and 2 show the distribution of PAJC related allocations for each of the two countries for the period 1998-2006. The charts show a gradual increase in PAJC related allocations over the period from 1998 until 2004 with a dip in 2003 before a surge in 2004 for both countries.¹⁹



¹⁹ The PAJC related allocations for Romania for the years 2005 and 2006 are not final and are likely to increase once the Phare NPs for 2005 and 2006 are published. The allocations shown emerge from indicative figures included in the 2004 NP. The same applies to the PAJC allocation for Bulgaria for 2006.

63. *Bulgaria appears to dedicate a larger part of its NPs to PAJC than Romania.* PAJC related projects make up about 30% of Bulgaria's current NPs and about 20% of Romania's. There are uncertainties about the size of allocations in 2005 and 2006 for Romania, and there are problems with comparing the scope of PAJC related programmes in Bulgaria and Romania respectively (what is considered PAJC in the one country, may be attributed to other sectors in the other), so the data must be treated with caution. Nevertheless, it appears that Bulgaria has almost consistently dedicated a larger part of its NPs to PAJC than Romania, which is perhaps surprising, as the larger country and more decentralised Romanian administration might be expected to call for greater PAJC related allocations to ensure adequate standards of PAJC throughout the country.

2.8. PAJC horizontal topic coverage has been comprehensive.

64. The horizontal PAJC related programmes and projects covered by this report focused on 17 key issues, as shown in the following table. Quite a number of the 135 programmes and projects covered more than one issue. Some programmes and projects also contained elements not directly related to PAJC.²⁰ All in all, Phare assistance to Bulgarian and Romanian PAJC in the period 1998-2004 included 243 project components addressing a variety of issues, as shown in the following table.

Table 1 – Bulgaria and Romania – Issues covered by horizontal PAJC Projects, 1998-2004; by Number of Relevant Project Components per Programming Year

Issue	1998	1999	2000	2001	2002	2003	2004	Total NPs
Public Administration Reform	4	2	10	10	8	11	7	52
PAJC Strategy Development	2	2	0	1	0	2	1	8
PAJC Legislation Development	3	1	4	3	6	3	2	22
PAJC Regulations, Procedures & Manuals	0	2	2	1	1	3	2	11
Inter-ministerial Co-ordination	1	0	1	0	1	0	2	5
Civil Service Reform	0	0	0	3	0	1	1	5
Civil Service Training	1	2	4	7	3	3	3	23
Judicial Reform	1	2	0	1	2	1	7	14
Judicial Administration Reform	0	0	1	0	0	0	1	2
International Judicial Cooperation/Coordination	0	1	0	0	0	0	2	3
Judiciary & Judicial Administration Training	1	2	1	1	4	0	3	12
Anti-corruption Measures	0	0	1	2	6	1	4	14
Border Operations Reform	2	2	1	1	3	1	5	15
Border Officials Training	1	2	1	0	2	1	1	8
Police Reform	0	0	0	0	1	1	3	5
Police Training	0	1	0	0	0	1	3	5
IT-Systems, Hardware & Software	1	2	4	2	6	5	7	27
Other Equipment	0	1	1	0	2	3	5	12
Total Number of PAJC Project Components, Bulgaria & Romania, 1998-2004²¹	17	22	31	32	45	37	59	243

²⁰ For instance, a police reform project, dealing with police co-operation, co-operation with the judicial and forensics development. The last component would not be included in the table; the first two components would.

²¹ Totals do not include the projects envisaged indicatively under the 2004 NPs for Bulgaria and Romania for the programming years 2005 and 2006, since the final number of projects for that year is not final.

65. The above table illustrates:

- ***a distinct increase in the number and size of horizontal PAJC related interventions.*** The number of PAJC related project components averaged 28 in the three years 1999-01. This compares with an average of 47 in the period 2002-04, an increase of 68%. Though substantial, this increase does not approach the increase in the average PAJC related allocations for the subsequent 2004-2006 period (see previous section). Not only did the number of PAJC related interventions grow significantly in the latter three-year period, the size of these interventions in terms of resources (to be) deployed increased even more;
- ***relatively little attention for PAJC strategy development.*** PAJC strategy development related interventions accounted for a relatively small share of the NPs for the whole of the period 1998-2004. The number of such interventions in the first two years (4) equalled that for the last 5 years;
- ***much attention for the administrative and regulatory framework.*** PAJC legislation, regulations, procedures and manuals have received relatively intense attention (33 projects/project components), with surges in attention under the 2000, 2002 and 2003 Programmes;
- ***more attention in recent years for the fight against corruption.*** There is a striking increase in the number of project components addressing anti-corruption measures, with 11 out of a total of 14, programmed in the last three years of the period;
- ***much attention for training, coupled with relatively little emphasis of civil service management and restructuring.*** Civil service training received substantial support if judged by the number of project components (23). By contrast, the number of projects addressing the structure, organisation and management of the civil service appears relatively low (6 relevant project components over the period)²²;
- ***substantial and increasing support for PAJC related information and communications equipment and infrastructure.*** IT and other equipment supply was relatively well supported (39 projects/project components, 28 of which in the last three years of the period).

Box 2: SIGMA and TAIEX

Respondents in both countries were positive about the assistance received from SIGMA. Explicit reference was made to: (i) SIGMA's practical approach; (b) the timeliness of SIGMA's interventions; and, in one case (c) the fruitful linkage of SIGMA and Twinning efforts.

TAIEX interventions were praised in some cases for contributing to formulating clearer objectives and standards on aspects of PAJC.

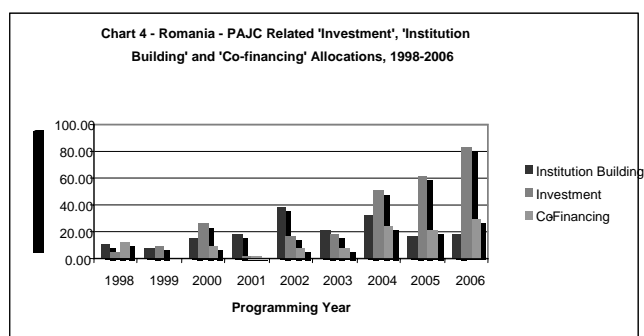
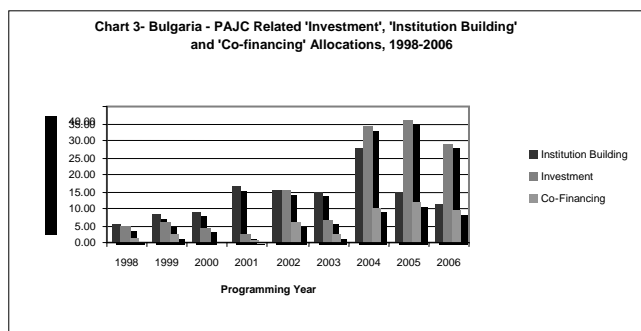
66. ***The instruments available have been satisfactorily deployed.*** Although the table does not show this, the total number of project components includes long-term technical assistance, Twinning, Twinning Light, TAIEX and SIGMA short-term assistance and project embedded equipment supplies (and related works). Respondents to the interviews conducted for this report were generally satisfied with the mix of Phare support instruments deployed.

67. ***PAJC related allocations reveal increased attention to investment.*** Over the period 1998 – 2006, Phare allocations (and provisional allocations) for investment in Bulgaria and Romania (Total 409 M€) and exceed those for Institution Building (Total 301 M€). Phare financed, PAJC related investment support has increased for both Bulgaria and Romania in recent years.

²² Although some of the project components in the first row of the table (PA Reform) also contain activities (indirectly) targeting civil service reform.

68. The allocations for institution building cover technical assistance by commercial contractors, Twinning and Twinning Light projects implemented in co-operation with MS administrations, as well as short-term support assignment carried under the TAIEX programme and by the OECD's EU-supported SIGMA programme. (Text box 2). Allocations for investment are intended to cover the cost of supplies and works related to PAJC development. The larger part of funds allocated for supplies concerns information technology (IT) and is mainly intended to cover the cost of computerisation of administrative entities, including the court system. The generally much smaller investment allocations for works mainly concern small-scale construction and renovation.

69. Charts 3 and 4 set out the shares of institution building, investment and co-financing within the annual overall allocations (Phare contribution inclusive of domestic financing) for, respectively, Bulgaria and Romania. In the case of Bulgaria (chart 3), the investment element has increased in relative terms, especially in the most recent Programme (that for 2004, which also includes indicative amounts for the next two years, 2005-06). Co-financing has likewise increased, although to a lesser extent. The reason for the lesser increase is probably that co-financing must be at least 10% in the case of institution building costs and 25% in the case of investment costs. There would be a natural tendency for the national authorities to set co-financing contributions close to these bottom limits.



70. Chart 4, illustrating the situation with regard to the relative shares of institution building, investment and co-financing in PAJC related allocations for Romania, presents a similar picture.

71. Respondents made a number of observations with regard to aspects of deployed support:

- **the timeliness of support is generally crucial for its effectiveness.** For example, a Twinning or technical assistance component involved in the preparation of specifications for equipment supplies should start (and complete) its work in time, to allow the procurement of the equipment before the expiry of the whole project. Too often, procurement deadlines are met only with great difficulty or occasionally even missed altogether;
- **the positive influence of multi-annual programming is limited by the continuing practice of annual financial envelopes.** Starting with the 2004 NPs, efforts are being made to address *inter alia* this issue through multi-annual programming and the planning of successive and interdependent phases of projects with a three-year horizon. This allows a better time planning of these phases. However, since the multi-annual

programming cannot be matched, under the Phare Regulations²³, with multi-annual allocations and funding remains tied to annual financial allocations, the room to manoeuvre created by multi-annual programming remains limited.

- ***annual financial allocations limit flexibility in terms of timing and addressing beneficiaries' specific needs.*** Some higher level Commission Services' respondents stated that, in the case of PAJC related activities especially, the programming and procurement procedures, tied as they are to annual financial allocations, put obstacles in the way of matching the timing of instrument deployment with beneficiary entities' actual needs and support utilisation capacities.
- ***there is no single entity with the sole responsibility for the timing and nature of assistance instruments to be deployed.*** Respondents at the Delegations pointed to difficulties emanating from the fact that the responsibility for the deployment of short-term technical assistance instruments is not in one hand. Beneficiaries may request assistance sometimes through the Delegations, sometimes directly from the Commission Services in Brussels. In a number of cases, where there was insufficient consultation between the Commission Services at headquarters, the Delegation and beneficiaries, this led to ill-timed assistance deployment or duplication of effort. The programming and procurement procedures do not contain a mechanism to avoid such occurrences and minimising them appears to be entirely dependent upon the efforts at co-ordination of the individuals within the Commission Services and the beneficiaries involved.

2.9. PAJC building is overloading national capacity.

72. ***PAJC related allocations are based more on sharing out available funds than on costed needs.*** It is not possible to say whether the amounts yearly allocated to PAJC in both countries are 'sufficient'. The various PFs contain needs' assessments, but these are not generally expressed in quantitative terms. In other words, the assessments, often referring back to the content of the CMRs, state what still needs to be addressed on PAJC and try, in more or less detailed fashion, to shape programmes accordingly, but they do not attempt to make a 'bottom up' assessment or need or an explicit costing of the needs. However, given the competition for funds between sectors within the annual NPs, it is doubtful whether the provision of such costings would materially affect the value of the allocations for any sector, including PAJC, in the absence of an 'assessed needs' basis for Phare allocations generally.

73. ***Sufficient or not, current PAJC related allocations strain domestic administrations' absorption capacity.*** As a result of the increased emphasis on PAJC issues in the CMRs since 2003, the Commission Services have put pressure on the Bulgarian and Romanian authorities to agree to enhanced financial allocations for PAJC without adequate regard to what can realistically be absorbed. The countries' absorption capacity with regard to PAJC-related programmes and projects is hard to assess in objective terms, but the interviews conducted for this report showed that representatives of the Bulgarian and Romanian administrations tend to be more, often much more, positive on this issue than representatives of the Commission Services. The latter expressed serious concerns with regard to both countries' capacity to absorb the increased allocations for PAJC, especially where the allocations under the 2004 NPs are concerned. Several respondents stressed that the size of allocations may be well too high in relation to absorption capacities. Consequently, there were doubts as to whether it would be possible to commit the increased allocations before the expiry of the commitment period (in the case of the 2004 NPs, generally 30 November 2006).

²³ Regulation (EE) No 3906/89, OJ L 375 of 23 December 1989, as amended.

74. Thus far, reservations with regard to the two countries' ability to commit the funds allocated in a timely fashion seem to be warranted. For the 2003 programmes and projects for Bulgaria included in the database for this report, the commitment rate stood at an average of 40% at 31 October 2005 (i.e. one month before the commitment deadline). The disbursement rate for PAJC-related activities financed under that country's 2003 Phare NP amounted to an average of 20%. On the same date, the commitment and disbursement rates for Romania's 2003 NP stood at 23% and 7%, respectively.

