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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

On Progress in Bulgaria under the Cooperation and Verification Mechanism

{SWD(2018) 550 final}

1. INTRODUCTION

In January 2017 the Commission undertook a comprehensive assessment of the progress made by Bulgaria over the ten years since the establishment of the Cooperation and Verification Mechanism (CVM) in 2007.¹ On the basis of the longer term perspective and significant progress made, the Commission outlined 17 key recommendations that, if followed up, would end the CVM process, in line with the objective set by President Juncker to conclude the CVM process under this Commission's mandate. The January 2017 recommendations are therefore considered as sufficient to close the CVM – except if developments were to clearly reverse the course of progress. It was also highlighted that the speed of the process would depend on how quickly Bulgaria will be able to fulfil the recommendations in an irreversible way. In particular, the recommendations focused on the responsibility and accountability required from the Bulgarian authorities and on building internal safeguards to ensure the irreversibility of results – to demonstrate that ongoing projects would be continued, even without the CVM. As underlined by the Council, the CVM will end when all six benchmarks applying to Bulgaria are satisfactorily met.

In the November 2017 report,² the Commission noted that "significant progress has been achieved on the recommendations set out in the January 2017 report, in particular recommendations 1, where it will now be up to the new composition of the Supreme Judicial Council (SJC) to demonstrate results, and 16 and 17, where the progressive trend should be maintained. Important progress has also been made on recommendation 4, although more remains to be done. While the Commission cannot yet conclude that any of the benchmarks are at this stage satisfactorily fulfilled, it remains of the opinion that, with a continued political steer and a determination to advance the reform, Bulgaria should be able to fulfil the remaining outstanding CVM recommendations in the near future". The Council welcomed the significant positive steps made, while noting that much still needed to be done.³

This report presents further progress made since November 2017 in following up the recommendations set out in the January 2017 report. As in previous years, it is the result of a careful process of analysis by the Commission, drawing on close cooperation with Bulgarian institutions, as well as the input of civil society and other stakeholders, including other Member States.

2. GENERAL SITUATION

The January 2017 report noted that despite the progress made on the CVM benchmarks, this had been held back by unfavourable conditions in terms of governmental instability, unpredictability in the legislative process, and a media environment that has not been conducive to reform.⁴ While these issues went beyond the specific scope of the CVM, such factors have nevertheless had an impact on the progress of reform.

The year since November 2017 has been a period of governmental stability in Bulgaria, which has helped the reform process. The most significant single step was the adoption of the reform of the general anti-corruption framework in January 2018. Work has also continued in other

¹ COM(2017) 43. Following the conclusions of the Council of Ministers, 17 October 2006 (13339/06), the Mechanism had been established by a Commission Decision of 13 December 2006 (C(2006) 6570).

² COM(2017) 750.

³ Council conclusions on the Cooperation and Verification Mechanism, 12 December 2017.

⁴ COM(2017) 43.

areas, including in the implementation of previously adopted reforms. In a few areas, reforms are still ongoing, or discussions continue on the right course of action. Still, legislative developments have continued to raise controversy in some instances. In some cases the legislative process has been able to react and adapt,⁵ whereas in others, controversy has continued to follow adoption of the legislation.⁶ Overall, however, the legislative system has delivered reforms more predictably and less controversially than in the past.

International observers have noted a significant deterioration in the Bulgarian media environment over recent years, with a Bulgarian media sector characterised by intransparent ownership and weak enforcement of journalistic standards. Such a situation affects the quality of public debate and therefore risks restricting the access of the public to information, with only a limited number of independent sources.⁷ The media environment has a specific significance for judicial independence, with targeted attacks on judges in some media connected to intransparent interests, and with difficulties in finding effective redress. The Supreme Judicial Council has a key role to play in defending the judiciary and the principle of judicial independence against such attacks.⁸

More widely, the ability of the media, as well as of civil society, to hold those exercising power to account in a pluralistic environment free from pressure is an important foundation stone to pursue the reforms covered by the CVM, as well as for better governance more generally.

