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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT FINAL OPINION

ON THE SIXTH REVISED DRAFT ACT ON FORFEITURE OF ASSETS ACQUIRED THROUGH CRIMINAL ACTIVITY OR ADMINISTRATIVE VIOLATIONS

OF BULGARIA

on the basis of comments by

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I. Introduction

1. In late 2009, the Bulgarian authorities prepared a new draft Law on Forfeiture in favour of the State of Illegally Acquired Assets (CDL(2010)002). The intended purpose of the Draft Law was to introduce a non-conviction based civil forfeiture, and therefore to enable the State to recover not only assets derived from criminal activities, but also all assets "illegally acquired" by a person, without requiring a criminal conviction. This was presented as a measure to facilitate the fight against the tendency of organised criminal groups to use their resources to distance themselves from criminal activities and hide the illicit origin of their assets. This was a key issue in Bulgaria. Further to a request by the Permanent Representative of Bulgaria, the Venice Commission adopted an interim opinion on this draft Law in March 2010 (CDL-AD(2010)027). In its interim opinion, the Commission found that the draft Law presented a certain number of shortcomings and its implementation might result in the infringement of fundamental rights guaranteed by the Bulgarian Constitution and the European Convention on Human Rights (hereinafter: "the ECHR").

2. After the adoption of this interim Opinion, the Commission engaged in an intense and fruitful cooperation with the Bulgarian authorities, which resulted in a set of amendments to the Draft Law, prepared along the lines of the Commission's recommendations (CDL(2010)040). This revised Draft Law was assessed by the Commission in its second interim Opinion adopted in June 2010 (CDL-AD(2010)019), whereby the Commission recommended that further changes be made to this Draft Law.

3. In September 2010, a delegation of the Commission visited Sofia to examine the revised Draft Law together with the Bulgarian authorities. The third revised Draft Law (CDL(2010)082), prepared in the light of the second interim Opinion and the September meeting, was assessed by the Commission in its final Opinion, adopted in October 2010 (CDL-AD(2010)030).

4. In late November 2010, the fourth revised Draft Law on Forfeiture in favour of the State of Assets Acquired through Criminal or another Illegal Activity was sent to the Commission for another legal assessment (CDL(2010)127). However, in early spring 2011, the Bulgarian authorities decided to withdraw this version of the Draft Law as it required further improvements. The new, fifth version of this Draft Law was prepared, and it was agreed with the Bulgarian authorities to hold another discussion meeting between the authorities and the Venice Commission. The meeting took place in Sofia, from 12 to 13 May 2011. On 16 May 2011, the sixth revised Draft Law on Forfeiture of Access acquired through Criminal Activity or Administrative Violations was submitted to the Venice Commission for assessment (CDL-REF(2011)032). This text had been prepared with the intention to meeting the concerns expressed by the Commission in its previous opinions and during the Sofia meeting in May 2011.

5. The present final opinion is based on comments by Mrs Finola Flanagan and Messrs Neppi-Modona and Hirschfeldt, and the discussions during the Sofia meeting of 12-13 May. It was adopted by the Venice Commission at its Plenary Session (Venice, 2011).

II. General comments

6. The Bulgarian draft legislation on forfeiture has initially taken the Irish Proceeds of Crime Act as a model. Nonetheless the draft legislation under consideration differs in very significant ways from the Irish law. It is designed to respond to specific concerns in the Bulgarian legal system and society, and is a much more complex and, in certain ways, a more severe piece of legislation with all the difficulties that that brings about.

7. The new version of the Draft Law on Forfeiture of Assets Acquired through Criminal Activity or Administrative Violations (hereinafter: "the Draft Law") submitted on 16 May 2011 took into consideration most recommendations of the Commission's delegation made at the previous

Sofia meeting. Therefore, the Commission welcomes the revised Draft Law, which is to a large extent in accordance with the Bulgarian Constitution and the international human rights standards in this matter. Indeed, the European Court of Human Rights approves forfeiture in principle, including non-conviction based forfeiture where the general interest is strong enough and where the rights guaranteed under the ECHR are respected[1].

8. The Commission wishes to underline once again the complex nature of this important piece of legislation. It also appears to be a rather controversial draft law[2]. In this regard, it is important that the adoption of the Draft Law be coupled with progress made in its implementation; the way in which the Draft Law is interpreted and implemented is of great significance in terms of its compliance with international human rights standards.