75. The current commitment rates for the 2003 NPs do not inspire confidence, given that the size of the PAJC related allocation under the 2004 NP is three times larger than that under the 2003 Programme in the case of Bulgaria and two times larger in the case of Romania. Although Bulgarian and Romanian respondents expressed a measure of confidence with regard to the ability on the part of both administrations to handle the increased allocations, mainly based on assumptions with regard to recent and planned additional national human resources in those administrations, a measure of doubt is warranted. In any event, regardless of the extent to which contracting is completed, the scramble to contract in the last days of the two year period is not conducive to careful project consideration.

76. ***Domestic co-financing of PAJC projects primarily reflects Phare conditionalities, rather than domestic priorities.*** Both Bulgaria and Romania have made efforts to increase co-financing contributions to Phare financed PAJC-related programmes and projects to a targeted 10% of the value of their institution building components and 25% of investment components. For the 2004 Phare NPs, co-financing averaged 13% overall in Bulgaria and 22% in Romania. Although not insubstantial, this level of financial contribution to PAJC development is seen as evidence of an insufficient commitment by many respondents both in the Commission Services and the national administrations. Public administration reform and judicial capacity building, both *acquis* and non-*acquis* related, is still frequently seen by Bulgaria and Romania as 'imposed' by the Commission Services and not felt to be an area of national political priority.

77. As a consequence, PAJC development in both countries has tended and still tends to be 'project-led', with insufficient domestic political ownership of the process or wider recognition of the implications for national resources for thorough-going, horizontal development. Moreover, the actual cost attaching to across-the-board public administration reform in the form of increased remuneration (to attract and retain staff for the administrations) and training (to raise general levels of competence within the administration) is higher than can be accommodated by Phare funding and present levels of project co-financing alone.

78. Indeed, several respondents, within the Commission Services and the Bulgarian and Romanian administrations, stated that, although nearing the likely date of accession to the EU has had a positive effect on the sense of ownership, this sense was still insufficiently developed. The same respondents went on to say that taking full responsibility for PAJC development (reflected in substantially increased domestic budgetary provisions for public administration and the judiciary over and above co-financing for Phare financed projects) would likely be politically viable only after accession. The programming of Phare and Transition Facility allocations for PAJC after 2006 should take this into account.

79. ***Reconciling the need for increased domestic budgetary resources for PAJC development (including co-financing) with limits on public administration expenditure remains unresolved.*** A related issue concerns the fact that there are various pressures on Bulgaria and Romania to limit public expenditure. This affects countries' budgetary authorities' ability to allocate increased resources to PAJC development. There is little

evidence of efforts to formulate ways and means to resolve the implicit contradiction on this issue, for instance by allocating priority to PAJC development in national budgetary planning. For the years after 2006, the programming of Phare and Transition Facility assistance should take this matter into account, through discussions with the various stakeholders involved.

RESULTS

80. In this section of the report, the results of Phare support to PAJC are analysed on the basis of Interim Evaluation findings and the evidence from Phare support to remaining priorities identified in successive RR and CMRs.

2.10. Interim Evaluation rates Phare projects slightly positive overall.

81. Of the 135 programmes and projects in the PAJC database for this report, a total of 64 (47%), of which 38 projects in Bulgaria and 26 in Romania, were the subject of Interim Evaluation (IE) reports. Annexes 5 & 6 list the projects concerned and summarise the ratings for the PAJC-related projects in Bulgaria and Romania.

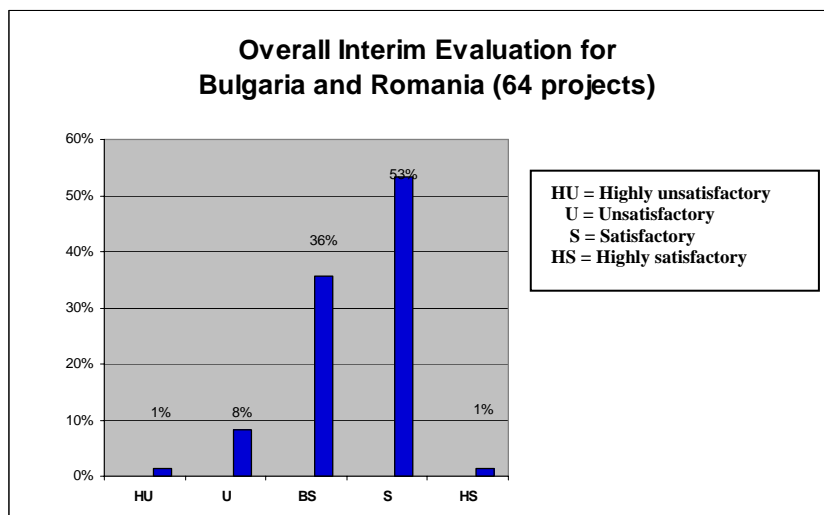
82. *Only about half the PAJC projects in Bulgaria were rated satisfactory on the main evaluation criteria*²⁴. Of the 38 PAJC projects in Bulgaria, 79% were rated positively ('satisfactory' or 'highly satisfactory') for relevance. However, only about half the projects were rated 'satisfactory' or 'highly satisfactory' for efficiency and effectiveness, and a significant proportion (46%) rated negatively for efficiency. Only 41% of projects in Bulgarian projects rated 'satisfactory' or 'highly satisfactory' for impact and 46% for sustainability. Overall 63% of Bulgarian PAJC projects rated at least 'satisfactory'.

83. *PAJC related projects in Romania rated slightly better, except for sustainability*. In the case of Romania, 80% of projects scored positively for relevance, very similar to Bulgaria. Most of the other criteria achieved somewhat better positive scores than Bulgaria (efficiency 50%, effectiveness 55%, impact 59%), but sustainability rated poorly, with only 10% of projects scoring positively. Overall 63% of Romanian PAJC projects rated at least 'satisfactory'.

84. *Overall, the utilisation of PAJC related Phare assistance to Bulgaria and Romania, as evidenced in interim evaluation reporting, has only been slightly positive*. Taking the 64 projects with PAJC components in the two countries together (see chart 5 below), just over half (54%) achieved positive ratings.

²⁴ The five criteria are 'relevance', 'efficiency', 'effectiveness', 'impact' and 'sustainability'. For the purposes of this report, as with previous thematic reports, ratings of 'Satisfactory' and 'Highly Satisfactory' are aggregated as positive ratings and scores for 'Unsatisfactory' and 'Highly Unsatisfactory' are similarly aggregated as negative ratings.

Chart 5.



2.11. Progress in horizontal PAJC has yet to reflect Phare's ongoing contribution.

85. Successive CMRs and RRs addressed the issues of public administration reform (both *acquis*-related and 'horizontal') and judicial capacity building in Bulgaria and Romania. The main items of concern expressed in the various Reports for the period 2003-2005 are set out in Annex 4 Part I. Part II of that Annex correlates the problematic components and the degree to which they have or have not progressed to the extent of the Phare support which they have received.

86. Notwithstanding the lack of a formal Phare support strategy, the 2002 Roadmaps for Bulgaria and Romania state that: *the Commission will continue to support institution building relevant to the implementation of the acquis and management of EC funds. Consideration will be given to further projects that address public administration and judicial reform.* Consequently, the Roadmaps pledge supporting projects to be financed from Phare in 2003 and subsequent years.

87. ***Recent CMRs and RRs for Bulgaria and Romania illustrate increasingly detailed attention for PAJC related issues.*** The key PAJC related issues in successive CMRs and RRs summarised in Annex 4 show a measure of progression in that they summarise the state of affairs with regard to *inter alia* PAJC in preceding reports, take stock of developments since then, assessing the situation one year later and indicating in broad lines what remains to be done.

88. Annex 4 documents a clear progression in the performance of PAJC in both Bulgaria and Romania in the period 2002-05, including:

- ***more attention for implementation and enforcement.*** Whereas in 2002 much fundamental legislation with regard to the civil service and policy making mechanisms, as well as the judiciary, remained to be or had only recently been adopted, concerns in more recent years shifted to implementation and enforcement;
- ***an increase in domestic strategic thinking.*** Domestic strategic thinking on PAJC increased, as exemplified by Bulgaria's 'White Paper' (April 2005) and Romania's Public Administration Reform strategy (May 2004);
- ***more awareness of the practical difficulty of making progress on certain topics.*** There is increasing appreciation of the difficulties attaching to certain PAJC issues, the fight against corruption at high levels in particular; and

- ***Bulgaria started earlier on PAJC development than Romania, but the latter is currently catching up.*** It appears that Bulgaria had a slight head start on Romania in a number of areas of PAJC reform in the early period, and that the reform process in public administration in Romania started to gain critical mass only in early 2005. Respondents interviewed for this thematic report confirm the latter point.

89. The picture emerging from the preceding paragraphs allows a number of more general observations with regard to the contribution of Phare financed support for PAJC development in Bulgaria and Romania. These observations are corroborated by interview responses.

90. In spite of the lack of an overall PAJC development strategy or a formal, explicit Phare PAJC-related support strategy, Phare has contributed to PAJC strategy development and continues to do so in both Bulgaria and Romania. This contribution is reflected in the beneficiary countries' own strategies for the modernization of the public administration, Bulgaria's 'White Paper' and strategies for the capacity building in the judiciary.

91. Recently, Phare has been instrumental in raising awareness within administrations of the need for improved 'horizontal' public administration reform in Bulgaria and Romania. The tendency to under-estimate the nature and extent of PAJC and governance problems, reported upon during the pre-accession phase of the recent new MS, is much less present in Bulgaria and Romania at present. In addition, over the same period, an increased sense of urgency with regard to PAJC development is noticeable on the part of the Bulgarian and Romanian authorities. Unfortunately, this increased appreciation for PAJC development is still not always translated into full political and financial commitment, according to statements by both Commission Services and national officials.

Box 3: Appreciation of the correlation of *acquis* and non-*acquis* related PAJC

Training of magistrates, through the Phare supported National Institute of Justice (BG) and the National Institute for the Magistracy (RO), has increased insight on the part of magistrates with regard to the extent to which the nature of their work and their workload is linked to the ability of the administration to perform its functions effectively and equitably.

There is further increased understanding within the administrations that the success of public administration reform may not primarily depend on domestic financing or Phare support. Instead, 'horizontal' organisational and management problems were often cited as representing more serious hindrances.

92. Phare has also improved insight on the part of the beneficiary administration of the inter-relationship between *acquis* and non-*acquis* related, ie horizontal PAJC development (Box 3).

93. Phare has contributed to an increased sense of the need for multi-annual planning in public administration reform, through the agreement with the Bulgarian and Romanian administration on a three-year programming horizon in the 2004 NPs, covering the period 2004-06. However, Phare and national budgets remain wedded to annual allocations, although Bulgaria has made a start with 'programme-based budgeting', allowing more flexibility in financial planning.

94. Phare projects have enhanced networking between MS officials and officials within the Bulgarian and Romanian institutions through the Twinning instrument. This appears from respondents' statements, which relate the increased appreciation of European 'best practice' and 'benchmarking' to the efforts of the very substantial number of Twinning and Twinning Light projects which operated and are still active on PAJC-related issues.

95. ***Very little Phare support has gone to horizontal PAJC outside capitals.*** There is one area where Phare has contributed relatively little to PAJC development in Bulgaria and Romania, namely decentralisation. Support to the process of transferring powers from the central level to regional and local levels of the administration has neither been given much attention in past Phare NPs, nor does it figure prominently in those currently starting or in the programming phase. In the case of Romania, the 2002 and 2004 NP (phased over the three – year period 2004-06) contains a dedicated ‘decentralisation’ programme. In the case of Bulgaria, the National Programme for Decentralisation is supported under the 2004 NP (phased over the three-year period 2004-06).

96. ***Limited progress in some areas of PAJC development is not due to a lack of Phare support.*** A comparison of the past and current Phare assistance, with the areas where the successive RRs and CMRs have expressed a need for more attention to specific issues, is set out in Part II of Annex 4, which illustrates clearly that:

- there are very few PAJC issues identified in RRs and CMRs for which there was or is no Phare assistance available;
- the majority of Phare assistance has been wisely deployed on topics the candidates were finding difficult;
- repeated interventions have frequently been made on topics where little progress has been achieved;

97. Significant Phare support has not therefore been sufficient in itself to guarantee horizontal PAJC progress.

3. REMAINING CHALLENGES

Bulgaria and Romania still lack some basic and important components of horizontal PAJC.

98. The CMRs (most recently that of October 2005) have set out clearly the very substantial amount of work which remains to be done in terms of improving PAJC systems, standards and capacities in Bulgaria and Romania if those countries are to meet the legal obligation on EU member states to have adequate public administrations and judicial arrangements. It can be seen from those documents, and has been corroborated by this report, that much of what still needs to be done is basic, in the sense of (a) passing primary or secondary legislation; (b) creating *de novo*, or developing, administrative structures, standards and procedures, and (c) providing sufficient financial and human resources to ensure their sustainability.

Action necessarily rests with the candidates, though well focused Phare support, which is in place, will make a contribution.