3. ASSESSMENT OF PROGRESS ON THE FULFILMENT OF THE CVM BENCHMARKS ON THE BASIS OF THE RECOMMENDATIONS SET OUT IN THE JANUARY 2017 CVM REPORT

3.1 Benchmark One: Judicial Independence

Recommendation 1: *Ensure a transparent election for the future Supreme Judicial Council, with a public hearing in the National Assembly before the election of the members of the parliamentary quota, and giving civil society the possibility to make observations on the candidates.*

Recommendation 2: *Establish a track record of transparent and merit-based appointments to high-level judicial posts, including the upcoming appointment of a new President of the Supreme Administrative Court.*

⁵ Amendments to the criminal code to address private sector corruption were met with widespread opposition from business associations and judicial experts, leading the Legal Affairs Committee of the National Assembly to initiate an additional round of consultations on the draft.

⁶ For example, amendments to the Administrative Procedure Code adopted in the summer of 2018, against objections of civil society organisations focussing on concerns over access to justice, had to be adopted by overruling a Presidential veto and have now been referred to the Constitutional Court for review of their compliance with the Constitution.

⁷ The Reporters Without Borders' *World Press Freedom Index* ranks Bulgaria 111 out of 180 countries worldwide in 2018, the worst score of any current EU Member State, indicating a significant deterioration of the situation in recent years. In 2013 the country ranked 87. See <https://rsf.org/en/ranking>. See also the 2016 Media Pluralism Monitor: <http://cmpf.eu.eu/media-pluralism-monitor/mpm-2016-results/bulgaria/>.

⁸ It has reportedly been difficult in some recent cases to find the necessary consensus within the Council on an appropriate response. Members of the Council have argued that a balance needs to be found between the legitimate interest of the media to report on judicial affairs on the one hand, and the interests of judicial independence on the other. Acknowledging the need for a consistent line on such issues, however, the Council has drawn up a set of agreed standards to guide it in future instances.

Recommendation 3: *To improve the practical functioning of the Judicial Inspection and the follow-up by the Supreme Judicial Council to the inspectorate's findings, in particular on integrity issues, consider soliciting external assistance, for example from the Structural Reform Support Service and/or Council of Europe.*

The last report highlighted the election of the new Supreme Judicial Council as a key development in 2017. The election took place under a new improved constitutional and legislative framework, providing for direct elections to the judicial quota and election of the parliamentary quota with a two-thirds majority in the National Assembly. The new Council took office in October last year and has a key role to play in both the day-to-day management of the judiciary as well as in its continued reform.

Overall the new Council appears to have settled into its managerial role in a spirit of professionalism and good cooperation, avoiding the strongly polarised atmosphere that often characterised the previous Council. In the past, decisions on appointments to high-level posts in the judiciary have constituted an area of concern, due to lack of transparency and allegations of undue influence of political or economic interests, and the January 2017 report therefore noted the need for the new Supreme Judicial Council to establish a track record of transparent and merit-based decision-making.

Over the past year, a number of heads of judicial bodies have been appointed, which generally appear not to have given rise to major controversies.⁹ In March, a procedure for the appointment of a new chair at the Sofia City Court failed to produce a result due to a divided vote within the judges' chamber of the Council. The Sofia City Court was the subject of major scandals in 2014 and 2015 and has since then been through a general overhaul under a new management. However, since the chair resigned for personal reasons in summer 2017, the Court has been without permanent management. It will be important for the council to ensure that this appointment is conducted in an open and transparent procedure, so that a new chair will be able to command the confidence of both the general public and the judges working at the court.¹⁰ A procedure is also currently ongoing for the appointment of a new chair of the Specialised Court for Organised Crime.¹¹ More generally, competitions are reportedly in preparation for appointments in the courts, starting with the Supreme Court of Cassation and cascading downwards so as to ultimately reach all levels of the judiciary. Such competitions represent an important element of transparency and it will be important for the Supreme Judicial Council to ensure their effectiveness in filling vacant posts in a regular manner.¹²

Another area which has given rise to controversy in the past concerns disciplinary proceedings. In this area the Council shares responsibility with the independent judicial inspectorate, which in January 2017 obtained additional powers to check the integrity of magistrates, including through the verification of personal asset declarations, and a more central role in the initiation of disciplinary proceedings. Following the Commission's recommendation to draw on external expertise, a project was recently launched and should be

⁹ The appointment of the new chair of the Supreme Administrative Court was finalised in 2017 and was already covered in the November 2017 report.

¹⁰ A second procedure is ongoing, featuring two candidates for the post.