9. Furthermore, a far-reaching law on civil forfeiture must also be coupled with high quality legislation on criminal and administrative law, civil, criminal and administrative procedure codes as well as with a well-designed and effective system of courts and administrative boards. It is equally important, for this kind of legislation to successfully function in practice, to create and maintain a good "legal culture" within which such a sensitive law is to be put in place.

10. The Commission acknowledges once again the fruitful cooperation with the Bulgarian authorities in charge of the preparation of this Draft Law and expresses its full support to their strong willingness to fight corruption and organised crime in the country. It is hoped that the Draft Law will be adopted soon by the Bulgarian Parliament.

III. Specific comments

A. Title and purpose of the Draft Law

11. The Venice Commission welcomes the change in the title of the Draft Law, as well as the fact that the language used throughout the Draft Law was sharpened and made consistent, which should contribute to a more uniform interpretation of the Draft Law in practice. It has to be noted however, that when referring to "criminal activity or administrative violations" the drafters sometimes use the word "or" and sometimes the word "and". In this regard, the Venice Commission recommends to consistently refer throughout the text of the Draft Law and starting from its title of the Draft Law, to "criminal activity or administrative violations"

12. Paragraph 2 of Article 1 only mentions proceeds of criminal activity. In the Venice Commission's opinion, this provision should also apply to proceeds of administrative violations.

13. With regard to the purpose of the Draft Law, the Commission recommends insertion of the requirement to prevent "risk of injustice" in Article 2§3. This change would contribute to a better balance of possible restrictions (see also below, paragraph 59).

B. Agency in charge of carrying out investigations and instituting civil forfeiture procedure

1. Membership and election procedure

14. According to Article 3 of the Draft Law, the members of the Commission for Establishment of Assets Acquired through Criminal Activity and Administrative Violations (hereinafter: "the CEACAV") may not "*exercise liberal professions or other forms of paid professional activity*" (§2.4). During the Sofia meeting in May 2011, the Bulgarian authorities

[1] See e.g., ECtHR, Agosi v. UK, Judgment of 24 October 1986; ECtHR, *Raimondo v. Italy*, Judgment of 22 February 1994; ECtHR, *Arcuri v. Italy*, Decision of 5 July 2001; ECtHR, *Butler v. UK*, Decision of 27 June 2002.

[2] In the period from August 2010 and April 2011, the Venice Commission received several communications regarding the third and the fourth revised versions of the Draft Law, from various actors from Bulgaria.

explained that this wording is a formulation regularly used in other legal instruments, and is to be interpreted as actually prohibiting the exercise of *any* other professional activity while being member of the CEACAV.

15. Article 16§2 states that the period of service of the members of the CEACAV and the directors and inspectors with the territorial directorates appointed on positions "*requiring a university degree in economics shall count as relevant experience*". It is recommended that the words "for public employment" be added at the end of this paragraph . This would clarify the meaning of this provision.

16. As to the election procedure of the CEACAV members, the Commission notes with regret that the legal provisions on the procedure for the elections of the members of the CEACAV were again modified in this Draft Law. The new Article 4§2 no longer requires that the Deputy Chairperson and two other members of the CEPACIA be elected by a qualified (two-third) majority of the National Assembly.

17. The Bulgarian authorities explained this modification by the fact that Article 81§2 of the Bulgarian Constitution provides that decisions of the National Assembly need only "a majority of more the one-half of the Members of Parliament present, save for the case where a qualified majority is required by the Constitution". Therefore, there is a possibility that the Constitutional Court might declare the two third majority unconstitutional.

18. In this regard, the Commission wishes to note that a national Constitutional Court generally intervenes when there is a lack of guarantee, not when the ordinary law sets forth a stricter guarantee such as this one, which would strengthen the independence and representative character of the CEACAV.

19. Recalling the reasons expressed in its Final Opinion (CDL-AD(2010)030), the Venice Commission recommends reintroduction of the qualified majority requirement in Art. 4§2. Such provision might also have the positive effect of easing the procedure for the amendment of Art. 81 (2) of the Bulgarian Constitution. It is indeed extremely important that the CEACAV in carrying out all of its activities be and be seen to be impartial. The whole purpose of the Draft law is to address crime and corruption and any widespread belief that the CEACAV itself is not impartial would undermine it completely. In circumstances where there is a history of corruption within the public administration, it is especially important that the implementation of this Draft Law be above suspicion. In this regard, the Commission welcomes the positive commitment taken by the Bulgarian authorities on this matter in the Explanatory report of the Draft Law.