99. Given the scale of outstanding horizontal PAJC issues, the resolution of most, if not all of them, depends in the first instance upon the Bulgarian and Romanian government and administration taking appropriate decisions and actions. Planned Phare-financed assistance, though considerable, can neither address nor 'deliver' the totality of what remains to be done; it can only continue to support, enhance awareness and facilitate.

4. CONCLUSIONS AND RECOMMENDATIONS

4.1. Conclusions

100. The key conclusions which derive from the findings set out above are that comprehensive and well-planned Phare support to horizontal PAJC in Bulgaria and Romania started too late, and attempts now in hand to address all the wide-ranging and complex issues before and after accession are imposing overwhelming demands on national capacities and resources.

Conclusion 1: Phare support to ‘horizontal’ PAJC reforms should have started earlier.

101. Although the Commission exhorted candidates to improve their PAJC from the mid 1990s onwards, the need for Phare to become more involved in supporting PAJC was highlighted by the Commission only in the year 2000. Explicit linkage of Phare support to candidates’ PAJC activities to underpin adherence to the Political Criteria was first reflected in the ‘Action Plans’ exercise of 2002. Thereafter, the programming of Phare support for PAJC for the period 2004-06 was based on the phased implementation of larger programmes, some of which will be running until end-2009. Furthermore, Phare type assistance for PAJC in Bulgaria and Romania is likely to continue after accession under a Transition Facility until 2010-11, thus covering a period of some seven years from 2004.

102. Effective PAJC is essential for good governance and for sustainable absorption of the *acquis*. Given the time needed to effect sustainable change in this sensitive and complex area of national life, it would evidently have been better if well-structured support to PAJC in Bulgaria and Romania had been instituted more in parallel with support to the *acquis*, and therefore started much earlier.

Conclusion 2: Phare support to horizontal PAJC in Bulgaria and Romania is now set in a domestically generated strategic context, with plausible sequencing, but beneficiaries’ responsibilities and coordinating arrangements are often unclear.

103. Especially with regard to the Phare support from 2004 onwards, the Bulgarian and Romanian authorities have taken trouble to link PAJC programmes to needs’ assessments derived from the RRs and CMRs from 2002. The multi-annual programming for the period 2004-06 has allowed better sequencing of Phare financed interventions in terms of strategic priority and implementation logic. There has been more attention given in Project Fiches to noting horizontal issues such as policy co-ordination, decision-making mechanisms and co-operation between administrative entities. At the project level, however, the modalities for this essential co-operation and co-ordination of effort between ministries, government agencies and the central and local levels of administration are only rarely set out in any operational detail and consequently the necessary cooperation etc is lacking.

Conclusion 3: Improving the strategic context of horizontal PAJC development in Bulgaria and Romania has not always resulted in improved PAJC project implementation, because of the administrations’ limited capacity to absorb increased levels of Phare PAJC support.

104. There is no doubt that the scope of Phare support has been adequate: there are very few PAJC issues for which there was, or is, no Phare support available or planned, including for those issues on which the CMRs and RRs report relatively little progress. The problem lies

essentially with the candidates' policy-making, administrative, financial and human resource capacities, and not with Phare.

105. There is much evidence from both Commission and national sources that programme and project implementation cannot keep pace with enhanced Phare PAJC allocations and will continue to be unable to do so. The current pipeline of, often very sizeable, programmes and projects, generated by the Bulgarian and Romanian administrations' take up of PAJC concerns expressed in successive RRs and CMRs, may overwhelm the administrations' implementation capacities, in spite of the recent but limited steps taken by both administrations to improve the human resources situation in key areas of PAJC. This has obvious implications, not just for the efficient management of projects and for their potential effectiveness in achieving their objectives, but also for their impact and sustainability.

106. There are also significant financing constraints on the candidates. For the 2004 NPs, co-financing levels stand at 13% and 22% respectively for Bulgaria and Romania. However, increased investment from domestic resources to enhance the structure, organisation, management and human resources of their administrations, over and above the co-financing of Phare supported PAJC development projects, will be necessary in both countries.

107. Providing additional domestic budgetary resources for PAJC development encounters the difficulty that both countries face pressure to limit or reduce government budgets. Insufficient thought appears to have been given as to how to reconcile the requirement for significantly increased domestic spending on PAJC with these budgetary policy restraints.

108. This intractable issue of the national cost of helping candidates to raise their horizontal PAJC to an acceptable minimum standard as early as practicable in the pre-accession period, not least in order to minimise the drag on the attainment of other, principally acquis sectoral, objectives, has serious implications for future enlargements. Experience with the ten Phare countries suggest that support measures, additional to those applied under Phare and the Transition Facility could well be desirable, if not essential. These could, inter alia, take the form of direct budget support to human and other resources, while national GDP is building up to the level where national funding can take over²⁵.

Conclusion 4: There is no formal process for transferring experiences from new MS to Bulgaria and Romania.

109. Taking advantage of the experience with accession-related PAJC development gained by former candidate countries depends, in the case of Bulgaria and Romania, primarily on the insight and initiative of Commission and beneficiary administration officials. Experts and officials from the new MS do participate in technical assistance and Twinning projects in both countries, although there seems to be in the latter a preference for expertise from the 'old' MS. However, no attempt appears to have been made systematically to transfer new Member state lessons learned to the remaining candidates, despite the similarity of their starting positions and, broadly speaking, their administrative and judicial policies and structures.

²⁵ Examples on how to structure, implement and monitor such budget support are found in the Commission's own 9th European Development Fund (EDF) interventions aiming to enhance the quality of public administration in selected EDF beneficiary countries.

4.2. Recommendations

Recommendations particularly relevant to Bulgaria and Romania

110. At this advanced stage in the pre-accession processes for Bulgaria and Romania, with multi-annual programmes in place for the current period to 2006, and the CMR of November 2005 setting the agenda for the Transition Facility, there is little that can sensibly be recommended at programme level with regard to these candidates. It is still worthwhile, however, to examine what can realistically be achieved with the Phare programmes and national resources available and consider the prospects for the attainment of adequate standards of PAJC by Bulgaria and Romania by the close of the Transition Facility's implementation periods, and their implications.

Recommendation 1: The Commission Services and the Bulgarian and Romanian authorities should review the prospect for securing adequate horizontal PAJC, and take any necessary additional action.

111. Even though multi-annual programming has been adopted for the period 2004-06, this has not prevented the "bunching up" of a large number of PAJC related support interventions, which the Bulgarian and Romanian administration are unlikely to be able to absorb effectively in the timescale currently envisaged.

112. It is crucial for both the Commission Services and the two national administrations to acknowledge the implications of the fact that PAJC development is a long term process which cannot be accelerated much, given the amount still to be done; the difficulty of administrative cultural change; the cost of the process related to limited budgetary resources, and the management and organisational effort involved.

113. Project-based support tends to lose sight of wider-ranging measures necessary on the part of the Bulgarian and Romanian administrations. Whilst there is evident reluctance in the Commission Services to formulate an overall PAJC support strategy for Bulgaria or Romania, the present state of severe overloading described in this report makes it desirable that ***the Commission and the national authorities together, and in the light of peer review from existing member states, should review the magnitude of horizontal PAJC issues still to be addressed, in the regions as well as in the Capital cities, and to construct a schedule as to the timetable on which each of these issues can realistically be dealt with, using national and other financing***, cross-referenced where appropriate to existing national strategies which cover some elements of the total PAJC agenda.

Recommendation 2: The impact of any budgetary restrictions on the ability of Bulgaria and Romania to fund necessary PAJC should be investigated.

114. In parallel with the exercise envisaged under Recommendation 1 above, the Commission Services and the national authorities of Bulgaria and Romania are advised to consider how to reconcile the essential *acquis* need to provide sufficient resources for adequate (acquis-related as well as 'horizontal') PAJC with the budgetary restrictions required of Bulgaria and Romania, and to develop a policy to ensure that accession obligations are met.

Recommendations relevant to support to horizontal PAJC preparation in other candidate countries.

115. The issues addressed in recommendations 1 and 2 above are clearly ones which should also be considered in relation to support strategy for other actual candidate and potential candidate countries with a view to benefiting from the lessons learned in Bulgaria and Romania (and in the Phare countries which acceded on 1 May 2004). The following additional recommendations are intended to be of relevance to other actual and potential candidates²⁶.

Recommendation 3: The Commission should encourage candidate countries to develop PAJC standards and competencies.

116. The obligations falling on member states under the Political Criteria, such as the obligation to have adequate PAJC, should, in principle, be dealt with no differently from those obligations deriving from the *acquis*. The Commission should therefore encourage candidate countries to develop adequate PAJC standards and the competencies to meet the requirements of membership and to operate the *acquis*. Attainment of adequate standards and competencies should involve exchange of good practice through, for instance, establishing peer review groups as is currently done for *acquis* chapters.

Recommendation 4: The Commission should promote and support a benchmarking approach to horizontal public administration and judicial reforms.

117. Each candidate country should manage a national benchmarking exercise of horizontal PAJC reform. The Commission should provide promotional and methodological support for benchmarking by providing information about good practice and by identifying experts on such reforms. Implementation support should be provided through Member States twinning. Additional methodological and implementation support could be provided through an expanded SIGMA programme. The national benchmarking exercise should begin as early as practicable in the pre-accession period.

Recommendation 5: More emphasis should be put on building networks between candidates and member states.

118. In order to assist the process of transferring lessons learned by member states, particularly new member states, to candidate countries, the Commission should make more use of the tools of dialogue and permanent networking between current and new Member States and present and future candidates, where practicable from the start of any pre-accession period. This should cover all the accession criteria and give PAJC issues of governance and administrative and judicial reform at least as much prominence as the *acquis*. To promote good governance and viable administration and judicial capacity within the candidates, these networks should include parliamentarians, media and representatives of the constituent bodies of civil society. Such networking, and peer review of candidates' progress, should be introduced much earlier in the pre-accession period than was the case with the present enlargement.

²⁶ Phare will be repealed when the Instrument for Pre-Accession Assistance (IPA) comes into effect. These recommendations should be read as intended to apply within the framework of the IPA arrangements.

Recommendation 6: The administrative and financial obligations put on national administrations by support programmes should be tailored to develop their capacity to manage and absorb them.

119. The Commission Services should start support programmes for PAJC at the same time as for the *acquis* and keep under review the pace at which any candidate country is able to introduce PAJC reforms. Phare-type interventions should be planned so as to avoid the ‘bunching up’ of PAJC related interventions, as is currently happening in Bulgaria and Romania, by matching the scale of interventions to the growth in the related capacities and human and financial resources required.

120. ***Recommendation 7: The Commission may wish to consider whether EU initiatives going beyond the provision of Phare and Transition Facility support are needed in future enlargements if the existing member states are to be assured that the candidate(s) will, within a reasonable time, have standards of horizontal PAJC adequate fully to meet the obligations of EU membership.*** The Commission Services may also wish to consider the possibility of extending budget support to Bulgaria and Romania for the specific purpose of PAJC development.

ANNEXES

Annex 1. Terms of Reference

BACKGROUND

Requirement for thematic reports

1. ECOTEC²⁷ is contractually required to deliver thematic evaluation reports (which overview Phare support to a sector or a topic) as well as interim evaluation (IE) reports (which examine Phare support to a cluster of programmes/projects within a sector in a single country).
2. DG Enlargement's Evaluation Plan for 2005 includes production of a thematic report on Public Administrative and Judicial Capacity (PAJC).

Definition of PAJC

3. Public Administrative and Judicial Capacity has never been formally/explicitly defined by the Commission. However, if this Evaluation is to assess Phare's contribution to PAJC, a definition of what it means is needed. It is then possible to see what contribution Phare has made to candidates' attainment of the required capacities.

4. The requirements of membership are set down in the criteria established by the 1993 Copenhagen European Council (Copenhagen criteria) as follows:

Membership criteria require that the candidate country must have achieved:

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

5. For the purposes of this evaluation, therefore, a working definition of PAJC is: "The creation and maintenance, within a system of governance, of all the organisational structures, competencies and resources required of a national public administration and judicial if they are to be able to take on the obligations of the Copenhagen membership criteria"²⁸.

6. This concept was refined at the Madrid Council which stressed the importance of Candidate Countries administrative capacities to enforce the *acquis* communautaire. Further refinements were made by the Commission Communication of June 2002²⁹, which provided for operational requirements for PAJC.

Scope of PAJC coverage for this thematic report.

7. PAJC falls into two parts:
 - acquis-specific PAJC issues, where the nature of the *acquis* component concerned explicitly demands, often in some detail, a particular capacity of PAJC performance, and
 - horizontal PAJC issues, which are non-sector-specific but are needed to meet the requirements of the first Copenhagen criterion – the "Political Criteria".

²⁷ ECOTEC is the contractor for the Centralised Interim Evaluation Facility for the EU Pre-Accession Programmes in Bulgaria and Romania, the main overall objective of which is to help enhance the relevance, efficiency, effectiveness, impact and accountability of Phare pre-accession funds as a support for achieving the overall EU policy objective of accession of Bulgaria and Romania, and, via a Central Office, ensure coordination between the evaluation activities of the pre-accession instruments in the different acceding countries and second wave countries.