¹¹ The specialised court plays a key role in the Bulgarian judicial system, due to its responsibility for hearing cases related to organised crime and – since last November – high-level corruption.

¹² In the past, long-term secondments have been widely used as an alternative route to promotion of judges, raising concerns about possible risks to independence. Stakeholders have pointed to the risk that such practices could reemerge following legislative changes in 2017, which repealed provisions introduced in the context of the 2016 reform to regulate the length of secondments.

finalised in 2019, with the assistance of the Commission's Structural Reform Support Service and the Council of Europe.

On the basis of the analysis of Benchmark One, Bulgaria has implemented recommendation 1 and recommendations 2 and 3 are close to implementation. As some developments are ongoing, continued attention to concrete results under recommendations 2 and 3 is required to confirm this assessment but Benchmark One can be considered provisionally closed.

3.2 Benchmark Two: Legal Framework

Recommendation 4: Adopt amendments to the Criminal Procedure Code and the Criminal Code to improve the legal framework for the prosecution of high-level corruption and serious organised crime.

The January 2017 report identified as a key remaining challenge the need to address shortcomings in the Bulgarian criminal code and procedures, in particular with the objective of improving the capacity of the criminal justice system in Bulgaria to respond to high-level corruption and organised crime in an effective manner.

Bulgaria has taken a number of concrete legislative measures over the years to address such concerns and followed up in 2017 with additional amendments to the criminal procedure code. The key changes included a transfer of high-level corruption cases to the Specialised Court for Organised Crime and stricter rules on the ability of courts to refer cases back to the prosecution on formal grounds. Such referrals based on formal and procedural errors can now only take place in the context of a preliminary hearing at the very beginning of the trial proceedings.¹³

These amendments are now in force. The specialised prosecution has also received additional resources to deal with the extra workload and procedures are ongoing to provide additional resources to the specialised court.¹⁴ The impact of the amendments in terms of the expediency of court proceedings has been a larger number of referrals at the early stage of the proceedings. This is perhaps natural during a transitional phase, partly reflecting a cautious approach of judges in the context of the new rules. It should be counterbalanced over time by faster progress once the preliminary stage is completed.¹⁵

In addition to the legislative amendments already made to the criminal procedure code in 2017, discussions have also been ongoing over the past year on ways to address the very complex and formalistic procedural framework for criminal proceedings in Bulgaria. This follows up on a number of analyses carried out in recent years, by the Bulgarian authorities themselves as well as by external experts, both in the context of the continued judicial reform strategy and more specifically to improve the framework for the investigation and prosecution of corruption cases.¹⁶

These discussions have been carried out in working groups under the Ministry of Justice, with the participation of judicial representatives and academic experts. In the course of 2018

¹³ See COM(2017) 750, p. 4, and SWD(2017)700, p. 6-7.

¹⁴ Concerns have been raised by stakeholders about the delay in appointing additional judges to the specialised court, but the process has reportedly been initiated.

¹⁵ The Bulgarian authorities have indicated that they expect clear positive results in terms of the overall expediency of trial procedures to become evident over the coming months.

¹⁶ See also section 3.3 and 3.4 below.

conclusions were reached on a number of points, which it has been decided did not merit a legislative follow-up.¹⁷ Where it has been decided not to legislate, it will be important that possible non-legislative measures are considered in order to address the underlying challenges.

A few of the points raised by the analyses are still under consideration for possible legislative follow-up. One example, which goes to the heart of the challenges raised, relates to the question of how to define the threshold for initiating pre-trial proceedings and the related issue of use of “preliminary enquiries”, which are not regulated in the criminal procedure code and for which the gathered information cannot be used as evidence in court. There are efficiency arguments for and against the use of preliminary enquiries, which is also linked to sensitive issues around the mechanisms for judicial review of prosecutorial decisions.¹⁸ Another sensitive point on which deliberations have not yet reached a conclusion concerns the procedures in place to hold accountable the most senior positions in the magistracy, including a serving Prosecutor-General, in the event of serious allegations of wrongdoing or criminal acts.¹⁹

Finally, with regard to the criminal code, the government prepared targeted amendments seeking to facilitate the prosecution of corruption offences in the public sector and to extend the application of criminal law to corruption in the private sector. These amendments proved controversial and deliberations are still ongoing in the Bulgarian legislature.