2. Monitoring

20. The implementation of the Draft Law should be closely and regularly monitored to ensure that it actually achieves its purpose in an appropriate fashion, consistent with constitutional and human rights standards.

21. In the Venice Commission's opinion, the CEACAV's activities should be monitored by the National Assembly, in the sense of a general and overall oversight of the functioning of the CEACAV. Monitoring should not focus on its handling of particular forfeiture cases. It may therefore be appropriate to replace the term "control" in Article 11§1 of the Draft Law with the term "oversight".

22. The same goes true for the authorities referred to in Article 10 of the Draft Law i.e. the directors and inspectors of territorial directorates (who are in charge of identifying relevant assets). Consideration might be given to providing specifically that the supervision of the CEACAV's authorities is also subject to the same standing committee of the National Assembly that supervises the CEACAV itself.

C. Scope of application of the Draft Law

23. The main difference between various versions of this draft Law relates to its scope of application i.e. the assets whose sources may be examined by the competent body and the grounds for initiating the examination phase before the CEACAV. Together with procedural guarantees during the proceedings, this issue remains critical for the assessment of the compatibility of the Draft Law with the human rights standards.

24. The Draft Law now has a substantially broader scope of application than earlier drafts: the CEACAV is empowered to start examination of the origin of assets for which there is a "reasonable assumption" that they have been acquired as proceeds of criminal activity or administrative violations (Article 18).

25. Articles 19 to 22 provide for specific grounds allowing for commencing the proceedings. Thus the origin of the following assets may be the subject matter of proceedings: :

1. *Assets connected to a specific, identifiable crime of a person*:

- who has been constituted as an accused for an offence under the Criminal Code that is of the nature to generate proceeds…[specified crimes]"(Art. 19§1);
- against whom criminal proceeding have not been instituted (emphasis added) where there is a technical reason for not having instituted proceedings such as that an amnesty has been introduced or a possible accused has died or a time limit for prosecution has expired (Art. 19§2);
- against whom criminal proceedings have been suspended for specified reasons (Article 19§3).

26. With regard to the expression "*the person is constituted as accused*", the Venice Commission notes that under the Bulgarian Penal Procedure Code, the standards for constituting a person as an accused are higher than those for initiating criminal proceedings[3].

27. In Article 19.1, listing of the criminal offences in separate points will allow a better understanding what offences allow for the institution of proceedings by the Commission. In this regard, the Venice Commission notes that a number of criminal offences have been removed from revised Article 19, with no explanation provided.

2. *Assets owned or controlled by third persons:*

- for which a reasonable assumption can be made that they have been acquired through criminal activity of another person who has been constituted as an accused under Article 19§1 (Article 20).

28. The above provision affects both physical as well as legal persons. This provision is not a new one; the Venice Commission welcomes the clarification made in the Draft Law under examination, which covers situation which frequently arises in which the person who has acquired property from criminal activity is not in possession or control of it after a certain point (so-called man of straw system).

[3] Article 219§1 of the Penal Procedure Code states that "*Where sufficient evidence is collected for the guilt of a certain individual of a criminal offence indictable by the State, and none of the grounds for terminating the criminal proceedings are present, the investigative body shall report to the prosecutor and issue a decree to constitute the person as accused party*.[…]". On the other hand, according to Article 207§1 of the Penal Procedure Code, "*Pre-trial proceedings shall be instituted where there is a statutory ground and sufficient information about the perpetration of a crime*".

29. The CEACAV will also institute examination proceedings where a decision of a foreign court concerning any of the criminal offences under Article 19§1 has been recognized pursuant to the Penal Procedure Code (Article 21).

30. In all of the above cases, the CEACAV will start examination of assets upon notification by the relevant judicial authorities (Article 23).

3. Assets acquired through administrative violations when:

- they are of the nature to generate proceeds, and
- the value of the proceeds obtained exceeds BGN 150,000 (Article 22).

31. The new Article 22 extends the grounds for initiating the examination by the CEACAV by allowing the proceedings to be triggered not only by specific, identifiable offences under specific administrative laws[4], but by *any* administrative violation that fulfils the two above-mentioned conditions. Considering this very broad scope of application, the Commission commends the inclusion of a specific requirement for a "*final administrative act establishing administrative violation*" as a basis for initiating the proceedings before the CEACAV (Article 23§6). On the other hand, the Commission recommends to better specify the nature of administrative violations by adding the term "illegal" before "proceeds", as it is done in Article 19§1.

