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Combating corruption from commitments to action

Out of all the EU Member States, Bulgaria has the worst standing in the Transparency International Corruption Perceptions Index, ranking 75th out of all the countries in the world. Although the fight against corruption has been set as a priority by various Bulgarian governments, anti-corruption policies and approaches have changed inconsistently over time, and it could even be argued that the fight against corruption has been overly politicized, at least in recent times.

Before 2009, most anti-corruption strategies sought to improve the integrity and accountability of the public administration as a whole, whereas the more recent ones focus rather on applying sanctions against corruption by high level politicians. However, neither of these two approaches is strong and effective enough when applied in isolation.

In the case of Bulgaria, the necessary legislative framework to counteract corruption has been adopted and the relevant international instruments have been signed. However, problems persist due to weak implementation of this legislation and the lack of coordination among the institutions involved in the process. Comparing levels of prosecution in practice, in 2015, the Romanian Anti-Corruption Prosecutor's Office produced 1250 criminal charges against public officials, including against a Prime-Minister, five ministers, 16 MPs, five senators, and 97 mayors and deputy mayors. In contrast, in Bulgaria, there were only 8 indictments against corruption offences over the course of one year. In addition, Bulgarians have the lowest levels of trust in their courts and judges compared to all other EU countries, with 63% rating their independence either as "fairly bad" or "very bad".

The Cooperation and Verification Mechanism applied by the European Commission for the monitoring of the progress in Bulgaria and Romania since 2007 in the fields of judicial reform, corruption, and (in Bulgaria) organized crime has proved to be an important tool. The continued pressure for stronger and more efficient measures has led Bulgaria to debate the adoption of a specific anti-corruption law, which was voted on by the Parliament at the end of 2017 but then vetoed by the President in early January 2018. This veto was then overturned on the 12th January by the majority of MPs, meaning that the law should soon enter into force.

However, the draft law fails to comply with international standards in the fight against corruption and even raises further concerns in that area. Furthermore, it would appear that the fight against corruption is now

being used as an excuse to limit criticism of the government and tame the opposition.

In particular, the majorities in the Bulgarian Parliament voted against stronger protection for whistleblowers in what was clearly a step backwards, because they felt that whistleblowers should take legal responsibility for their reporting of corruption offenses.

In addition, the newly established Anti-Corruption Commission will be given the power to conduct secret surveillance of public officials and to target those suspected of “corruptive behavior”, which is a term that is not properly defined in the law. Furthermore, the new law focuses mostly on the confiscation of property, which is seen as a priority, while on the other hand, the Anti-Corruption Commission will not be responsible for overseeing conflict of interest situations in the civil service, having had its competences restricted to cover only high-ranking officials.

This focus on confiscation is particularly problematic given the fact that in December 2017, the owner of one of the few free, critical, and respected media was subjected to the current law on confiscation of property and his assets were frozen, thus putting at risk the existence of the entire media outlet. Bulgaria is already the EU country with the lowest ranking in the Reporters without Borders World Press Freedom Index, lagging far behind in 109th position.

Around the same time, a newspaper controlled by an influential Bulgarian oligarch printed and circulated a book maliciously defaming a number of journalists, NGO activists, and politicians who were critical of the government, including a European Commission officer working in Sofia. The book presented those people’s call for real and ambitious reform in the field of corruption as “corrupt” and inspired “from the outside”. This publication was preceded by a number of defamatory articles plus several similar books, some of which were even circulated in English in the European Parliament.

These examples raise questions about whether the existing laws in Bulgaria - and therefore also the future anti-corruption law - are enforced in a way that combats corruption or whether, on the contrary, they are inefficient and serve rather as a box-ticking exercise to keep up appearances.

For its part, despite the fact that the Cooperation and Verification Mechanism is based on a well-developed methodology and has proved to work well, especially in the case of Romania the EU does not seem to plan on expanding it as a monitoring tool for other country members in the field of corruption. In fact, the European Commission has actually taken a step back in the fight against corruption in the Member States by refusing to publish a new edition of what was supposed to be an annual anti-corruption report.

The relationship between the EU institutions and the fight against corruption in Bulgaria is further complicated by the fact that some media outlets found to be in violation of journalistic ethics standards are actually also beneficiaries of EU funds, which they receive in order to promote EU programmes.

In addition, self-assessment mechanisms have not been applied to the EU institutions themselves. The discussions regarding the Union’s accession to the Council of Europe’s Group of States Against Corruption (GRECO), which would allow for regular scrutiny of its institutions, have not yet led to any meaningful results. As epitomised by ‘Brexit’, this state of affairs highlights that there is an urgent need to regain and strengthen citizens’ confidence in the EU institutions. Consequently, increased efforts should be made to promote both unity across the EU and ambition within the EU institutions themselves in the fight against corruption.

While the task in the case of Bulgaria is to create a model of prevention and combating of corruption that is capable of eliminating the influence of oligarchs and organized crime on the Bulgarian institutions, the aim in the case of the EU institutions is to ensure conformity with common anti-corruption rules within the EU Member States and, more importantly, to ensure an effective application of anti-corruption rules and standards within the EU institutions themselves.

The Bulgarian Presidency of the Council of the European Union is therefore a perfect opportunity to take a critical look at the functioning of the anti-corruption systems to date in both Bulgaria and the EU and to call for increased ambition in the fight against corruption at both levels. The EU has so far played an important role in pushing for reform in Bulgaria and now Bulgaria should take advantage of its position in the Council Presidency to do the same within the EU institutions themselves.

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