Careful consideration and consultation of stakeholders are important when deciding on the way forward on these remaining questions, in particular given the potential consequences for the overall system of criminal investigation and the balance between key institutions. Moreover, while Benchmark Two focuses on possible legislative solutions, the underlying challenges are closely linked to questions raised in the context of the wider judicial reform strategy and corruption investigations, which are the subject of Benchmarks Three and Four below.

On the basis of the analysis of Benchmark Two, Bulgaria has made significant progress on recommendation 4 and took concrete action to improve the relevant legal framework. A number of issues, also relevant in the context of Benchmarks Three and Four, are still under consideration by the Bulgarian authorities. Benchmark Two can be considered provisionally closed, pending continued monitoring of the follow-up to legislative changes.

3.3 Benchmark Three: Continued Judicial Reform

Recommendation 5: Publish a report for public consultation detailing the progress made implementing the national judicial reform strategy and setting out the remaining steps to be

¹⁷ An example of where it has been decided to progress through means other than legislation is the content and format of indictments, where the Prosecutor General has asked the Supreme Court of Cassation for an interpretative ruling in order to clarify the legal basis. Another point which the Bulgarian authorities decided not to follow up was the recommendations on stronger involvement of management in decisions on concrete cases within the prosecutor’s office, which were considered by the Bulgarian authorities as possibly problematic in a Bulgarian context.

¹⁸ SWD(2018) 550, p. 9.

¹⁹ The lack of effective mechanisms for the investigation of a serving Prosecutor General was identified by the European Court of Human Rights as one of the key shortcomings of the Bulgarian criminal justice system in a landmark case from 2009, the follow-up to which is still under monitoring by the Council of Europe. See *Kolevi vs Bulgaria*, [https://hudoc.echr.coe.int/eng#{"itemid":\["001-95607"\]}](https://hudoc.echr.coe.int/eng#{).

taken. Establish a mechanism for continued public reporting of progress for the remaining duration of the strategy's implementation.

Recommendation 6: Address the workload situation in the busiest courts based on the new workload standards, and agree a roadmap for the reform of the judicial map in parallel with the development of e-justice.

Recommendation 7: Establish a roadmap for the implementation of the recommendations of the Structural Reform Support Service report concerning the reform of the Prosecutor's Office and its interactions with other institutions, including a mechanism for the reporting of progress to the wider public.

Recommendation 8: Establish a roadmap for the implementation of the recommendations of the study on ECtHR rulings, including a mechanism for the reporting of progress to the wider public.

The work on judicial reform continues under the various strands set out in the 2014 judicial reform strategy. In this context, the government has continued its consultations with stakeholders in the consultative Judicial Reform Council and has established a practice of publishing regular updates on progress and further priorities in the reform process. With the current reform strategy coming to a close in 2020, these mechanisms could be used as a springboard for a broader debate in society on the future of the Bulgarian judiciary and priorities for possible reform initiatives also pointing beyond 2020. This debate would also usefully involve the Supreme Judicial Council, which holds extensive independent powers with regard to the management of the judiciary in Bulgaria.

A key issue in this regard concerns the management of workload in the courts and the related issue of a possible future reform of the judicial map. The prosecution is now moving forward with a pilot project to consolidate a small number of local prosecution offices, as a first step towards a wider reform. On the side of the courts, the Supreme Judicial Council has taken a cautious approach, awaiting the outcome of an ongoing project, and a general reform of the court map now appears increasingly unlikely in the near term. Instead, initiatives have been taken to reallocate jurisdiction in civil law cases through legislative change in order to redistribute the workload of the busiest courts, typically located in Sofia, to other courts. This approach has the government's support, and has already resulted in concrete amendments recently adopted in the National Assembly.²⁰ Alongside these legislative initiatives, the Supreme Judicial Council has also recently launched several procedures for the transfer of judicial posts to the major courts in Sofia. These legislative and managerial efforts will be important in order to alleviate pressures on these courts in the short term. In the longer term, reforms of a more structural nature will be needed in order to ensure an effective and efficient judiciary.²¹

Another key strand of work under the judicial reform strategy aims at improving the framework for the judicial follow-up to cases concerning corruption and organised crime. In

²⁰ Amendments to the civil procedure code have been adopted to reallocate jurisdiction for certain types of consumer and insurance claim cases. Further changes are being considered, possibly drawing on technical assistance from the Commission's Structural Reform Support Service.