²⁸ This definition was developed for the EMS background report on PAJC, key conclusions and recommendations of which were embodied in EMS Consolidated Summary Report, "From Pre-Accession to Accession - Interim Evaluation of Phare Support Allocated in 1999-2002 and Implemented until November 2003". This report was debriefed by the Evaluation Unit of DG Enlargement on 26 March 2004 and presented to the Phare Management Committee on 17 June 2004.

²⁹ COMMUNICATION FROM THE COMMISSION on the Action Plans for administrative and judicial capacity, and the monitoring of commitments made by the negotiating countries in the accession negotiations Brussels, 5.6.2002 COM(2002) 256 final.

8. Support to *acquis*-specific PAJC has been extensively evaluated by successive monitoring and interim evaluation contractors in IE reports, and in thematic reports on sectors such as agriculture, and on topics such as twinning³⁰.
9. The present report will therefore concentrate on Phare support to PAJC under the Copenhagen Political Criteria, in the areas of Public Administration and Judicial Reform and capacity building³¹.

Rationale for Phare and the Transition Facility supporting 'horizontal' PAJC.

10. Adequate PAJC to enable the Copenhagen Criteria for membership to be met are a legal obligation on member states³². However, the enlargement of May 2004 was the first in which the candidates were obliged to subject the standard of their PAJC to scrutiny. References were made in Commission and Council documents to the need for adequate PAJC from the mid '90s onwards. The emphasis given to this need increased over time as it became apparent that the quality of candidates' horizontal PAJC was both a constraint on progress to meeting the Political Criteria and a threat to the sustainability of Phare supported activities on the *Acquis*. The Feira European Council (June 2000) stated that:

*"...in addition to finding solutions to negotiating issues, progress in the negotiations depends on incorporation by candidate States of the *acquis* in national legislation and especially on their capacity to effectively implement and enforce it".*

11. Recognising that weak public administration in candidate countries has been a limiting factor on progress towards accession, one of the key proposals in the Commission's Communication on the Phare 2000 Review of October 2000³³ was to: *...revisit the issue of fundamental public administration reform...Phare's possible intervention in this area is warranted because general public administration problems are repeatedly cited in regular reports and negotiations as constraining applicant countries' capacity to meet EU accession requirements...Public administration reform is a key determinant as to whether new member states can function within the Union. However, much remains to be done before accession to develop a suitable public service culture, to reduce the opportunities for widespread corruption and increase the results from current anti-corruption programmes, to develop inter-ministerial co-ordination and to ensure that the many talented people who work in public administrations have the resources, remuneration and motivation to do the jobs that accession will demand and the public increasingly expects. The instruments used in the Phare programme risk being undermined by systemic failings in national administrations...*

12. The Commission's Phare Programming Guide 2003 focused support firmly on PAJC objectives both in relation to the political Criteria (for the first time) and to the *acquis*: *... Action Plans [to progress outstanding PAJC priorities] are the major determinant in the programming process for 2002 and 2003.*

13. These Action Plans (one for each country) were not 'ex novo' documents, nor did they define what is meant by 'PAJC'. They were simply compilations, whereby all the Accession Partnership (AP) priorities which had a bearing on PAJC were put into a table which showed additionally (a) commitments taken in negotiations / measures for implementation; (b) Community assistance: ongoing / planned in programming for 2002, and (c) monitoring actions ongoing / planned / required.

14. The Action Plans were finalised in early Spring 2002, just about two years before the accession date. They identified 487 AP priorities, which had yet to be fully met, for which the candidate countries' governments

⁴ See "Second Generation Twinning – Preliminary Findings" and "Phare Agriculture Sector Review" on http://europa.eu.int/comm/enlargement/phare_evaluation_reports_interim.htm

³¹ A recent thematic evaluation, "[Review of the European Union Phare Assistance to Roma Minorities](#)" has covered the key supported component of the third topic under the Political Criteria, Human Rights and Protection of Minorities. Also available on the website referred to in footnote 6 above.

³² Notably under Article 10 of the EC Treaty which provides that: *"Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks..."* The Court of Justice has referred to the "principle of co-operation" laid down in Article 10 EC and emphasised that a Member State's duty to take all appropriate measures to fulfil its Community obligations also extends to all the authorities of the Member States, including the judicial.

³³ Phare 2000 Review: Strengthening Preparations for Membership. Communication from Mr Verheugen. COM(2000)3103/2 of 27 October 2000.

had 1836 ‘measures’ in hand. Phare was supporting, or planned to support 768 (42%) of these measures. A summary report on the exercise was made to the Council in June 2002³⁴.

15. The RRs for 2002 reported on progress towards the AP priorities and towards fulfilment of the Action Plans under the three headings in the Copenhagen criteria; political criteria, economic criteria and ability to assume the obligations of membership. The Reports showed that only a very few of the outstanding AP priorities had been met and only some 36 Action Plan measures were described by the Commission as ‘fully completed’.

16. For the 2003 Comprehensive Monitoring Report (CMR), for the candidate countries to join in 2004, the Commission reported on ‘Administrative and Judicial Capacity’. For the vast majority of issues, it noted that compliance with requirements was not yet complete but asserted, without further elaboration, that it should be by 1 May 2004 “if the current pace of preparations is maintained”. For other issues it noted that ‘enhanced efforts’ were needed, and for a small number it expressed ‘serious concern’.

17. Also in 2002, the Roadmap for Bulgaria and Romania³⁵ stressed that special efforts would be made to assist Bulgaria and Romania with PAJC building: *While alignment of legislation is essential, this needs to be accompanied by appropriate judicial and administrative capacity to implement and enforce the acquis. This has been stressed at the European Council in Madrid in 1995 and on a number of subsequent occasions. As regards Bulgaria and Romania, the Gothenburg European Council in 2001 stated that candidate countries must make “continued progress [...] in transposing, implementing and enforcing the acquis. They will have to pay particular attention to putting in place adequate administrative structures, to reforming judicial systems and the civil service, [...]. Special efforts will be devoted to assisting Bulgaria and Romania.*

18. Article 34 of the recent Accession Treaty, establishing the Transition Facility, stated that “assistance shall address the continued need for strengthening institutional capacity in certain areas” among which were “Justice and home affairs (strengthening of the judicial system, external border controls, anti-corruption strategy, strengthening of law enforcement capacities)” and “strengthening public administration according to needs identified in the Commission’s comprehensive monitoring report which are not covered by the Structural Funds.”

Previous examinations of Phare support to Public Administrative and Judicial Capacity.

19. A background review on PAJC was prepared by the EMS consortium early in 2004 as a contribution to the summary assessment of Phare support presented in a Consolidated Summary Report, “From Pre-Accession to Accession - Interim Evaluation of Phare Support Allocated in 1999-2002 and Implemented until November 2003”³⁶. In the course of preparation, the consultant’s team conducted interviews in Brussels with a range of Commission officials, and with other stakeholders with an interest in the accession process and the instruments used by Phare. Five candidate countries were visited, including Bulgaria and Romania³⁷, where structured interviews were conducted.

20. The conclusions of the Summary Report noted that, “more remains to be done on building Administrative and Judicial Capacity... The pervasive adverse effects of weak PAJC need to be further addressed.” Recommendations, addressed largely to the COMMISSION SERVICES, concerned further actions to address the objectives of pre-accession strategy; improvements in the design of strategies and programmes, and improvements in programme management.

Current support arrangements in the Bulgaria and Romania

21. For the remaining Phare-supported candidates, Bulgaria and Romania, Phare programming continues until 2006 on a multi-annual basis and should be implemented by 2009. Following the accession of Bulgaria and Romania, currently foreseen for 2007, it may be assumed that a Transition Facility will be put in place, with the result that the timescale for Phare-type support may extend for eight years or so from the present. This provides a context in which recommendations related to future support can be of operational value.

³⁴ COMMUNICATION FROM THE COMMISSION on the Action Plans for administrative and judicial capacity, and the monitoring of commitments made by the negotiating countries in the accession negotiations, Brussels, 5.6.2002 COM(2002) 256 final.

³⁵ COM(2002) 0624/3 final, COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT, Roadmaps for Bulgaria and Romania, Brussels, 13 November 2002.

³⁶ Also available at the website referred to in footnote 6.

³⁷ The others were Latvia, Poland and Slovakia.

Current Interim Evaluation arrangements in the new MS, Bulgaria and Romania

22. Contracted Interim Evaluation continues in Bulgaria and Romania, and EMS and ECOTEC up-to-date reports covering some PAJC projects are available for both those countries.

OBJECTIVE OF THE THEMATIC REPORT

23. The key objective of the report is to make an in-depth examination of the Phare support which Bulgaria and Romania have received to strengthen their horizontal administrative and judicial reform and build their capacity, in order to extract lessons learned and make recommendations, of relevance to future programming and implementation of Phare and the Transition Facility in those countries and also of relevance to support to other current and prospective candidates.

24. In order to contribute to the key objective, the findings, conclusions and recommendations of the EMS background review on PAJC, as reflected in the Summary Report referred to above, will be taken as a benchmark, and validated, updated and, as appropriate, augmented, in the light of the specific circumstances of Bulgaria and Romania one year after that background report was produced.

KEY EVALUATION QUESTIONS

25. Evaluation questions should address the strategic context within which Phare has been programmed in Bulgaria and Romania; the way Phare has been implemented, and the results which have been achieved in those countries, as follows:

Strategy

- What has been the Commission's pre-accession strategy for the development of Public Administration and Judicial reform and capacity building with particular relation to Bulgaria and Romania?
- What have been the Commission's, Bulgaria's and Romania's strategies for the use of Phare to support Public Administration and Judicial reform and capacity building?
- Has support strategy changed over time?
- Has Phare strategy for support been appropriate to needs and capacities?

Implementation³⁸

- What support has been deployed: how comprehensive has support been?
- Has the range of support instruments deployed been appropriate and appropriately utilized?
- What has been the trend of programme and project performance over time?

Results

- What contribution has Phare made to Public Administration and Judicial reform and capacity building in Bulgaria and Romania?
- What are the lessons learned, and how can they be reflected in the most effective programming of remaining Phare and possible Transitional assistance, to ensure adequate absorption of the JHA *acquis* in Bulgaria and Romania?
- What lessons could be applied at an earlier stage and in a longer timescale to other actual and potential candidates?

TARGET AUDIENCE

26. The recipient of the Report will be the relevant units in DG Enlargement, and in particular the Evaluation Unit, E4. The audience for the report will additionally include the Country Teams for Bulgaria and Romania in DG Enlargement as well as those responsible for Turkey and CARDS countries, and the National Aid Co-ordination authorities in Bulgaria and Romania.

³⁸ Evaluation will be made, wherever possible, using the DAC criteria of relevance, efficiency, effectiveness, impact and sustainability.

INFORMATION SOURCES

27. The information sources for this Report include:

- the Accession documents relevant to Bulgaria and Romania (notably the Roadmap, Action Plans and RRs);
- the forthcoming Comprehensive Monitoring Report (due 9 November 2005);
- Phare Programmes covering PAJC in Bulgaria and Romania (all available on the Commission's website³⁹);
- all relevant EMS IE reports covering or including PAJC projects in programmes from 1998 onwards (effectively reports made since 2000);
- EMS thematic report on Twinning, "Second Generation Twinnings – Preliminary Findings";
- EMS Consolidated Summary Report, "From Pre-Accession to Accession - Interim Evaluation of Phare Support Allocated in 1999-2002 and Implemented until November 2003";
- EMS Background review on Phare support to PAJC;
- a previous report on Phare's contribution to Public Administration Reform: OMAS; Report No. S/ZZ/PAD/01003 of 18 September, 2001;
- a previous report on Phare's contributions to Justice and Home Affairs; OMAS Report No S/ZZ/JHA/01005⁴⁰;
- interviews with Commission officials in Brussels, Sofia and Bucharest; and
- interviews with national stakeholders in Bulgaria and Romania.

PROPOSED METHODOLOGY

Overall approach

28. The thematic report will be prepared under the supervision of the ECOTEC Deputy Project Director (DPD), Mr Thomas.

29. A Short Term Technical Expert (STTE) well qualified in evaluation of Phare programmes and experienced in PAJC issues will be contracted to lead the evaluation, conduct interviews in Brussels, Bulgaria and Romania (including outside capitals), and prepare the draft report. ECOTEC proposes Mr D Blink. Legal expertise will be provided by a legally qualified specialist STTE, Dr R D'Sa. CVs are attached

30. Logistic support to STTEs will be provided by ECOTEC Central Unit, Brussels and, in Bulgaria and Romania by ECOTEC's local office staff.

31. In Bulgaria and Romania, interviews will be conducted with central and regional bodies. To ensure the standardisation and comparability of investigations, interviews will be conducted on the basis of checklists of questions, appropriate to the category of interviewee and derived from the key evaluation questions above. These checklists will be developed by the STTEs; approved by the DPD and included in the Inception Note.