32. The Commission notes however, that a threshold of BGN 150,000 for the value of the proceeds of an administrative violation, which corresponds to some 75,000€ requires to be reached before proceedings can be instituted. This is very high particularly when there is no threshold provided for in relation to any of the other categories of offence pursuant to which proceedings may be instituted. For example, under the Irish Proceeds of Crime Act, the threshold is set at 13,000€.

33. The Commission also notes that the Explanatory Report of the Draft Law mentions that the Act on Administrative Violations and sanction has it own rules on the forfeiture "*of proceeds of violation*". This provision has not been mentioned during the Sofia May meeting. How will the Draft Law and these provisions interact?

34. During the examination stage, the CEACAV's authorities will work in close cooperation with other public authorities – the Police authorities, the State Agency for National Security, the National Customs Agency, the National Revenue Agency and the Prosecutors Office. These authorities jointly carry out an examination of the sources of assets (Articles 28 to 40). The directors and inspectors of territorial directorates are authorities of CEACAV who are required to exchange information in relation to specified types of asset with the aforementioned public authorities. The mechanism put in place by the Draft Law under consideration appears to make the action by the CEACAV dependant on information provided by these public authorities.(Article 37) and this is in order. The Commission notes that Article 37 refers to Article 24 instead of Article 23. This should be corrected in the final version of the Draft Law.

35. Concerning the interaction between the CEACAV and other state bodies, the Commission reiterates the observations expressed in its final opinion on the 3rd revised version of the Draft Law: "*Investigating and forfeiting criminal assets can be and is often a long, difficult, and complex process. Timely, open and systematic co-operation and co-ordination between law enforcement agencies (police, customs and other national forces), judiciary (both prosecutors and judges) as well as tax authorities and government officials dealing with corruption and organised crime is indeed key to making the seizure and forfeiture of criminal and illegal assets effective in practice. […] the fact that insufficient results were achieved, concerning organised crime and corruption, indicates the necessity to*

[4] See CDL-AD(2010)030, paragraph 9.

improve the judicial practice in high-level fraud and corruption cases in line with best practices in other Member States"[5].

36. The Commission thus calls upon the relevant Bulgarian authorities to systematically cooperate with each other to the benefit of an effective implementation of this Draft Law.

D. Powers of the CEACAV's authorities

37. According to the revised Chapter 4, the investigation powers of the CEACAV's authorities are more limited than in earlier drafts of the law; the possibility of requesting search or seizure under the procedure of the Penal Procedure Code was thus removed from the Draft Law under assessment[6]. This may be explained by the fact that the whole examination stage before the CEACAV is now made *ex parte*. The person concerned will only be informed about the procedure once the imposition of injunction by the Court is made (Articles 65 and 68, see bellow, para. 41).

E. Standard of proof and rebuttable presumption during seizure and forfeiture proceedings before the court

38. Chapter VI provides for the terms and procedure for the imposition of an injunction and forfeiture of assets where there is a reasonable assumption that they have been acquired from criminal activity or administrative violations.

1. Injunctions

39. The CEACAV may present an application to the Court seeking an injunction by way of attachment or garnishment or appropriate measures on assets on the basis of a "report" prepared by the Director of the territorial directorate (Article 41). An injunction can be sought where there is "*a reasonable assumption*" that:

- Proceeds have been acquired directly or indirectly through criminal activity or administrative violation (art. 41§1); or
- The assets of a natural person have been acquired as proceeds of criminal activity as the value thereof as at the time of acquisition substantially exceeds the net income of the natural person under examination and of their family members over the period subject to examination and no other legal source thereof has been established (art. 41§2);
- The assets of the legal person have been acquired as proceeds of criminal activity as the value thereof reported in the annual balance sheet under Articles 22a and 22b of the Accountancy Act substantially exceeds the liabilities under the balance sheet reduced by the funding raised and the balance sheet value of the loan management expenses and no other legal source thereof has been established (art. 41§(1)3).

40. With regard to article 41(1)§1, the word "activity" should be added in the first sentence.

41. As to Article 41(1)§2, the Bulgarian authorities explained that a substantial lack of correspondence between assets and income of the person and his or her family will only be taken as an evidence for *criminal offences under Article 19§1*, with respect to the person who is constituted as an accused under this article. This should be clarified by adding a reference to Articles 19 to 22 in Article 41(1)§1, and to Articles 19 and 20 in Article 41(1)§§2-3.