²¹ An important aspect of such reforms will be the development of e-justice solutions in the context of a broader reconsideration of the judicial map. This is an area where efforts have been relaunched under the Supreme Judicial Council. The previous Council initiated several projects with support from EU funds, which have however been subject to significant delays.

2016, a team of experienced prosecutors from several Member States, supported by the Commission's Structural Reform Support Service, produced a report on the Bulgarian prosecution service and set out a number of recommendations to the Bulgarian authorities. The recommendations contained in the report from December 2016 formed the basis of a roadmap issued by the Bulgarian authorities in 2017, and many have by now been followed up with concrete actions, such as the strengthening of the Specialised Prosecution for Organised Crime, now also responsible for high-level corruption. Some recommendations have not received the support of the authorities. In particular, recommendations for a stronger involvement of the managerial hierarchy within the prosecution service on concrete cases were considered problematic by the Bulgarian authorities, on the grounds that such formal recognition of a role for the hierarchy in regard to individual cases would appear to be moving back towards a system which was seen as problematic in the past.²² A number of recommendations did result in concrete action by the Bulgarian authorities, including consideration of possible legislative amendments, some of which are still ongoing²³, and various organisational measures, primarily within the prosecution service. This work will take time to have an impact and will require a persistent and continued focus on the part of the management within the prosecution to ensure their success over time.

The independent analysis of the prosecution in 2016 was a particularly comprehensive project, but it was accompanied by similar efforts led by the Bulgarian authorities themselves, in response to recommendations made in previous reports under the CVM. In particular, Bulgaria carried out a separate analysis of cases at the European Court of Human Rights that had identified shortcomings in the effective investigation of crime in Bulgaria, with the aim of identifying recurrent challenges that could be addressed through legislative or other measures. This work was followed up with a roadmap in 2017 setting out a number of strands of work, which has fed into the deliberations on legislative changes referred to above, in addition to various measures of a more managerial or organisational nature.²⁴

On the basis of the analysis of Benchmark Three, Bulgaria has made significant progress and recommendations 5, 6, 7, and 8 are close to implementation. Some developments are ongoing, and continued monitoring is required to confirm this assessment.

3.4 Benchmark Four: High-level Corruption

Recommendation 9: *Adopt a new legal framework on the fight against corruption in line with the intentions set out in the anti-corruption strategy, and ensure its implementation. Set up an effective anti-corruption authority.*

Recommendation 10: *Adopt and implement a reform of the law on public administration to strengthen the internal inspectorates in the public administration.*

Recommendation 11: *Building on the analysis of past cases, establish a roadmap between all relevant institutions to address shortcomings in the investigation and prosecution of high-level corruption cases, including a mechanism for the reporting of progress to the wider public.*

²² Recent reforms have rather been taking the direction of extending the formal safeguards for the independence of individual prosecutors.

²³ See section 3.2 above.

²⁴ Most recently, a framework for coordinated follow-up to such cases at the European Court of Human Rights has been set up between the Ministry of Justice and the Prosecutor's office.

Recommendation 12: *Establish a mechanism for public reporting on progress in high-level corruption cases which are in the public domain. General Prosecution to report – whilst respecting the presumption of innocence – on investigations and indictments. Supreme Court of Cassation and Ministry of Justice to report on convictions as well as the enforcement of sentences.*

In January 2018, Bulgaria adopted a comprehensive reform of its anti-corruption legislation. The new law puts in place a comprehensive reform of the legislative framework for the prevention of conflicts of interest, illicit enrichment and corruption. It establishes a new unified anti-corruption agency in charge of verifying conflicts of interest and private assets of high level officials, investigating allegations of malpractice among such officials, generally promoting the prevention of corruption, as well as conducting procedures for the seizing and confiscation of illicit assets. The new agency is based on a merger of a number of already existing institutions and is now fully operational. It also incorporates a directorate previously located in the State Agency for National Security and is competent to assist the prosecution in investigations of suspected high-level corruption. Although it does not have independent powers of criminal investigation, which rest with law enforcement authorities and the prosecution, it has extensive competence to carry out surveillance and intelligence measures within its remit. The new agency also takes over the staff, resources and powers of the former commission for illegal assets forfeiture and is now the main agency responsible for the seizure and confiscation of illicit assets in Bulgaria.