32. Key areas for examination, to be defined further in liaison with ECOTEC staff in the countries concerned, will include:

- the bodies responsible for the development, promulgation and monitoring of:
 - national horizontal PAJC strategy and procedure,
 - the civil service,
 - the judicial and judicial administration,
 - civil service and judicial training;
- selected line ministries;
- the hierarchy of bodies and arrangements for coordination between them; and
- procedures for PAJC strategy development, promulgation and monitoring.

³⁹ At http://europa.eu.int/comm/enlargement/fiche_projet/index.cfm

⁴⁰ An ECOTEC thematic report on Phare's support to JHA, which is in preparation, will also be a source document for this thematic evaluation of PAJC.

Team

33. The **Deputy Project Director** (DPD) Mr Thomas will:

- oversee the production of the report
- act as liaison point with DG Enlargement, E4 Evaluation Unit
- draft the Inception Note
- direct and Coordinate Central Office activities
- direct and coordinate STTE activities
- oversee the design of interview strategy and interview checklists
- edit the first draft of the thematic report for submission to E4 and finalise the draft
- attend the debriefing of the report.

34. The **Lead STTE** Mr D Blink will:

- collaborate with the DPD in planning activities
- design questions for use with EC officials and the various categories of national interviewee and agree them with the DPD
- conduct interviews in EC HQ
- conduct research and interviews in Bulgaria and Romania
- write the first draft final report
- assist as necessary with amendments requested by EC stakeholders
- attend the debriefing of the report.

35. The **legal specialist STTE** Dr R D'Sa will:

- assist the lead STTE with the design of questions for use with EC officials and the various categories of national interviewee;
- provide specialist advice to the DPD on the institutional and other requirements of the Political Criteria;
- advise *ad hoc* on legal issues; and
- comment on the findings, conclusions and recommendations of the first draft report.

36. **ECOTEC Central Office** staff will provide research, database analysis and backstopping assistance, as well as logistic support to the STTEs for their missions, for travel, accommodation and interpretation.

37. **ECOTEC offices in Bulgaria and Romania** will arrange the programme of meetings and, to the extent necessary and possible, provide interpretation facilities.

Report

38. The style and content of the report will conform to best practice as regards layout and presentation, as developed with the Evaluation Unit over the last 18 months. The report will follow the following schema:

- Executive Summary
- Preface
- Glossary
- Introduction:
 - Background
 - Objectives
 - Methodology
 - Previous studies

- Categorised evidence from base documents and findings from research and interviews under thematic headings and sub-headings related to Evaluation Questions, with cross-reference to the main findings, conclusions and recommendation of the background report.
- Remaining challenges for Bulgaria and Romania in relation to horizontal PAJC
- Conclusions in relation to Evaluation Questions
- Recommendations in relation to performance and lessons learned
- Annexes

ECOTEC envisages the following methodological steps

Step		Activity	Output	Input
1	Preparation and Introduction	ToR approved by E4. Kick-off meeting convened and held. ToR approval.	Adopted ToR	Draft ToR
2	Inception	Drafting interview questions. Mission scheduling. Inception note circulated.	Approved Inception Note	ToR Project documents
3	Information gathering and processing	Design and populate database	Completed database and statistics	IE and thematic reports Project Fiche
		Study documents. Identify interlocutors.	Arrange missions, conduct and write up findings and basis for conclusions and recommendations	STTE study and missions
4	Drafting for E4	Drafting of the first version. DPD editing Submission to E4.	First draft submitted to E4	STTEs drafting report and annexes.
5	Drafting Final Version	ECOTEC incorporate E4 comments in draft Final Version. E4 circulate internally.	Report finalised for circulation to COMMISSION SERVICES' stakeholders	Comments from E4
6	Debriefing	Debriefing meeting. Incorporation of comments. E4 issue Final Version.	Issued Final Version	Draft Final Version

Planning

39. The DPD, as a Long Term Expert, will contribute 100 man/days to this Thematic report. STTE man/days total 56 of which 50 for Mr Blink and 6 for Dr D'Sa.

Step	Activity	2005							2006	
		Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
1	Preparation & Introduction									
2	Inception									
3	Info' gathering and processing									
4	Drafting for E4									
5	Drafting FV									
6	Follow-up and debriefing workshop									

Annex 2. Phare Programmes & Projects in PAJC Database

The database compiled for the purpose of this thematic report includes projects of the following kinds:

- all projects with the words ‘public administration’ in their overall titles or sector titles;
- all projects with a reference to the judiciary in their overall titles or sector titles;
- all projects with titles including the words ‘institution building’ and ‘project preparation’, unless clearly linked, by content as set out in the PFs, to a specific *acquis*-chapter;
- projects with the words ‘management’, ‘financial control’, ‘strategy’, ‘policy making’, ‘audit’ and similar, unless clearly linked, by content of the PFs, to a specific chapter of the *acquis*;
- a number of projects in the sphere of the JHA chapter of the *acquis*, containing large technical assistance, Twinning or investment components aimed primarily at improving the co-operation between branches and services of government.

Country	Year	Number	Title
Bulgaria	1998	BG 9806.02	Transformation of Bulgarian Customs Administration (BCA)
		BG 9806.03	Institution Building Facility
	1999	BG 9909.01	Training for Public Administration
		BG 9909.02	Support for Implementation of Medium Term Strategy for Ministry of Finance
		BG 9911	Institution building projects in the field of Justice and Home Affairs
	2000	BG 0003.03	Support in the implementation of the reform in public procurement system
		BG 0005.01	Strengthening the Public Prosecutor's Office
		BG 0006.01	Strengthening Public Internal Financial Control
		BG 0006.02	Strengthening the Independent Public External Audit Institution
		BG 0006.03	Reform and Modernisation of Tax Administration
		BG 0006.07	Capacity Building for the Central Finance and Contracts Unit
		BG 0006.08	Phare Project Preparation Facility
	2001	BG 0103.01	Strategic policy-making and co-ordination

Country	Year	Number	Title
		BG 0103.02	Implementing civil service reform
		BG 0103.03	Recruitment and training strategy for the Judicial
		BG 0103.04	Streamlining Bankruptcy Proceedings
		BG 0103.05	Strengthening the National Customs Agency
		BG 0103.06	Strengthening the Refugees Agency
		BG 0103.07	Combating Money Laundering
		BG 0103.09	Improving the Management of EU Funds
		BG 0104.03	Civil Society Development
		BG 0105.01	Phare Project Preparation Facility
		BG 0105.02	Twinning Light Facility
	2002	BG 0203.01	Implementation of the Strategy for Reform of the Judicial in Bulgaria
		BG 0203.02	Implementation of the National Anti-Corruption Strategy: Development of an integrated system for countering corruption in the Ministry of the Interior
		BG 0203.04	Improvement of administrative justice in view of the fight against corruption.
		BG 0203.05	Technical assistance to implement key measures of the Programme for the Implementation of the National Anti-Corruption Strategy
		BG 0203.06	Strengthening the institutional capacity of the PPO for combating organized and economic crime and corruption
		BG 0203.07	Strengthening the Human Resources Management Capacity in the Bulgarian Public Administration
		BG 0203.09	Strengthening border control capacities
		BG 0203.11	Further Strengthening of border Control and Management of future EU External Borders (Blue Borders)
		BG 0204.02	Civil Society Development
		BG 0205.01	Phare Project Preparation Facility
		BG 0205.02	Unallocated Institution Building Envelope

Country	Year	Number	Title
	2003	BG 2003/004-937.08.01	Reform of the Civil and Penal Procedures
		BG 2003/004-937.08.02	Support of the Implementation of the Strategy for Reform of the Judicial through the Introduction of Information Technologies (Phase I)
		BG 2003/004-937.08.03	Institution building of the Academy of the Ministry of the Interior and improving the quality of training
		BG 2003/004-937.08.04	Mobile Units for Border Control and Surveillance on the Bulgarian-Turkish Border and Implementation of the Best EU Control Practical in the Border Area (Green Border)
		BG 2003/004-937.10.01	Strengthening the Capacity of the Bulgarian Public Administration - Implementing the Strategy for Modernisation of the Public Administration in View of the Improved Service Delivery to the Public
		BG 2003/004-937.10.02	MRDPW's Central and Regional Structures for Managing ERDF-type Programmes and Projects
		BG 2003/004-937.10.03	Strengthen the Capacity of MoE to Manage Operational Programme 'Development of the Competitiveness of the Bulgarian Economy' under EU Structural Funds
		BG 2003/004-937.10.04	Setting up a Coherent System for the Structural Funds and the Cohesion Fund in Bulgaria for the Management of the Cohesion Support Framework (CSF) and the Single Paying Authority for the Structural Funds (SF) and the Cohesion Fund (CF)
		BG 2003/004-937.10.05	Unallocated Institution Building Envelope
	2004	BG 2004/006-070.03.01	Support of the Implementation of the Strategy for Reform of the Judicial through the Introduction of Information Technologies (Phase II)
		BG 2004/006-070.03.02	Mobile units for border control and surveillance on the Bulgarian-Turkish and Black Sea Borders and implementation of the EU best practices for integrated border control in the border area, second stage
		BG 2004/016-711.08.01	Support for Further Implementation of the Strategy for Reform of the Bulgarian Judicial
		BG 2004/016-711.08.02	Strengthening of the Bulgarian Judicial
		BG 2004/016-711.08.03	Streamlining the Penitentiary System in Bulgaria
		BG 2004/016-711.08.04	Modernising Bulgarian Police and enhancing its efficiency
BG 2004/016-711.08.05	Mobile units for border control and surveillance on the Bulgarian Western Border and implementation of the EU best practices for integrated border control in the border area - third stage		

Country	Year	Number	Title
		BG 2004/016-711.08.06	Further strengthening of Border Control and Management of the Future EU External Borders through Modernisation of Technical Equipment, Development of Centralised Information Systems and Introduction of EU Best Practices and Standards in the Field of Border Control
		BG 2005/017-353.09.01	Strengthen the Capacity of the Anti-corruption Commission to Counteract Corruption in Public Administration and Judicial
		BG 2005/017-353.11.01	Phare Project Preparation Facility
		BG 2004/016-711.10.03	Assistance for the implementation of the National Programme for Decentralisation
		BG 2004/016-711.10.05	Unallocated Institution Building Envelope
		BG 2004/016-919.02	Further strengthening police investigation capacity (crime statistics, undercover operations and investigative techniques and forensics)
		BG 2004/016-919.05	Development of In-service Training Network linked to the Implementation and Enforcement of the Acquis
		BG 2004/016-919.06	Support for the Design and Implementation of Development and Assessment Programme for Senior Civil Servants
	2005	BG 2004/006-070.03.01	Support of the Implementation of the Strategy for Reform of the Judicial through the Introduction of Information Technologies (Phase II)
		BG 2004/006-070.03.02	Mobile units for border control and surveillance on the Bulgarian-Turkish and Black Sea Borders and implementation of the EU best practices for integrated border control in the border area, second stage
		BG 2005/017-353.07.01	Support for Further Implementation of the Strategy for Reform of the Bulgarian Judicial
		BG 2005/017-353.07.02	Strengthening of the Bulgarian Judicial
		BG 2005/017-353.07.03	Streamlining the Penitentiary System in Bulgaria
		BG 2005/017-353.07.04	Modernising Bulgarian Police and enhancing its efficiency
		BG 2005/017-353.11.02	Unallocated Institution Building Envelope
BG 2004/016-711.08.05	Mobile units for border control and surveillance on the Bulgarian Western Border and implementation of the EU best practices for integrated border control in the border area - third stage		
BG 2005/017-353.07.05	Further strengthening of Border Control and Management of the Future EU External Borders through Modernisation of Technical Equipment, Development of Centralised Information Systems and Introduction of EU Best Practices and Standards in the Field of Border Control		

Country	Year	Number	Title
		BG 2005/017-353.07.06	Implementation of EU Acquis in the Field of Asylum - Dublin II and EURODAC Regulations
		BG 2005/017-353.09.01	Strengthen the Capacity of the Anti-corruption Commission to Counteract Corruption in Public Administration and Judicial
		BG 2005/017-353.11.01	Phare Project Preparation Facility
		BG 2004/016-711.10.05	Unallocated Institution Building Envelope
		BG 2004/016-919.02	Further strengthening police investigation capacity (crime statistics, undercover operations and investigative techniques and forensics)
		BG 2004/006-070.03.01	Support of the Implementation of the Strategy for Reform of the Judicial through the Introduction of Information Technologies (Phase II)
	2006	BG 2004/006-070.03.02	Mobile units for border control and surveillance on the Bulgarian-Turkish and Black Sea Borders and implementation of the EU best practices for integrated border control in the border area, second stage
		BG 2004/016-711.08.01	Support for Further Implementation of the Strategy for Reform of the Bulgarian Judicial
		BG 2004/016-711.08.02	Strengthening of the Bulgarian Judicial
		BG 2004/016-711.08.03	Streamlining the Penitentiary System in Bulgaria
		BG 2004/016-711.08.04	Modernising Bulgarian Police and enhancing its efficiency
		BG 2004/016-711.08.05	Mobile units for border control and surveillance on the Bulgarian Western Border and implementation of the EU best practices for integrated border control in the border area - third stage
		BG 2004/016-711.08.06	Further strengthening of Border Control and Management of the Future EU External Borders through Modernisation of Technical Equipment, Development of Centralised Information Systems and Introduction of EU Best Practices and Standards in the Field of Border Control
		BG 2005/017-353.09.01	Strengthen the Capacity of the Anti-corruption Commission to Counteract Corruption in Public Administration and Judicial
		BG 2004/016-711.10.05	Unallocated Institution Building Envelope
		BG 2004/016-919.02	Further strengthening police investigation capacity (crime statistics, undercover operations and investigative techniques and forensics)