[5] See CDL-AD(2010)030, paragraph 26. .
[6] See CDL-AD(2010)30, paragraph 24.

42. Point 3 of Article 41§1 is a new provision. It is not possible, in the absence of the mentioned legislation, to make more specific comments on this provision.

43. With respect to terminology, in the Venice Commission's opinion, it would be sufficient for to use in Article 41§1 2 and 3 the expression "substantial lack of correspondence in the assets of a legal person" and of "a natural person", as the definition of this expression is given in Supplementary Provisions (§9, point 9 (1) and (2)).

44. As mentioned above, examination proceedings before the CEACAV and applications to court for an injunction are made *ex parte*. After a precautionary measure has been imposed, the CEACAV's authorities will "invite" the person concerned to present a written declaration in view of counteracting the evidence presented by the CEACAV in its claim for injunction order (Article 65§1). The respondent is not obliged to present such a declaration and will not bear any responsibility in case he or she decides not to present it. Furthermore, Article 67 expressly provides that not presenting a declaration on the side of the respondent "*may not be ground for drawing conclusions against the person and his or her family members*". In the Venice Commission's opinion, this provision is addressed to both the CEACAV and the Court; it would be useful if this is clearly spelled out in the said article.

45. Article 68§4 provides for the right "to be represented" during examination by the CEACAV. The Venice Commission has already pointed out the importance of guaranteeing full rights of defence during proceedings engaged after the injunction. It is thus strongly recommended that both the right to legal defence as well as the right to be represented by a lawyer or another person be explicitly mentioned, as is done in Article 56 of the Bulgarian Constitution.

46. Article 68(5) also specifies that statements made by the person under examination cannot be used to "initiate criminal proceedings against him or her" or "as evidence against such person". With regard to the latter, it is recommended that it be specified that this provision also applies so as to prohibit the use of statements as evidence in the *ongoing criminal proceedings* against the said person, as the statements could be used as evidence in other civil proceedings. Such clarification would contribute to a better protection of the right not to incriminate oneself, as guaranteed by the ECHR[7]. In the view of the Commission, this principle should also apply with regard to the proceedings against the said person's spouse.

2. Forfeitable Assets

47. The Venice Commission welcomes the new wording of Article 70, which now specifies the standard of proof for forfeiting assets acquired through criminal activity or administrative violation. It notes however, that that "the period subject to examination" was left open (article 70§2). In this regard, it is worth noting that the period of prescription was modified from 20 to 15 years (Article 82). This remains a rather long period for this kind of retroactive legislation. In this regard, the Commission notes that the CEACAV might be brought to limit its examination to a shorter period of time, based on the efficiency (i.e. concentration of the available resources) and the proportionality reasons. It could thus be envisaged giving the CEACAV the power to determine the length of the period covered by the examination. Such modification would contribute to the predictability of the law, and ensure respect for the rule of law principle.

48. Article 75 is a repetition of Article 20 of the Draft Law; it is thus recommended to delete it from the text.

[7] See ECtHR, *Saunders v. UK*, judgment of 17/12/1996.

3. Forfeiture

49. In its previous opinions, the Commission recalled that non-conviction based civil forfeiture systems are designed to ensure that the central issue, i.e. whether the assets amount to criminal activity or administrative violations, is to be proved to the civil standard of proof of the "balance of probabilities" rather than the criminal standard of "beyond the reasonable doubt". A lower standard of proof should allow the state to more easily obtain the forfeiture of the concerned assets and thus restrict the funding of criminal activities. It has also pointed out that necessary procedural safeguards, notably rebuttable presumption, are crucial for ensuring the compatibility of non-conviction based civil forfeiture proceedings with the Bulgarian Constitution and European standards concerning the rule of law and respect for human rights.

50. The new Article 87 now elaborates in a more clear manner the issue of standard of proof and rebuttable presumptions in the forfeiture proceedings before the Court.

51. With regard to assets acquired through administrative violations, the CEACAV is now required to present evidence as to the "*type of administrative violation and the existence of a causal link between the violation and proceeds acquired*" (emphasis added, Article 87§5.4).

52. As to assets acquired through criminal activity, the CEACAV has to prove "*to a reasonable degree of substantiation*" that the assets have been acquired as proceeds of criminal activity (Article 87§6).

