



How Is Bulgaria Implementing the CVM to Address the Judicial Reform and Countering Corruption and Organised Crime – a Civil Society View

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The results of the implementation of the CVM in Bulgaria have been mixed. The mechanism has helped the Bulgarian authorities to create a comprehensive set of institutions to improve transparency and accountability, and to tackle corruption and organized crime, such as the State Agency for National Security, the Commission for Prevention and Ascertainment of Conflicts of Interest, specialized prosecution and courts, etc. But there has not yet been a breakthrough in any of the three sets of the so called “benchmarks” set by the European Commission in the CVM – on judicial reform, on corruption, and on organized crime.

On a technical level the Bulgarian authorities have responded to the CVM through drafting detailed action plans following CVM recommendations, but political attention has peaked in 2009 – 2010 in the executive, and has been weak in the judiciary throughout the implementation so far. The political crisis in Bulgaria in 2013 – 2014 has reversed progress on the CVM clearly showing the need for continuous political commitment and leadership from within the country. The CVM has been structured in a way that puts the focus on technical criteria, thus creating the illusion that good governance and effective anti-corruption action could be achieved through a checklist. The fact of the matter is that the Bulgarian administration has tried formally to implement the majority of the CVM recommendations. It is also true, however, that in the absence of political commitment this compliance did not provide for tangible

results, especially with regard to prosecution of high-level corruption cases. As a consequence, the CVM has turned more and more into a politically driven tool, involving member-states' governments. Efforts have been made to link it politically to other processes such as Schengen entry, Euro-area membership, EU funds absorption, etc.

Data from the Center for the Study of Democracy's *Corruption Monitoring System*, which had been following administrative corruption in Bulgaria since 1998, showed a V-shaped trend demonstrating lack of sustainability of Bulgaria's CVM results. Administrative corruption was at its lowest levels at the eve of Bulgaria's accession to the EU. Corruption victimization rose immediately after the country's accession in 2007 – 2008. Then it decreased to an average of 9.5% of the adult population in 2009 – 2011 (similar to levels in Croatia upon its EU entry), only to rebound in 2012 – 2014, again, during a political crisis of legitimacy, to its highest levels on record. Eurobarometer data has confirmed that 34% of the Bulgarian citizens perceived a gradual decrease in corruption during the period 2009 – 2011. At the same time it showed that concerning corruption victimization for 2009, 2011, and 2013 Bulgaria had a serious problem with bribery compared to the EU average, but it was not among the top 3 member-states in any of the three years. This has provided grounds for Bulgaria to raise the question whether the CVM in its current form does not create undue unequal treatment among member-states in terms of corruption.

The European Commission did not introduce the three safeguard clauses in-built in the CVM with regard to economic, internal market, and justice and home affairs issues, which it could have used by 2010. But it tried to push Bulgaria into more rigorous implementation of agreed actions and delivery of results through linking informally the CVM to the freezing of EU funds in 2008. Member-states have, in a similar vein, been delaying the country's accession into the Schengen common security area despite the country's meeting of the formal entry criteria. While these measures seems to have proven effective in stimulating Bulgaria towards better performance, e.g. higher absorption of EU funds, more focus on Schengen regulations, they have fallen easy prey to populist anti-EU politics, and have not resulted in improving Bulgaria's anti-corruption performance. Still, according to Eurobarometer Bulgarians top the EU ranking in acknowledging that the European Commission plays an important role in reducing corruption in the country in 2013.

Bulgaria has just proposed its updated anti-corruption strategy, which shows renewed political attention to the issue and foresees the implementation of the latest 2014 – 2015 round of CVM recommendations: (a) creating a national coordinating body on anti-corruption in the executive; (b) addressing high-level corruption through a joint anti-corruption unit led by the prosecution, including the State Agency National Security, and police investigators; and (c) focusing on vulnerable sectors, such as public procurement. The strategy's quality has been assessed positively, with most of the experts focusing their concerns on the subsequent implementation. There are a number of improvements which can be introduced to the CVM to help Bulgaria boost its performance in implementing its anti-corruption strategy, and in achieving tangible results:

- The CVM should be integrated into the wider EC efforts to help the convergence to higher rule of law standards in the EU. For example, the anti-corruption component can be fully covered by the EU Anti-Corruption Report, which also feeds into the National Reform Strategy and economic governance mechanisms. This should ensure corrective venues for the Commission and a wider understanding of the problem among the Bulgarian administration;
- As part of the above-mentioned integration the CVM should offer tools for evaluating or measuring progress, as an integral part of the benchmarking instrument. This should best be entrusted to active anti-corruption civil society organisations which have proven to be an important actor in sustaining the anti-corruption efforts. Adopting and annually implementing an internationally recognized methodology for monitoring and evaluation of anti-corruption policies will strengthen the existing system of checks and balances in the justice and home affairs domain.
- Besides corrective or punitive measures the CVM should consider introducing more focused incentives and capacity building measures. This can be achieved through attaching a funding commitment to its implementation. This commitment can be realized through the available EU funding instruments, such as the national EU co-financed Operational Programmes, but also common European instruments, such as the EU's Framework Programmes for Research, DG Home and DG Justice financial instruments, etc.