Country	Year	Number	Title
Romania	1998	RO 9804.01	Institution Building for the Ministry of Finance
		RO 9804.02	Assistance to the Romanian Customs Administration (RCA) in developing more effective control management and border systems
		RO 9804.05	Support the Ministry for Reform in designing and implementing Central Public Administration Reform
		RO 9806.01	Institution Building Project for the Ministry of Interior
		RO 9806.02	Institution Building for the Ministry of Justice
	1999	RO 9905-01	Assistance to the Ministry of Justice (MoJ) in continuing the reform of the Romanian judicial
		RO 9907-01	Strengthening Border Management and Control
		RO 9907-02	Pre-Accession Support Activities
		RO 9907.03	Institution Building for the Ministry of Finance
	2000	RO 0006.04	Strengthening the Judicial and Penitentiary Systems
		RO 0006.13	Agricultural and Regional Statistics
		RO 0006.16	Strengthening Border Management
		RO 0006.17	Fight against Drugs
		RO 0006.18	Support Activities to Strengthen the European Integration Process
	2001	RO 0106.01	Strengthening the Institutional Capacity of the Ministry of Public Administration
		RO 0106.02	Develop an operational National Institute of Public Administration capable of educating competent civil servants
		RO 0106.03	Creating a Corps of Professional Public Managers within the Civil Service
		RO 0106.04	Design and Implement Mechanisms for the Full Application of the Civil Servants Statute
		RO 0106.05	Strengthening the Capacity of the Romanian Ombudsman
		RO 0106.06	Project Preparation Facility, Project Cycle Management and Facility for Short- and Medium-Term Twinning (Twinning Light)
RO 0106.07		Strengthening the Romanian Institutional Capacity to Apply the Measures foreseen within the National Plan for Agriculture and Rural Development	

Country	Year	Number	Title
		RO 0107.16	Strengthening Border Management
	2002	RO 2002/000-586.03.01	Strengthening the Romanian administrative capacity to manage, monitor, and assess EU financed programmes
		RO 2002/000-586.03.02	Decentralisation and Development of the Romanian Local Public Administration
		RO 2002/000-586.03.03	Further Institutional Strengthening of the Court of Accounts
		RO 2002/000-586.03.04	Support for the Strategic Plan of the Ministry of Public Finance
		RO 2002/000-586.03.05	Strengthening and extension of the SAPARD Programme Implementation System set up for Romania
		RO 2002/000-586.04.14	Further Strengthening of Border Control and Improved Management of Migration
		RO 2002/000-586.04.15	Modernisation and reform of law enforcement agencies and strengthening of anti-corruption structures
		RO 2002/000-586.04.16	Assistance in strengthening the independence and functioning of the Romanian Judicial System
		RO 2002/000-586.04.17	Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy
	2003	RO 2003/005-551.03.01	Support for the Public Administration Reform Process in Romania
		RO 2003/005-551.03.02	Strengthening the Administrative Capacity of the Romanian Parliament
		RO 2003/005-551.03.03	Capacity Development within the Romanian Administration to Manage and Monitor EU Pre-accession Funds in an Adequate and Efficient Way
		RO 2003/005-551.03.04	Development and Implementation of the Integrated Solution for the IT-system, part of the IT-Strategy for the Ministry of Public Finance (Phase 2003)
		RO 2003/005-551.04.12	Strengthening Border Control
		RO 2003/005-551.04.15	Further Strengthening the Institutional Capacity to Fight against Corruption
	2004	RO 2004/016-772.01.03	Support to Public Administration Reform in Romania
		RO 2004/016-772.01.04	Assistance to enhance the independence, professionalism and management capacity of the Romanian judicial
		RO 2004/016-772.01.05	Improving the fight against corruption
		RO 2004/016-772.01.07	Strengthening police co-operation
		RO 2004/016-772.03.04	Strengthening Border Management and Control
		RO 2004/016-772.03.12	Fight against organised crime – An Inter-institutional Approach
		RO 2004/016-772.05.01	Strengthening the Capacity within the Romanian Administration to Support the Pre-Accession Process
	2005	Indicative in 2004 NP	Support to Public Administration Reform in Romania

Country	Year	Number	Title
		Indicative in 2004 NP	Assistance to enhance the independence, professionalism and management capacity of the Romanian judicial
		Indicative 2004 in NP	Strengthening Border Management and Control
	2006	Indicative in 2004 NP	Support to Public Administration Reform in Romania
		Indicative in 2004 NP	Assistance to enhance the independence, professionalism and management capacity of the Romanian judicial
		Indicative 2004 in NP	Strengthening Border Management and Control

Annex 3. Phare Allocations for PAJC in Bulgaria and Romania; 1998-2006

Country	Year	Phare PAJC Allocations		Co-financing (% refers to Phare Allocation)		Total
		M€	% of NP ⁴¹	M€	%	M€
Bulgaria	1998	10.00	16	1.30	13	11.30
	1999	14.00	34	2.60	19	16.60
	2000	12.67	19	0.12	1	12.79
	2001	18.88	23	0.35	2	19.23
	2002	30.40	32	5.99	20	36.39
	2003	21.05	22	2.30	11	23.35
	2004	61.91	36	10.03	16	71.94
	2005	50.74	31	11.95	24	62.69
	2006 ⁴²	40.11	n/a	9.59	n/a	49.69
Total Bulgaria	1998-2006	259.75		44.23		303.98
Romania	1998	16.50	15	12.80	78 ⁴³	29.30
	1999	17.00	31	0.00	0	17.00
	2000	40.92	19	8.84	22	49.76
	2001	19.10	8	0.87	5	19.97
	2002	55.72	21	8.14	15	63.86
	2003	39.30	15	7.63	19	46.93
	2004	84.26	21	23.99	28	108.25
	2005 ⁴⁴	78.11	n/a	22.24	n/a	100.35
	2006 ⁴⁵	101.52	n/a	29.97	n/a	131.49
Total Romania	1998-2006	452.42		114.49		566.91
Total Bulgaria & Romania	1998-2006	712.17		158.72		870.89

⁴¹ Percentages rounded to whole percents.

⁴² 2006 figure is indicative and may increase; emanating from 2004 Phare NP for Bulgaria.

⁴³ Includes contribution financed through IFIs.

⁴⁴ 2005 figure is indicative and may increase; emanating from 2004 Phare NP for Romania.

⁴⁵ Idem 2006 figure.

Annex 4. Progression on horizontal PAJC issues in Bulgaria and Romania; 2002-05

Part I. The following table summarises the key issues related to PAJC as identified in successive CMRs and RRs for the four-year period 2002 and 2005.

Year	Bulgaria	Romania
2002	<p>Administrative Capacity:</p> <ul style="list-style-type: none"> • Reforms to ensure an efficient, transparent and accountable public administration, including: <ul style="list-style-type: none"> → transparent procedures for recruitment and promotion; → provision of qualified staff; → improved human resources management; → simplification and clarification of the legal framework for administrative decision making; • Substantial strengthening of administrative structures to ensure capacity for effective use of EC funds, including: <ul style="list-style-type: none"> → reinforcement of anti-fraud structures; • Adaptation of the <i>acquis</i>, after its transposition, to the Bulgarian situation and the implementation and enforcement capacity at national, regional and local levels; including: <ul style="list-style-type: none"> → a fully comprehensive reform strategy, including an action plan in 2003. <p>Judicial Capacity:</p> <ul style="list-style-type: none"> • Full implementation of the reforms already agreed on in the National Reform Strategy for the Bulgarian Judicial System and continued work on remaining necessary reforms; • Special attention to reforms to the structure of the judicial; including: <ul style="list-style-type: none"> → the modalities of investigations; and → the issue of immunity. 	<p>Administrative Capacity:</p> <ul style="list-style-type: none"> • Developing the policy framework set by the 1999 Law on Civil Servants by introducing and implementing necessary secondary legislation; • Ensuring that civil service legislation is actually applied in practice by designing implementation mechanisms; • Devising mechanisms to ensure the political independence and accountability of civil servants; • Improving provisions for both initial and in-service training; • Developing a career structure based on transparent promotion and assessment; • Introducing elements of modern human resource management; and • Strengthening of administrative structures in order to ensure that Romania has the capacity for fully effective use of EC funds. • Further develop its legislative framework and administrative capacity to protect the Communities' financial interests against fraud and irregularities. • Measures to improve the legislative process and in particular, limits to be placed on legislating through ordinances and emergency ordinances. <p>Judicial Capacity:</p> <ul style="list-style-type: none"> • Measures to guarantee the effective independence of the judicial; • Revision of the system of extraordinary appeals against final judicial decisions, in line with the European Convention of Human Rights, to re-enforce the principle of legal certainty; • Drawing up a comprehensive strategy to improve the functioning of the judicial, with as key elements: <ul style="list-style-type: none"> → practical measures to guarantee the full independence, → enhancing the ethics, training, and professionalism of judges, prosecutors and the legal professions;

Year	Bulgaria	Romania
		<ul style="list-style-type: none"> → improve the inner organisation of Courts; and → making co-ordination between State agencies in charge of judicial matters more efficient.
2003	<ul style="list-style-type: none"> • Sustained efforts will be necessary to further implement the public administration reform and fulfil the aim to have a qualified and efficient civil service in place in the medium term, to ensure the effective application and enforcement of the <i>acquis</i> when Bulgaria joins the Union. • The overall reform process for the judicial continued in line with the 2002 Action Plan (especially with regard to the status of magistrates, the duration of court proceedings and strengthening judicial control of decisions by the executive). Further efforts are necessary to: <ul style="list-style-type: none"> → re-organise the investigation service as part of the executive in line with best MS best practice; → ensure the judicial budget is adequate for the smooth functioning of the judicial system. • Corruption remains a problem (although high on the political agenda) and concerted efforts in this are to be maintained 	<ul style="list-style-type: none"> • Political will to address administrative and judicial reform exists and some positive initiatives were begun (revision of the Civil Servant Statute and a major re-organisation of the court system) and at an early stage. • The civil service remains characterised by: <ul style="list-style-type: none"> → cumbersome procedures; → limited transparency; and → limited capacity for policy execution. • The judicial system needs to: <ul style="list-style-type: none"> → improve case management; → improve consistency of judgements; and → increase the independence of the judicial. • Romania still needs to develop a strategy for reform of the policy and legislative process, although progress was made with the restriction of the use of emergency ordinances. • Legislation on freedom of information and transparency in the legislative process have only been partially implemented. • Constitutional reform of the parliamentary system is to be accompanied by measures to increase capacity to scrutinise draft legislation. • Implementation of anti-corruption policy has been limited, the measures taken have yet to have impact and substantially increased efforts are needed.
2004	<ul style="list-style-type: none"> • Progress in building a qualified and efficient civil service needs spreading throughout the public administration. • Attention to be given to the legal framework for local and regional administration. • Key parts of judicial reform remain to be adopted, in respect of: <ul style="list-style-type: none"> → the complexity and efficiency of penal structures, especially in the pre-trial phase; 	<p>Although a public administration reform strategy was launched (May 2004) and a start made with civil service reform:</p> <ul style="list-style-type: none"> • Restriction of the use of emergency ordinances to (extraordinary circumstances) has not led to a decrease in their use. • Legislation on the freedom of information and transparency in the legislative process remains to be fully implemented. • Efforts to improve the policy making and legislative process should

Year	Bulgaria	Romania
	<ul style="list-style-type: none"> → the capacity to prosecute organised crime and corruption (judicial and police). • Corruption remains a problem; renewed efforts are necessary, especially to tackle high-level corruption. 	<p>continue, as are efforts to strengthen local and regional governance (on <i>acquis</i> implementation).</p> <ul style="list-style-type: none"> • Court case management and judgement quality needs improvement. • Implementation of organisational and legislative changes in the judicial system is a matter of priority. • Effective implementation of the well-developed anti-corruption legislation is required, in particular with regard to the independence, effectiveness and accountability of the National Anti-corruption Prosecution Office, which should focus resources on high-level corruption.
2005	<ul style="list-style-type: none"> • Completion of the legislative framework guaranteeing the principles of legality, accountability, reliability and predictability in the workings of the public administration. • Further effort to strengthen local and regional administration in the context of decentralisation. • Putting into practice the government's White Paper on the Modernisation of the Public Administration (April 2005). • Progress in the reform of the pre-trial phase remains limited. • The justice system continues to lack accountability and the procedures for administering justice remain cumbersome and slow. • Results in the investigation and prosecution of high-level corruption cases remain weak. 	<ul style="list-style-type: none"> • Further efforts to continue to reform the public administration, in particular on: <ul style="list-style-type: none"> → further professionalisation of the civil service; and → adequate staffing and funding of administrations required to implement and enforce the <i>acquis</i>. • Effective implementation of reforms in the justice system in line with the adopted strategy and action plan. • High priority to be given to the fight against corruption, with effort to focus on effective enforcement of relevant legislation, preventive measures, fighting high-level corruption and corruption within law-enforcement bodies.