The new law ensured a high level of continuity in terms of staff and legislative framework. In March, the former head of the commission for illicit asset forfeiture was elected by the National Assembly to head the new agency, in a competitive procedure featuring two candidates.²⁵ The Deputy Director and the remaining three members of the management board were subsequently confirmed on a proposal of the newly elected Director, through a similar procedure. While the procedure was carried out in a transparent manner, the procedure set out in the law gave rise to controversy in the context of its adoption, as it provides for election of the management by simple majority in the National Assembly.²⁶ It will therefore be important for the new management to build a reputation for independence and impartiality in the management of the agency's activities.

A key challenge for the new agency will be to effectively manage the broad remit of its responsibilities, spanning from prevention to activities linked to investigation and asset forfeiture. It will be important to ensure that due attention is paid to all work strands within an overall strategic approach, while also maintaining a clear separation between tasks wherever appropriate.²⁷ A separate challenge in this context will be the need to communicate effectively

²⁵ The candidate was supported by a wide majority in the National Assembly.

²⁶ The law was first adopted in December 2017 but faced a veto by the President of the Republic, based on a number of concerns, some of which had also been raised by members of the opposition and civil society organisations. Eventually, the National Assembly overruled the veto and adopted the law in January 2018.

²⁷ The agency is expected to play a central role in both development and communication regarding broader anti-corruption strategy. At the same time, a number of highly sensitive tasks in relation to anti-corruption investigations and procedures for confiscation of assets require careful management to protect confidentiality while also ensuring an appropriate level of transparency and accountability towards the wider society.

with the public on the various roles of the agency in a transparent way in order to build public trust in its independence and to avoid confusion of roles.²⁸

To complement the new agency's focus on high-level officials, the government has updated and clarified the legal framework for the internal inspectorates of the State administration, and this is now being implemented, including new expanded powers regarding the verification of interest and asset declarations for public employees. Additional staff are expected to be allocated to the inspectorates in the coming months. The new rules also provide for a stronger coordination role of the chief inspectorate under the Prime Minister's office and for clearer rules for the work and qualifications of inspectors.

Finally, a key issue highlighted in successive CVM reports has been the lack of a coherent track record in Bulgaria of convictions in high-level corruption cases. In 2016 the prosecutor's office carried out a review of a sample of completed corruption cases to identify issues hampering a successful prosecution of such cases. This was followed up by a number of measures, some of which involving the consideration of possible legislative amendments, with the objective of improving the capacity of the criminal justice system in Bulgaria to respond to high-level corruption in an effective manner.²⁹

The efforts to improve the framework for the investigation and prosecution of corruption would need to continue in the future in order for Bulgaria to be able to show concrete results over time and build a solid track record. In this context, transparency around progress on cases is an important element of accountability towards the general public. The Bulgarian authorities are exploring concrete technical options in order to provide more transparent information to the public, building on progress already made and acknowledged in the November 2017 report.

On the basis of the analysis of Benchmark Four, Bulgaria has made significant progress on recommendations 9, 10, 11, and 12. The Bulgarian authorities will need to show concrete results and build a track record evidenced by final decisions in high level corruption cases. The new anti-corruption institutional framework requires continued monitoring in view of the need to consolidate the progress made.

3.5 Benchmark Five: Corruption in General including Local Level and Borders

Recommendation 13: Carry out an external review of the ex ante checks of public procurement procedures and their follow-up, including ex post checks, as well as on cases of conflicts of interest or corruption discovered and remedial measures taken to address identified shortcomings.

Recommendation 14: Put in place risk-based measures to address low-level corruption in high risk sectors within the public administration, taking inspiration from what has been done in the Ministry of Interior. Continue the efforts in the Ministry of Interior.

Recommendation 15: Establish a mechanism for public reporting on the implementation of the national anti-corruption strategy covering the remaining duration of the Strategy's implementation.

²⁸ This includes the need to communicate on the agency's role in regard to law enforcement operations in a way which underlines its independence.

²⁹ There is a substantial overlap in these measures to those referred to in sections 3.2 and 3.3 above.

