

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

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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 prevent Bulgarians from enjoying their full rights as EU citizens, comments Rapid. Therefore, the Commission took the obligation within the Cooperation and Verification Mechanism to assist Bulgaria to remedy these shortcomings but also to regularly verify progress 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 reform of the judicial system and the fight against corruption and organised crime for which a long term political commitment is needed.

The Commission's reports under the Cooperation and verification Mechanism (CVM) are published twice a year. They are based on contributions from the Bulgarian Government, the Commission services, Member States and NGOs.

The last report published on 22 July 2009 gave a comprehensive assessment of progress under each of the six benchmarks. It stated that Bulgaria had established a momentum for reform and achieved first results in the form of a higher number of cases regarding fraud with EU funds which were followed up by the judiciary, an encouraging track record in inspecting courts and prosecutors' offices, some progress in the equal application of the law and in terms of identifying delays in high-level corruption and organised crime cases. Against the background of continuing street killings and a failure to apprehend known criminals, the report concluded that sufficient political commitment for broader initiatives was still missing.

As the time period since this report is considered too short to allow Bulgaria to remedy these shortcomings and for the Commission to revisit the assessment, the present report contains only a factual update of progress. It deliberately abstains from providing a detailed assessment of results achieved under each of the benchmarks but provides a summary of developments since mid-2009. The current report takes note that in the last six months Bulgaria has launched a number of important initiatives which show will for reform. Although the merit of these initiatives can only be assessed once they will have produced concrete results, they demonstrate a growing recognition that substantial and far-reaching reforms are required. At the same time, the report refers to the continuously poor results of the judicial system to investigate, prosecute and try cases of high-level corruption and organised crime. In the area of judicial reform, Bulgaria plans improvements to the Penal Procedure Code in order to achieve shorter and more effective investigations and court proceedings. In the last six months, Bulgaria continued inspecting courts and prosecution offices which lead to numerous recommendations and to an increasing number of disciplinary proceedings against magistrates. Since mid-2009, Bulgaria responded to some recommendations of the Commission notably by an initiative to improve the objectivity of the annual appraisal of magistrates, the results of which however cannot be yet assessed. Likewise, extending the monitoring of judicial practice to more high-level cases is commendable, however abusive

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delays in some important cases continued. Allegations of serious corruption in relation to appointments to senior positions in the judiciary have undermined the reputation of the judiciary in the second half of 2009 and need to be fully examined.

With regard to the fight against corruption and organised crime, Bulgaria plans to improve the effectiveness of the forfeiture of criminal assets by applying forfeiture to a wider group of persons related to a crime unless the legal origin of assets can be proven. Bulgaria also decided to strengthen the structures of the prosecution by setting up joint investigation teams for corruption and organised crime. In addition, Bulgaria launched a structural reform of the National Revenue Agency and of the National Customs Agency and commenced work on a comprehensive strategy to fight corruption and organised crime. Although a number of new investigations and indictments for high-level corruption and organised crime have recently been reported, delays in important cases continued and no conviction in a high-level case could be reported since mid 2009. A further street-killing linked to organised crime occurred in January 2010.

The Commission calls upon Bulgaria to further extend its reform efforts in order to reach concrete, measurable and significant results. Reforms recommended by the Commission in July 2009 should become a matter of national priority and must be launched in more areas to achieve a profound reform of the judiciary. Bulgaria should continue its efforts to reform penal procedures and strengthen asset forfeiture. In addition, Bulgaria should strengthen the capacity of the judiciary in order to demonstrate concrete results in high-level cases.

The Commission will continue to support Bulgaria in this endeavour and provide its next in-depth assessment of progress by summer this year.

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

- □ Adopt constitutional amendments removing any ambiguity regarding the independence and accountability of the judicial system.
- □ 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.
- □ 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.
- □ Conduct and report on professional, non-partisan investigations into allegations of high-level corruption. Report on internal inspections of public institutions and on the publication of assets of high-level officials.
- □ Take further measures to prevent and fight corruption, in particular at the borders and within local government.
- □ 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.