



**COUNCIL OF
THE EUROPEAN UNION**

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“I/A” ITEM NOTE

from: Ad hoc Working Party on the Cooperation and Verification Mechanism for
Bulgaria and Romania

on: 6 September 2010

to: Permanent Representatives Committee/Council

No. Cion prop.: 12558/10 COVEME 5 + ADD 1
12562/10 COVEME 6 + ADD 1

Subject: The Mechanism on Cooperation and Verification for Bulgaria and Romania
- Adoption of Council conclusions

1. In the light of the Council's conclusions of 17 October 2006 (doc. 14109/06), of 23 July 2007 (doc. 11904/07), of 10 March 2008 (doc. 7017/08), of 15 September 2008 (doc. 12678/08 + REV 1(en)), of 23 February 2009 (doc.6694/09), of 14 September 2009 (doc.12938/1/09 REV 1) and of 10 May 2010 (doc. 8791/10), the Commission presented reports on progress in Bulgaria and Romania under the Co-operation and Verification Mechanism (docs 12558/10 COVEME 5 + ADD 1 and 12562/10 COVEME 6 + ADD 1).
2. Following the examination of the reports, the Working Party reached agreement on the text of draft Council conclusions on this subject in the terms set out in Annex.
3. It is therefore suggested to the Council, subject to confirmation by the Permanent Representatives Committee, to adopt the attached draft conclusions.

**Cooperation and Verification Mechanism for Bulgaria and Romania -
Draft Council conclusions**

1. Reaffirming its earlier conclusions, the Council welcomes the Commission's reports on progress in Bulgaria and Romania under the Cooperation and Verification Mechanism. The Council commends the Commission on its work, on the methodology followed and fully shares the objective and balanced analysis and recommendations contained in those reports.
2. Recalling the importance of an unequivocal and sustained political commitment to meet the objectives set under the mechanism, the Council acknowledges the efforts made by these two Member States. The existence of an impartial, independent and effective administrative and judicial system, with sufficient resources, is indispensable for EU policies to function properly and for citizens to benefit fully from all the opportunities offered by membership of the Union.
3. The Council welcomes the strong reform momentum now established in Bulgaria and its new partnership with the Commission. The new strategy for judicial reform offers a blueprint for a comprehensive, long-term reform of the judiciary. Its adoption by the government demonstrates political determination. The Council also recognises other achievements, notably the reform of the penal procedures, the increasing number of indictments for cases involving high-level corruption and organised crime, as well as progress in the first emblematic case involving fraud of EU funds.

Important deficiencies remain, however, in particular with regard to judicial and professional practice at the level of the prosecution and courts. The transparency within and the accountability of the judiciary needs to be strengthened. The anti-corruption strategy, the law on conflict of interest and the public procurement procedures need to be properly and fully implemented. A more efficient judicial follow-up of organised crime cases, e.g. through the use of dissuasive sanctions and asset forfeiture, should be ensured. Full and timely implementation of the new strategy for judicial reform should be treated as a matter of priority.

4. The Council welcomes the adoption of the Civil and Criminal procedures Codes in Romania on 22 June, as well as progress on the implementing laws. The entry into force of these codes, scheduled for October 2011, will provide an important opportunity for a thorough reform of the Romanian judicial system. The National Anti-Corruption Directorate (DNA) continues to show a good, stable track record in the investigation of high level corruption. The National Integrity Agency (ANI) has a promising track record of cases. The Council welcomes Romania's swift adoption of a revised ANI law, in response to the Commission's report, and of the amendment to the Law on the Constitutional Court, and looks forward to their implementation. Efforts by the General Prosecutor to enhance the fight against corruption are beginning to deliver results.

However, the Commission's assessment also points to important shortcomings. Little effective progress has been achieved as regards the efficiency of the judicial process, consistency of jurisprudence and the accountability of the judiciary. Human resources remain a major challenge. A coordinated anti-corruption policy across the different sectors of government is missing. Substantial improvements are required in the field of conflict of interest. In this regard, Romania should aim, building on recent progress, to further improve public procurement legislation. Romania should establish close and constructive cooperation between the different political and judicial actors and to strengthen the commitment of the judiciary to reform. In order to sustain the reform process, Romania needs to strengthen broad-based political support in favour of transparency and the effective protection against corruption and conflict of interest.

5. Recalling that the Cooperation and Verification Mechanism has now entered its fourth year, the Council encourages Bulgaria and Romania to intensify their reform efforts as a matter of urgency. In this light, the Council stresses the need for Bulgaria and Romania to take immediate action in order to address all the recommendations set out in the Commission reports, so as to achieve concrete and lasting results, especially in the areas highlighted by the Commission reports.

6. The Council notes that the Cooperation and Verification Mechanism is an appropriate tool to assist Bulgaria and Romania in their reform efforts. The other Member States are ready to continue to grant every necessary assistance in order to meet as soon as possible the objectives set under the Cooperation and Verification Mechanism. Pending the results expected in this framework, the Mechanism stays in place. In this context, the Council recalls that the Mechanism underpins Bulgaria's and Romania's efforts to fully implement EU policies. The Council will continue to pay careful attention to developments in this area.