53. The same evidential threshold for proving that the assets in question have or do not have legal origin is required from the respondent (87§7). However, according to Article 90, the court will order the actual forfeiture of the assets where their criminal or illegal origin "*has been proven to a higher degree of probability then the degree to which the contrary has been proven*". In other words, a lower standard of proof seems to be required on the side of the respondent: when the burden of proof falls on the respondent, he or she is only due to cast doubt with respect to the evidence submitted by the CEACAV (see CDL-REF(2011)032, Explanatory report, page 34, point 2.4). This should be clarified.

54. The Venice Commission strongly recommends, in order to clearly distinguish the two different evidential stages (by the CEACAV and by the respondent), to specify that after the CEACAV has presented the *prima facie* case, the burden of proof falls on the respondent, who may answer with a credible explanation as to how he or she lawfully came into possession or control of the property in question. Once again, the role of the court in assessing evidence presented by the parties is all-important.

55. The level at which the evidential threshold is set in a forfeiture system is a crucial issue; if it is set too high, the state agency may struggle to obtain the injunction order and actual forfeiture. If it is set too low, this may amount to interference with the defendant's fundamental rights. In this sense, the manner in which the state authorities notably, the prosecutor, judiciary and relevant administrative authorities will deal with it in their daily administration of justice will be crucial for it to reach its aim of cutting corruption and organised crime in the country.

56. The Venice Commission also notes that the new Article 87§8 removed the requirement that no evidential conclusions are made against a person under examination in case he or she is not able to produce a written document "because of the expiry of the period of time determined for its preservation". The new text provides that "*in the cases where proof by means of a written document is required*" no evidential conclusions will be made when the required document "*has been lost or destroyed with no fault of the party concerned*". The purpose of this change is unclear. If the obligatory time for preserving a document has

lapsed, and a document is not kept, the provision does not seem to be applicable. There does not seem to be a need to "prove" that the document has been lost or destroyed. Should the respondent be able to give reasonable grounds for the "non-existence" of a document, that could, according to the circumstances, be regarded as a sufficient proof. This seems to be a good example of the need for the courts to be allowed to freely evaluate evidence submitted to it by the parties.

57. Pursuant to paragraph 9 of Article 87, "*the facts for which this Act introduces a presumption and the existence of a causal link between the proceeds and the criminal activity of the person under examination shall not be subject to proving*" (emphasis added). This provision is unclear and seems contradictory to paragraph 5 of the same article.

58. The Commission regrets that the possibility for the court not to apply the assumption that the assets in question derive from criminal activity if there is a serious risk of injustice[8] was removed from the Draft Law. This change was explained by the Bulgarian authorities by the fact that in Bulgarian civil procedure the judge is bound to strictly stick to legislative requirements, and does not have a discretionary power not to apply the assumption for reasons of justice.

F. Supplementary provisions

59. Supplementary provisions now define "proceeds of crime" as "any assets that are not likely to have been acquired through any manner but a criminal offence" (§ 2). However, there is no definition of administrative violation (former point 3). The Venice Commission suggests to add a new point 3 providing for a definition of "proceeds of administrative violation", and which would refer to assets acquired through administrative violations that are of the nature to generate illegal proceeds.

IV. Conclusion

60. The Venice Commission acknowledges the fruitful co-operation between the Bulgarian Ministry of Justice and the Venice Commission and expresses its full support to their strong willingness to fight corruption and organised crime in the country.

61. It also welcomes the efforts made by the Bulgarian authorities to respond to its observations and recommendations. Indeed, the sixth revised Draft Law addresses most of the main concerns previously expressed by the Venice Commission. In addition, the Explanatory report of the Draft Law includes the possibility of undertaking a future constitutional changes to provide for qualified majority for the election of the CEACAV members, a change which would ensure that the CEACAV in carrying out all of its activities is and be seen to be impartial.

62. The Venice Commission hopes that the Draft Law will soon be adopted by the parliament of Bulgaria. It stresses that it is essential that the Draft Law be interpreted and implemented in a manner which conforms to the rule of law and the international human rights standards. The Commission further stresses that it is important that the CEACAV, law enforcement agencies (police, customs and other national forces), judiciary (both prosecutors and judges) as well as tax authorities and government officials dealing with corruption and organised crime in Bulgaria co-operate in a timely, open and systematic way.

63. The Commission remains at the disposal of the authorities of Bulgaria for any further assistance in this matter.

[8] See CDL-AD(2010)030, paragraph 36.