Part II The following table correlates the key CMR/RR Issues for Bulgaria and Romania with Past/Current Phare Support; 1999-2006; by NP and Number of Programmes/Projects

Year	Country/Issue	Substantial Progress		Limited/No Progress	
		Phare Support (N ^o of projects)	No Phare Support (X)	Phare Support (N ^o of projects)	No Phare Support (X)
	Bulgaria				
2002	PA: Administrative capacity, including: transparent recruitment/promotion; qualified staff; human resources management and legal framework for administrative decision making	1999 (1) 2001 (1)			
	PA: Capacity for effective use of EU funds, including anti-fraud structures			1999 (1) 2001 (1)	
	PA: Acquis-related comprehensive reform strategy, including Action Plan			2000 (4)	
	JC: Implementation of agreed reforms (Judicial Strategy)			2000 (1)	
	JC: Judicial structure, including investigation modalities and the immunity issue			2001 (1) 2002 (1)	
2003	PA: Sustained effort aimed at a qualified and efficient civil service able to apply and enforce the <i>acquis</i>	2002 (3)			
	PA: Concerted efforts to fight corruption				
	JC: Re-organisation of the investigative service			2002 (4)	
	JC: Adequate budgetary resources for the judicial system		X		X
2004	PA: Spreading civil service reform measures throughout the public administration	2003 (2)			
	PA: Legal framework for local and regional administration (decentralisation)			2003 (1) 2004 (1)	
	PA: Continued efforts to fight high level corruption			2002 (3)	
	JC: Efficiency of penal structures (especially pre-trial procedures)			2003 (1)	
	JC: Improving capacity to fight organised crime and judicial and police corruption			2002 (1)	
2005	PA: Completion of the legislative framework reflecting legality, accountability, reliability and predictability in public administration	2004 (2) 2005 (1) 2006 (1)			
	PA: Strengthening local and regional administration in the context of decentralisation			2004 (1) 2005 (1) 2006 (1)	
	PA: Implementation of the 'White Paper'		X		X ⁴⁶
	JC: Further reform of the pre-trial phase			2004 (1)	
	JC: Addressing the accountability of the judicial system and speeding up its workings	2004 (3) 2005 (5) 2006 (4)			
	JC: Addressing weaknesses in the investigation and prosecution of high level corruption cases			2005 (1) 2006 (1)	

⁴⁶ The *White Paper* was adopted at a time (April 2005) when the programming exercise for the period 2004-06 had already been completed. As a result, it does not figure in the programming documentation for the period. But, Bulgarian officials increasingly see Phare support for public administration reform in terms of the priorities set out in the document.

Year	Country/Issue	Substantial Progress		Limited/No Progress	
		Phare Support (N° of projects)	No Phare Support (X)	Phare Support (N° of projects)	No Phare Support (X)
	Romania				
2002	PA: Secondary legislation related to the 1999 Civil Servants law			1998 (1)	
	PA: Implementation mechanisms for civil service legislation			1999 (1)	
	PA: Mechanisms to ensure independence and accountability of civil servants			2001 (2)	
	PA: Improving initial and in-service training			2001 (1)	
	PA: Civil service career structure (transparency)			2001 (1)	
	PA: Modern human resources management			2001 (1)	
	PA: Capacity for effective use of EU funds			1999 (1) 2000 (1) 2002 (1)	
	PA: Legislative framework and capacity to protect EU interests against fraud			1999 (1)	
	PA: Limiting legislation by (emergency) ordinance		X		X
	JC: Effective judicial independence			1998 (1) 1999 (1)	
	JC: Reinforcement of legal certainty			2000 (1)	
JC: Comprehensive strategy for the judicial (independence, professionalism, court organisation and co-ordination between judicial entities)		X		X	
2003	PA: Addressing cumbersome procedures, limited transparency and capacity for policy execution of the civil service			2003 (1) 2004 (2) 2005 (1) 2006 (1)	
	PA: Further reform of the policy and legislative processes (progress having been made on restriction of ordinances)				
	PA: Legislation on freedom of information and transparency in the legislative process				
	PA: Increased capacity for scrutinising draft legislation				
	PA: Further effort on implementing anti-corruption policy			2003 (1) 2004 (2)	
	JC: Improved case management, consistency of judgements and independence of the judicial			2003 (1) 2004 (1) 2005 (1) 2006 (1)	
2004	PA: Decrease the use in practice of ordinances			2003 (2) 2004 (2) 2005 (1) 2006 (1)	
	PA: Full implementation of freedom of information and transparency in the legislative process provisions				
	PA: Continued effort to improve policy making and legislative processes, including local and regional governance (<i>acquis</i> -related)				
	JC: Improved case management and quality of judgements	2004 (1) 2005 (1) 2006 (1)			
	JC: Implementation of organisational and legislative changes in the judicial				
	JC: Implementation of the good quality anti-corruption legislation (with focus on high level corruption)			2003 (1) 2004 (1)	

Year	Country/Issue	Substantial Progress		Limited/No Progress	
		Phare Support (N ^o of projects)	No Phare Support (X)	Phare Support (N ^o of projects)	No Phare Support (X)
2005	PA: Further professionalisation of the civil service; adequate staffing/funding for <i>acquis</i> enforcement	2005 (1) 2006 (1)			
	PA & JC: Effective enforcement of legislation, preventive measures in relation to high level and law enforcement entity corruption			2005 (1) 2006 (1)	
	JC: Implementation of judicial reform in line with adopted strategy and action plan			2005 (1) 2006 (1)	

Annex 5. Interim Evaluations covering PAJC Database Projects

Country	Year	Number	Title	1 ST IE report Number	2 nd IE report Number	3 rd IE report Number
Bulgaria	1998	BG 9806.02	Transformation of Bulgarian Customs Administration (BCA)	BG PAD 02016		
	1999	BG 9909.01	Training for Public Administration	BG PAD 02019		
	2000	BG 0003.03	Support in the implementation of the reform in public procurement system	BG PAD 02016		
		BG 0005.01	Strengthening the Public Prosecutor's Office	BG JHA 02017	BG JHA 03122	
		BG 0006.01	Strengthening Public Internal Financial Control	BG PAD 02016		
		BG 0006.02	Strengthening the Independent Public External Audit Institution	BG PAD 02016		
		BG 0006.03	Reform and Modernisation of Tax Administration	BG PAD 02016	BG FIN 03075	
		BG 0006.07	Capacity Building for the Central Finance and Contracts Unit	BG FIN 03075		
	2001	BG 0103.01	Strategic policy-making and co-ordination	BG PAD 02019	BG PAD 03116	
		BG 0103.02	Implementing civil service reform	BG PAD 02019	BG PAD 03116	
		BG 0103.03	Recruitment and training strategy for the Judicial	BG JHA 02017		
		BG 0103.04	Streamlining Bankruptcy Proceedings	BG JHA 03122	BG JHA 02017	
		BG 0103.05	Strengthening the National Customs Agency	BG PAD 02019	BG FIN 03075	
		BG 0103.06	Strengthening the Refugees Agency	BG JHA 03122	BG JHA 02017	
		BG 0103.07	Combating Money Laundering	BG FIN 03075	BG PAD 02016	
		BG 0103.09	Improving the Management of EU Funds	BG PAD 02019	BG FIN 03075	
		BG 0104.03	Civil Society Development	BG SOC 02015		
	BG 0105.01	Phare Project Preparation Facility	BG/EC-DEV 03119			

Country	Year	Number	Title	1 ST IE report Number	2 nd IE report Number	3 rd IE report Number
		BG 0105.02	Twinning Light Facility	BG AGR 03117		
	2002	BG 0203.01	Implementation of the Strategy for Reform of the Judicial in Bulgaria	BG JHA 03122	BG JHA 0505	
		BG 0203.02	Implementation of the National Anti-Corruption Strategy: Development of an integrated system for countering corruption in the Ministry of the Interior	BG JHA 03122	BG JHA 0505	
		BG 0203.04	Improvement of administrative justice in view of the fight against corruption.	BG JHA 03122		
		BG 0203.06	Strengthening the institutional capacity of the PPO for combating organized and economic crime and corruption	BG JHA 03122	BG JHA 0505	
		BG 0203.07	Strengthening the Human Resources Management Capacity in the Bulgarian Public Administration	BG PAD 03116		
		BG 0203.09	Strengthening border control capacities	BG FIN 0405	BG FIN 03075	
		BG 0203.11	Further Strengthening of border Control and Management of future EU External Borders (Blue Borders)	BG JHA 03122	BG JHA 0505	
		BG 0205.01	Phare Project Preparation Facility	BG FIN 0405		
		2003	BG 2003/004-937.08.01	Reform of the Civil and Penal Procedures	BG JHA 0505	
	BG 2003/004-937.10.02		MRDPW's Central and Regional Structures for Managing ERDF-type Programmes and Projects	BG FIN 0405		
	BG 2003/004-937.10.03		Strengthen the Capacity of MoE to Manage Operational Programme 'Development of the Competitiveness of the Bulgarian Economy' under EU Structural Funds	BG FIN 0405		
	BG 2003/004-937.10.04		Setting up a Coherent System for the Structural Funds and the Cohesion Fund in Bulgaria for the Management of the Cohesion Support Framework (CSF) and the Single Paying Authority for the Structural Funds (SF) and the Cohesion Fund (CF)	BG FIN 0405		

Country	Year	Number	Title	1 ST IE report Number	2 nd IE report Number	3 rd IE report Number
		BG 2003/004-937.10.05	Unallocated Institution Building Envelope	BG JHA 0505		
	2004	BG 2004/006-070.03.01	Support of the Implementation of the Strategy for Reform of the Judicial through the Introduction of Information Technologies (Phase II)	BG JHA 0505		
		BG 2004/006-070.03.02	Mobile units for border control and surveillance on the Bulgarian-Turkish and Black Sea Borders and implementation of the EU best practices for integrated border control in the border area, second stage	BG JHA 0505		
		BG 2004/016-711.08.03	Streamlining the Penitentiary System in Bulgaria	BG JHA 0505		
		BG 2004/016-711.08.04	Modernising Bulgarian Police and enhancing its efficiency	BG JHA 0505		
		BG 2004/016-711.08.05	Mobile units for border control and surveillance on the Bulgarian Western Border and implementation of the EU best practices for integrated border control in the border area - third stage	BG JHA 0505		
		BG 2004/016-711.08.06	Further strengthening of Border Control and Management of the Future EU External Borders through Modernisation of Technical Equipment, Development of Centralised Information Systems and Introduction of EU Best Practices and Standards in the Field of Border Control	BG JHA 0505		
Romania	1999	RO 9905-01	Assistance to the Ministry of Justice (MoJ) in continuing the reform of the Romanian judicial	RO JHA 03034		
		RO 9907-01	Strengthening Border Management and Control	RO JHA 02115		
		RO 9907.03	Institution Building for the Ministry of Finance	RO PAD 02111		
	2000	RO 0006.13	Agricultural and Regional Statistics	RO PAD 03032		
		RO 0006.16	Strengthening Border Management	RO JHA 02115		

Country	Year	Number	Title	1 ST IE report Number	2 nd IE report Number	3 rd IE report Number
		RO 0006.17	Fight against Drugs	RO JHA 02115		
		RO 0006.18	Support Activities to Strengthen the European Integration Process	RO PAD 03032		
	2002	RO 0106.01	Strengthening the Institutional Capacity of the Ministry of Public Administration	RO PAD 03032		
		RO 0106.02	Develop an operational National Institute of Public Administration capable of educating competent civil servants	RO PAD 03032		
		RO 0106.03	Creating a Corps of Professional Public Managers within the Civil Service	RO PAD 03032		
		RO 0106.04	Design and Implement Mechanisms for the Full Application of the Civil Servants Statute	RO PAD 03032		
		RO 0106.06	Project Preparation Facility, Project Cycle Management and Facility for Short- and Medium-Term Twinning (Twinning Light)	RO PAD 03032		
		RO 0106.07	Strengthening the Romanian Institutional Capacity to Apply the Measures foreseen within the National Plan for Agriculture and Rural Development	RO AGR 03036	RO AGR 0409	
		RO 0107.16	Strengthening Border Management	RO JHA 03042	RO JHA 0520	RO JHA 02115
	2002	RO 2002/000-586.03.01	Strengthening the Romanian administrative capacity to manage, monitor, and assess EU financed programmes	RO PAD 03032		
		RO 2002/000-586.03.02	Decentralisation and Development of the Romanian Local Public Administration	RO PAD 0522		
		RO 2002/000-586.03.03	Further Institutional Strengthening of the Court of Accounts	RO FIN 0519		
		RO 2002/000-586.03.05	Strengthening and extension of the SAPARD Programme Implementation System set up for Romania	RO AGR 0525		
		RO 2002/000-586.04.14	Further Strengthening of Border Control and Improved Management of Migration	RO JHA 03042	RO JHA 0411	RO JHA 0520

