

COMMISSION DECISION

of 13 December 2006

establishing a mechanism for cooperation and verification of progress in Bulgaria to address specific benchmarks in the areas of judicial reform and the fight against corruption and organised crime

(notified under document number C(2006) 6570)

(2006/929/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty on European Union,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Republic of Bulgaria and Romania, and in particular Article 4(3) thereof,

Having regard to the Act of Accession of the Republic of Bulgaria and Romania, and in particular Articles 37 and 38 thereof,

Having regard to the opinions expressed by the Member States,

Whereas:

- (1) The European Union is founded on the rule of law, a principle common to all Member States.
- (2) The area of freedom, security and justice and the internal market, created by the Treaty on European Union and the Treaty establishing the European Community, are based on the mutual confidence that the administrative and judicial decisions and practices of all Member States fully respect the rule of law.
- (3) This implies for all Member States the existence of an impartial, independent and effective judicial and administrative system properly equipped, *inter alia*, to fight corruption and organised crime.
- (4) On 1 January 2007, Bulgaria will become a member of the European Union. The Commission, whilst noting the

considerable efforts to complete Bulgaria's preparations for membership, has identified remaining issues in its Report of 26 September 2006, in particular in the accountability and efficiency of the judicial system and law enforcement bodies, where further progress is still necessary to ensure their capacity to implement and apply the measures adopted to establish the internal market and the area of freedom, security and justice.

- (5) Article 37 of the Act of Accession empowers the Commission to take appropriate measures in case of imminent risk that Bulgaria would cause a breach in the functioning of the internal market by a failure to implement the commitments it has undertaken. Article 38 of the Act of Accession empowers the Commission to take appropriate measures in case of imminent risk of serious shortcomings in Bulgaria in the transposition, state of implementation, or application of acts adopted under Title VI of the EU Treaty and of acts adopted under Title IV of the EC Treaty.
- (6) The remaining issues in the accountability and efficiency of the judicial system and law enforcement bodies warrant the establishment of a mechanism for cooperation and verification of the progress of Bulgaria to address specific benchmarks in the areas of judicial reform and the fight against corruption and organised crime.
- (7) If Bulgaria should fail to address the benchmarks adequately, the Commission may apply safeguard measures based on Articles 37 and 38 of the Act of Accession, including the suspension of Member States' obligation to recognise and execute, under the conditions laid down in Community law, Bulgarian judgments and judicial decisions, such as European arrest warrants.
- (8) This Decision does not preclude the adoption of safeguard measures at any time on the basis of Articles 36 to 38 of the Act of Accession, if the conditions for such measures are fulfilled.
- (9) The present Decision should be amended if the Commission's assessment points at a need to adjust the benchmarks. The present Decision should be repealed when all the benchmarks have been satisfactorily fulfilled,

HAS ADOPTED THIS DECISION:

The Commission will report again thereafter as and when required and at least every six months.

Article 1

Bulgaria shall, by 31 March of each year, and for the first time by 31 March 2007, report to the Commission on the progress made in addressing each of the benchmarks provided for in the Annex.

Article 3

This Decision shall enter into force only subject to and on the date of the entry into force of the Treaty of Accession.

The Commission may, at any time, provide technical assistance through different activities or gather and exchange information on the benchmarks. In addition, the Commission may, at any time, organise expert missions to Bulgaria for this purpose. The Bulgarian authorities shall give the necessary support in this context.

Article 4

This Decision is addressed to all Member States.

Article 2

The Commission will communicate to the European Parliament and the Council its own comments and findings on Bulgaria's report for the first time in June 2007.

Done at Brussels, 13 December 2006.

For the Commission
Olli REHN
Member of the Commission

ANNEX

Benchmarks to be addressed by Bulgaria, referred to in Article 1:

1. Adopt constitutional amendments removing any ambiguity regarding the independence and accountability of the judicial system.
 2. 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 codes, notably on the pre-trial phase.
 3. 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.
 4. 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.
 5. Take further measures to prevent and fight corruption, in particular at the borders and within local government.
 6. 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.
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