

# Report on Progress in Bulgaria under the Co-operation and Verification Mechanism

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Why does the Commission report on progress in Bulgaria in judiciary reform, the fight against corruption and organised crime?

Upon accession of Bulgaria on 1 January 2007, certain weaknesses remained in the areas of judicial reform, the fight against corruption and organised crime that could prevent an effective application of EU-laws, policies and programmes and for Bulgarians to fully enjoy their rights as EU citizens. Therefore, special provisions were included in the Treaty of accession in these areas.[1] In addition, the Commission set up a Cooperation and Verification Mechanism[2] to assist Bulgaria to remedy these shortcomings and verify progress measured against six benchmarks set for judiciary reform, the fight against corruption and the fight against organised crime. These benchmarks are interlinked. They need to be seen together as part of a broad, long term reform of the judicial system and the fight against corruption and organised crime.

How did the Commission report on progress in Bulgaria up to now?

The first report of the Commission was published on 27 June 2007. It included a comprehensive assessment of progress under each of the six benchmarks. The report concluded that the Bulgarian Government was committed to judicial reform and combating corruption and organised crime. However, there was still a clear weakness in translating these intentions into concrete results. While recognizing the efforts of Bulgaria, much remained to be done and progress was still considered insufficient in the fight against high-level corruption and organised crime.

A second interim report was published on 4 February 2008. It contained a factual update of progress and concluded that the efforts of Bulgaria in the areas of judicial reform and in fighting corruption at its borders continued successfully whereas efforts to fight corruption within local government should still be strengthened to show the same positive results. The report showed particular concern for the areas of fighting high-level corruption and organised crime where convincing results had not yet been demonstrated by Bulgaria. The report suggested Bulgaria step up its efforts in these areas.

The reports of the Commission are based on contributions by the Bulgarian authorities, the Commission's services, expert reports by Member States, and input from technical experts and civil society.

What does the current report say?

The report analyses areas of progress as well as the ongoing difficulties of the Bulgarian authorities to

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register real progress in judicial reform and the fight against corruption and organised crime. Despite its efforts to establish the necessary institutions and required procedures, there are few results to demonstrate that the system functions.

Bulgaria has enacted amendments to its Constitution and has adopted important basic laws such as a Civil Procedures Code and a Judicial Systems Act which confirms the independence of the judiciary. Bulgaria has established a Supreme Judicial Council which should act as a guarantor of the independence, efficiency and accountability of the judiciary and an independent judicial inspectorate which has already launched its first inspection missions. Since the Commission's last report, Bulgaria has started to reform the Ministry of the Interior and set up a State Agency for National Security (SANS) to fight corruption and organised crime and SANS is already working on its first cases. Bulgaria closed duty-free shops and duty free petrol stations on its borders which were allegedly focal points for local corruption and organised crime and introduced new administrative procedures which reduce corruption opportunities.

However, despite the effort that has gone into setting up institutions and processes, there are few results:

The Commission's report finds that the fight against high level corruption and organised crime is not producing sufficient results. While there has been movement on a few cases, most such crimes go unpunished in Bulgaria. The statistical information provided is not reliable and sometimes contradictory. Bulgaria has made little progress in freezing or confiscating financial assets resulting from criminal activities. Control of political party financing is not effective. OLAF, the EU anti-fraud agency, reports that procedural blockages, slow progress of cases through the judiciary, leaks of confidential information and alleged influence on the administration and judiciary are impeding the rapid and effective resolution of corruption and fraud cases.

Bulgaria's problems in the fight against corruption and organised crime result from deficiencies in the judicial system: The Bulgarian Penal Code is outdated and contributes to overloading the judiciary. The roles and responsibilities of police, special services, investigators and prosecution are not sufficiently well defined. Important cases are delayed on the basis of minor procedural shortcomings. The administrative capacity of both law enforcement and the judiciary is weak. The police do not have enough well trained staff or equipment to investigate complex cases. There has been limited progress on the computerisation of the judiciary. Few investigations and no sentences followed widespread allegations of corruption and vote buying at the November 2007 local elections. There is little control or monitoring of conflict of interest in public procurement. A strategic approach to fighting local corruption is missing.

What must Bulgaria do urgently to get back on track?

Even with its existing structures – and despite their deficiencies – Bulgaria should be able to show results. Bulgaria has taken steps in the right direction – the setting up of the State Agency for National Security, the appointment of a deputy Prime Minister to oversee the implementation of EU funds and

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acknowledgement of the need to reform the Ministry of Interior. However, Bulgaria has to translate words into deeds and deliver on its commitment to serious reform with renewed political will and determination.

More specifically,

- \* steps need to be taken to facilitate a more effective administration of justice. This includes revisions to the Penal Procedure Code and a thorough reform of the Penal Code. It is important that a more effective law on conflict of interest and asset control be established. The newly elected Supreme Judicial Council needs to assume responsibility for the reform process and take steps to ensure that the judiciary delivers expeditious and effective decisions.

- \* Law enforcement needs to be better organised to handle complex cases. Roles and responsibilities of each party in the pre-trial phase must be clarified so as to achieve improved cooperation between the police, investigators, specialised departments and the prosecution. The investigative role of SANS needs to be clarified and clearly separated from its intelligence role. Proper control mechanisms need to be put in place. The lack of respect for confidentiality and for the protection of witnesses needs to be rectified.

- \* The administrative capacity of both law enforcement and the judiciary needs to be strengthened. The police need better trained staff and the necessary equipment to investigate complex cases. The computerisation of the judiciary needs to be completed.

- \* Bulgaria needs to improve transparency and the notification and regulation of financial asset flows and transactions.

- \* Conflict of interest and unwanted influence need to be contained systematically.

What are the six benchmarks set for Bulgaria?

The following benchmarks have been set for Bulgaria in the Cooperation and Verification Mechanism:

1. Adopt constitutional amendments removing any ambiguity regarding the independence and accountability of the judicial system.
  2. Ensure a more transparent and efficient judicial process by adopting and implementing a new judicial system act and the new civil procedure code. Report on the impact of these new laws and of the penal and administrative procedure code, notably on the pre-trial phase.
  3. Continue the reform of the judiciary in order to enhance professionalism, accountability and efficiency. Evaluate the impact of this reform and publish the results annually.
  4. Conduct and report on professional, non-partisan investigations into allegations of high-level corruption. Report internal inspections of public institutions and on the publication of assets of high-level officials.
  5. Take further measures to prevent and fight corruption, in particular at the borders and within local government.
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6. Implement a strategy to fight organised crime, focussing on serious crime, money laundering as well as on the systematic confiscation of assets of criminals. Report on new and ongoing investigations, indictments and convictions in these areas.

Where can the report be obtained?

The report is ready for download at the following website:

[http://ec.europa.eu/dgs/secretariat\\_general/cvm/index\\_en.htm](http://ec.europa.eu/dgs/secretariat_general/cvm/index_en.htm)