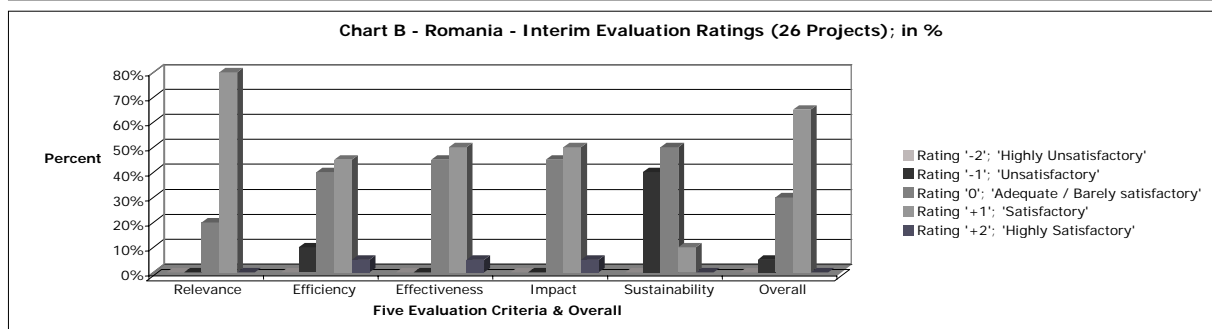
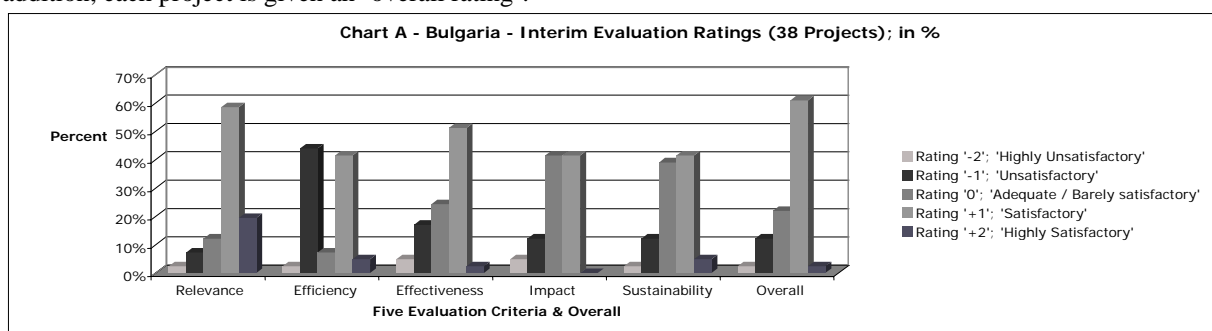
Country	Year	Number	Title	1 ST IE report Number	2 nd IE report Number	3 rd IE report Number
		RO 2002/000-586.04.15	Modernisation and reform of law enforcement agencies and strengthening of anti-corruption structures	RO JHA 03042	RO JHA 0520	
		RO 2002/000-586.04.16	Assistance in strengthening the independence and functioning of the Romanian Judicial System	RO JHA 03034	RO JHA 0411	
		RO 2002/000-586.04.17	Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy	RO JHA 03034	RO JHA 0411	
	2003	RO 2003/005-551.03.01	Support for the Public Administration Reform Process in Romania	RO PAD 0522		
		RO 2003/005-551.03.02	Strengthening the Administrative Capacity of the Romanian Parliament	RO PAD 0522		
		RO 2003/005-551.03.03	Capacity Development within the Romanian Administration to Manage and Monitor EU Pre-accession Funds in an Adequate and Efficient Way	RO PAD 0522		
		RO 2003/005-551.03.04	Development and Implementation of the Integrated Solution for the IT-system, part of the IT-Strategy for the Ministry of Public Finance (Phase 2003)	RO FIN 0519		

Annex 6. Interim Evaluation Ratings

Ratings on Main Evaluation Criteria, Bulgaria & Romania; in % of the number of projects

Country	Criteria	Relevance	Efficiency	Effective-ness	Impact	Sustain-ability	Overall
	Ratings						
Bulgaria	-2 (Highly Unsatisfactory)	2	2	5	5	2	2
	-1 (Unsatisfactory)	7	44	17	12	12	12
	0 (Adequate/barely satisfactory)	12	7	24	41	39	22
	+1 (Satisfactory)	59	41	51	41	41	61
	+2 (Highly Satisfactory)	20	5	2	0	5	2
Romania	-2 (Highly Unsatisfactory)	0	0	0	0	0	0
	-1 (Unsatisfactory)	0	10	0	0	40	5
	0 (Adequate/barely satisfactory)	20	40	45	45	50	30
	+1 (Satisfactory)	80	45	50	50	10	65
	+2 (Highly Satisfactory)	0	5	5	5	0	0
Both Countries	-2 (Highly Unsatisfactory)	1	1	3	3	1	1
	-1 (Unsatisfactory)	4	29	11	10	25	8
	0 (Adequate/barely satisfactory)	16	23	33	38	42	36
	+1 (Satisfactory)	67	42	51	44	29	53
	+2 (Highly Satisfactory)	11	4	3	5	3	1

Note: Interim Evaluations assess projects in respect of five main evaluation criteria, namely *relevance*, *efficiency*, *effectiveness*, *impact* and *sustainability*. For each of the criteria, ratings may either be: ‘-2’ (highly unsatisfactory), ‘-1’ (unsatisfactory), ‘0’ (adequate, later barely satisfactory), ‘+1’ (satisfactory), or ‘+2’ (highly satisfactory). In addition, each project is given an ‘overall rating’.



Annex 7. Persons Interviewed

INSTITUTION	INTERVIEWEE	DATE
Belgium		
EC Brussels, DC ELARG, Unit A2 – Bulgaria	Mr. Richard Ferrer, Phare Co-ordinator	17/10/05
EC Brussels, DG ELARG, Unit A3 – Romania	Mr. J.-W. Grüter, Phare Co-ordinator	17/10/05
Romanian Mission, Brussels	Ms. Carmen Ifrim, Counsellor	24/10/05
Bulgarian Mission, Brussels	No interview took place, since the Bulgarian authorities felt that the in-country interviews had covered all necessary issues.	
Bulgaria		
ECD	Mr. Ruud van Enk, Head, Phare and ISPA Section	31/10/05 (by telephone)
	Mr. Fernando Ponz Canto, Head, Political Section	28/10/05 (by telephone)
	Mr. Joeri Buhner Tavanier, Task Manager – Home Affairs	13/09/05
	Ms. Milena Damianova, Ms. Milena, Task Manager – Judicial	12/09/05
	Ms. Dora Krumova, Task Manager – Twinning/Institution Building	12/09/05
	Ms. Angeliki Votsoglou, Task Manager – Public Administration, Anti-Corruption and Civil Society	12/09/05
	European Integration Unit, Council of Ministers	Mr. Tsvyatko Velikov, Chief Expert
Institute of Public Administration and European Integration	Mr. Konstantin Palikarski, Director	15/09/05
Ministry of Finance	Ms. Karina Karaivanova, Head, Monitoring and Assessment Department, National Fund Directorate	15/09/05
	Ms. Jenya Dinkova, Head, Management of Phare Funds Department, Management of EU Funds Directorate	13/09/05
	Ms. Adelina Vezenkova, Chief Expert, Management of Phare Funds Department, Management of EU Funds Directorate	13/09/05
Ministry of Justice	Mr. Dragomir Cholakov, Head, International Programmes Department, International Legal Co-operation, European Integration and International Legal Assistance Directorate	14/09/05
	Ms. Neli Madanska, Inspector of Judicial Law	14/09/05
	Ms. Pavlina Nicolova, Head, Information and Analysis Department	14/09/05

INSTITUTION	INTERVIEWEE	DATE
	Mr. Nedko Zachariev, Expert, International Relations Department,	14/09/05
National Justice Institute	Mr. Dragomir Yordanov, Director	12/09/05
Plovdiv District Court	Mr. Stanislav Georgiev, Vice President & Trainer of Magistrates at Regional Level	16/09/05
Plovdiv Municipality	Mr. Krassimir Loykov, Head, EuroIntegration Department	16/09/05
State Agency for Refugees, Council of Ministers	Mr. Rumen Galev, Secretary General	13/09/05
	Ms. Vera Zaharieva, Phare Programme Co-ordinator	13/09/05
Romania		
Authority for Aliens	Mr. Ruben Laurijssens, PAA	19/09/05
Border Police	Mr. Andrei Voicu, Head, PIU	21/09/05
ECD	Ms. Anne de Ligne, Head of Section, Social Affairs, JHA, Finance	04/10/05 (by telephone)
	Ms. Aura Raducu, Co-ordination and Reporting Team Leader	22/09/05
	Ms. Camelia Suica, Team Leader, JHA and Finance	28/10/05 (by telephone)
	Ms. Liliana Barbulescu, Team Member, Co-ordination and Reporting Team	22/09/05
	Mr. Dragos Tudorache, Task Manager - Justice	22/09/05
	Mr. Radu Hurjui, Task Manager – Home Affairs and Customs Union	22/09/05
	Ms. Eugenia Stanciu, Task Manager – Public Administration	22/09/05
	Ms. Christina Taueber, Task Manager – Human Rights	22/09/05
General Inspectorate of the Romanian Police	Mr. Adrian Bumbac, Head, PIU	21/09/05
	Ms. Daniela Mircea, PIU	21/09/05
Ministry of Administration and Interior (MAI)	Mr. Liviu Radu, Secretary of State	20/09/05
	Col. Antonesu Olimpiodor, First Deputy and Chief of Staff, Romanian Gendarmerie	20/09/05
	Capt. Raul Vasilache, Head, PIU, Romanian Gendarmerie	20/09/05
	Mr. Chestor General Virgil Ardelean, Director General, Anti-Corruption Project	20/09/05
	Mr. Gabriel Negulescu, Project Leader	20/09/05
	Mr. Francois Despres, PAA, Romanian Gendarmerie	20/09/05
	Mr. Daniel Barbu, Chief Commissioner – Deputy Director, Human Resources Management Directorate	22/09/05

INSTITUTION	INTERVIEWEE	DATE
	Mr. Grigore Pavel, Deputy Director, National Refugee Office	21/09/05
	Mr. Florin Cioc, Project Leader, National Refugee Office	21/09/05
	Ms. Daniela Nicoleta Maxim, Head, Phare Unit	23/09/05
	Ms. Lelia Elena Vasilescu, Phare Project Officer, General Directorate for European Integration and International Relations	23/09/05
	Ms. Corina Artopouloscu, IT Directorate, Schengen Project	19/09/05
Ministry of Justice	Ms. Maria Christina Manda, Secretary of State	23/09/05
Ministry of Public Finance (NAC)	Ms. Iulia Gugiu, Counsellor	21/09/05
	Mr. Antoaneta Popescu, Counsellor	21/09/05
National Agency of Civil Servants (NACS)	Ms. Dora Vasilescu, General Director	23/09/05
	Ms. Ciresica Lavinia Butiu	23/09/05
National Anti-Drug Agency (ANA)	Prof. Pavel Abraham, President	19/09/05
	Ms. Carmen Pavon de Paula, RTA	19/09/05
	Ms. Marinela Melania Marcu, Specialist	19/09/05
National Institute for the Magistracy (NIM)	Mr. Mihai Selgeanu, Director	23/09/05
	Ms. Lavinia Lefterache, Deputy Director	23/09/05
National Institute of Administration (INA)	Mr. Mariana Amza	23/09/05
National Office for Preventing and Combating Money Laundering (NOPCML)	Mr. Nicolae Fuiorea, Under-Secretary of State, Senior Member of the Board	20/09/05

Annex 8. Documentation

TITLE	PROVENANCE	DATE
2002, 2003 & 2004 Regular Reports on Bulgaria's Progress towards Accession	European Commission, Brussels	Oct/Nov of the year concerned
2002, 2003 & 2004 Regular Reports on Romania's Progress towards Accession	European Commission, Brussels	Oct/Nov of the year concerned
Bulgaria 2005 Comprehensive Monitoring Report [SEC (2005) 1352]	European Commission, DG ELARG, Brussels	25 Oct 2005
Communication from the Commission – A financial package for the accession negotiations with Bulgaria and Romania	European Commission, Brussels	10 Feb 2004
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Phare 2004 PF – Romania – Penitentiary System	European Commission, Brussels	21 Dec 2004
Phare 2004 PF – Romania – Police Co-operation	European Commission, Brussels	21 Dec 2004
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