As part of a broader reform of its public procurement system in recent years, Bulgaria introduced a new system of ex ante checks of public procurement procedures, in order to make the checks more effective and strengthen follow-up. As this is a key risk area, the January 2017 report recommended an external review of the functioning of the new system to verify its effectiveness and identify possible shortcomings. The review has now been launched by the Bulgarian authorities. It is being implemented in cooperation with the World Bank and should be finalised by early 2019. This should provide an important step in making corruption through public procurement procedures more difficult.

In 2017, the National Anti-corruption Policy Council launched a review of the sectorial anti-corruption plans for the main high-risk sectors throughout the State administration. Following this review, the Council adopted horizontal guidance for the further development of the plans. This work aims to spread good practices, based in part on the experience within the Ministry of Interior, which has developed a comprehensive programme of targeted anti-corruption measures since 2015.³⁰ The new guidelines provide a clearer framework for the preventive work in the various sectors of government, with clear lines of responsibility and standards for definition of measures, follow-up, and reporting. It is now being implemented across the State administration.³¹

The National Anti-corruption Policy Council continues its activities in regard to the setting of overall direction in these efforts, while creating a useful link with the government, civil society, and the judiciary. This is also the main forum for the overall monitoring and evaluation with regard to the implementation of the national anti-corruption strategy.³²

On the basis of the analysis of Benchmark Five, Bulgaria has made significant progress on recommendations 13, 14 and 15. Generally, these issues will need continued follow-up by the Bulgarian authorities over the longer term in order to be able to show concrete results.

3.6 Benchmark Six: Organised Crime

Recommendation 16: Establish a mechanism for public reporting on progress in high-level organised crime cases which are in the public domain. General Prosecution to report – whilst respecting the presumption of innocence – on investigations and indictments. Supreme Court of Cassation and Ministry of Justice to report on convictions as well as the enforcement of sentences.

Recommendation 17: Adopt the necessary amendments to the law on confiscation of criminal assets and ensure the Illegal Asset Forfeiture Commission continues to operate independently and efficiently.

Previous reports have acknowledged the progress already made in regard to organised crime in Bulgaria, but pointed to some remaining issues needing to be monitored. The first issue was to establish a system to provide transparency on the reporting of progress in organised crime.

³⁰ These efforts are continuing within the Ministry of Interior, including with a view to addressing corruption at the borders, also involving customs.

³¹ In March 2018, a first round of anti-corruption plans were adopted in line with the new guidelines.

³² The Council brings together all the relevant government agencies and is chaired by a national anti-corruption coordinator, currently the deputy Prime Minister for judicial reform.

Some progress on this was already acknowledged in the November 2017 report and further work is currently ongoing, also covering high-level corruption cases.³³

The other issue was for the legislation on asset forfeiture to be reviewed in order to ensure overall effectiveness of the system for seizure and confiscation of illicit assets. These amendments were made and have been carried over into the new legislative framework that was adopted at the beginning of 2018.

On the basis of the analysis of Benchmark Six, this report confirms the conclusion from November 2017 that Bulgaria has made significant progress on recommendation 16 and implemented recommendation 17. Benchmark Six can be considered provisionally closed.

4. CONCLUSION

Over the twelve months since November 2017, Bulgaria has continued its efforts to implement the recommendations set out in the January 2017 report.

In line with the assessment set out in this report, the Commission considers that several recommendations have already been implemented and a number of others are very close to implementation. On this basis, the Commission has concluded that Benchmarks One, Two and Six can be considered provisionally closed. Given that in some cases developments are ongoing, continued monitoring is required to confirm this assessment. The Commission is confident that Bulgaria will be able to fulfil all the remaining recommendations.

With a determined follow-up to the remaining recommendations, Bulgaria will take an important step towards solving many of the challenges that it faces. Bulgaria needs to continue to develop a track record of concrete results so as to consolidate the progress made. This positive trend will need to be maintained under the CVM and will need continued monitoring by the Bulgarian authorities after the closure of the CVM. Transparent reporting by the Bulgarian authorities and public and civic scrutiny will play an important role in internalising monitoring at national level and providing the necessary safeguards to maintain the path of progress and reform.

The Commission will continue to monitor and follow progress closely and will make a further assessment of the progress made before the end of this Commission's mandate. The Commission expects that with this the CVM process for Bulgaria will be concluded. In line with this objective, the Commission invites Bulgaria to pursue the current positive trend towards implementation of all remaining recommendations.

³³ See also section 3.4 above.