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Subject: Council conclusions on the Cooperation and Verification Mechanism

Delegations will find attached Council conclusions on the Cooperation and Verification Mechanism as adopted by the Council (General Affairs) on 7 March 2017.

Council conclusions on the Cooperation and Verification Mechanism

1. Reaffirming its previous conclusions, the Council welcomes the reports from the Commission on progress achieved in Bulgaria and Romania under the Cooperation and Verification Mechanism. In this context, the Council appreciates the continued good co-operation of Bulgaria and Romania with the Commission and with the other Member States under the Mechanism. The Council commends the Commission on its work, which includes the overall assessment of progress achieved since the accession of Bulgaria and Romania to the EU in 2007, and supports the balanced and objective analysis.
2. The Council encourages Bulgaria and Romania to meet the key recommendations identified in the Commission reports, the fulfilment of which would lead to the provisional closing of individual benchmarks, except if developments in the countries were to clearly reverse the course of progress. Providing that all benchmarks are met in an irreversible way, the Mechanism will subsequently be concluded. The Council recalls that the speed of the process will only depend on how quickly Bulgaria and Romania will be able to fulfil the benchmarks.
3. The Council reiterates its adherence to the values and principles of the EU. Effective implementation of reforms focusing on sustainable results and on convincing and verifiable track records continue to be essential for ensuring that all citizens can benefit fully from the opportunities offered by membership of the Union. Taking account of these ten past years of reforms in Bulgaria and Romania, the Council underlines the need for progress made to be irreversible in order to satisfactorily fulfil the respective benchmarks and to meet the ultimate objectives. In this context, the Council strongly reiterates the need for broad and unequivocal political support for reforms and the effective implementation of the recommendations.

4. The Council acknowledges that some encouraging steps have been taken towards the fulfilment of the six benchmarks set for Bulgaria, although overall progress in Bulgaria needs to be accelerated urgently. The positive legislative developments with regard to judicial reform are notable, as is the substantial progress made in the fight against organised crime. Ensuring the continued implementation of the important comprehensive reform strategies on judicial reform and on anti-corruption, the building of convincing track records and the monitoring of further concrete results remain key.

Building on progress already achieved, the Council urges a decisive acceleration of necessary efforts to fully address all the Commission's recommendations as set out in the report. While the Council welcomes the political commitment to reforms expressed by the government, a consolidation and reinforcement of overall political resolve is needed to fully address all these recommendations and it looks forward to concrete steps and tangible, irreversible progress ahead of the next Commission report.

5. As mentioned, the Commission's assessment identifies the key remaining steps to ensure that the objectives of the Mechanism are fully met. With regard to judicial reform, particular efforts should be made to ensure a transparent election of the future Supreme Judicial Council (SJC), to 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, to improve the functioning of the Judicial Inspectorate (ISJC), to further improve the activity of the Prosecution Service, and to strengthen the legal framework for the prosecution of high-level corruption and serious organised crime. Continued reform of the judiciary to improve professionalism, accountability and efficiency, in line with the recommendations of the Commission, is important.

The fight against corruption, particularly at high-level and substantiated by a solid track record, needs to be stepped up. Amongst the measures to be adopted, a new legal framework on the fight against corruption, including the setting up of an effective anti-corruption authority, should remain a key priority. The law on public administration should be reformed, notably to ensure a strengthening of internal inspectorates. To establish a track record of final court decisions on convictions and their enforcement in the area of anti-corruption, Bulgaria should address current shortcomings, and establish a mechanism for public reporting on progress (investigations, indictments, convictions, and enforcement) in high-level cases already in the public domain. Further measures to enhance prevention and tackle corruption at local level, including in the area of public procurement, are also required. As regards combating organised crime, Bulgaria should consolidate the progress to ensure a track record of final Court convictions and enforcement of judgments. Ensuring the independence and effective working conditions for competent agencies and authorities in the field should contribute to this goal.

6. The Council commends the overall trend of significant progress demonstrated by Romania over the last years towards the fulfilment of its four benchmarks under the Mechanism. Action taken by the key judicial and integrity institutions to address high-level corruption has maintained an impressive momentum. The professionalism within the Romanian judicial system as a whole has continued to increase. At the same time, the Council is closely monitoring the latest developments of serious concern and reiterates that, for the satisfactory fulfilment of these benchmarks, reforms must prove to be sustainable and irreversible.

For Romania, the Commission's assessment identifies a very limited number of key remaining steps to ensure that the objectives of the Mechanism are fully met. The Council reiterates the importance of a broad and unequivocal political commitment to the reforms by all public institutions and political actors. This is particularly relevant to the fight against corruption at all levels, to the respect for the independence of the judiciary, and to other integrity issues highlighted in the report. Building on the major progress already achieved, the Council encourages Romania to focus its efforts on further consolidating progress made, to avoid taking any step backwards, and to sustain the positive reform momentum by addressing all the recommendations set out by the Commission in its report. This could demonstrate the irreversibility and sustainability of reforms which could lead to the provisional fulfilment of individual benchmarks of the Mechanism in the near future.

7. Romania should further consolidate progress to ensure solid respect for, and defence of, judicial independence. This includes putting in place a robust and independent system to appoint top prosecutors, and adopting a Code of Conduct for parliamentarians with clear provisions on mutual respect between institutions, thus ensuring the respect for the independence of the judiciary. Measures to continue to consolidate the transparency and accountability of the Superior Council of the Magistracy in the reform process should be taken. The judicial reforms should be finalised, notably on the Civil and Criminal codes, taking note of the need for predictability, full transparency and inclusive consultations. Court decisions, including those confirming integrity rulings, should be applied and implemented by all institutions and instances without delay. The legal framework for integrity needs to be strengthened and consolidated to ensure long-term sustainability. Further efforts to prevent and tackle corruption, including addressing it effectively and dissuasively at all levels and within all institutions, remain a top priority to demonstrate consolidated progress. The impressive track records of the National Anti-Corruption Directorate (DNA) and the High Court of Cassation and Justice (HCCJ) should be sustained. Legal amendments resulting in the weakening or shrinking of the scope of corruption as an offence and which could jeopardise the fight against corruption should be avoided, as well as any measures which could challenge the independence or effectiveness of the DNA. Adopting objective criteria for deciding on and motivating the lifting of immunity of Members of Parliament or Ministers is another priority. Corruption prevention at all levels needs to be strengthened and firmly established as a core obligation of public administration, an endeavour in which the proper and timely implementation of the new Anti-Corruption Strategy (NAS) would help enable. The National Agency for the Management of Seized Assets should be made fully and effectively functional to improve the results in confiscation and managing criminal assets.

8. The Council reiterates that the Cooperation and Verification Mechanism continues to be instrumental for progress. It remains an appropriate tool to assist Romania and Bulgaria in their respective reform efforts, in order for each of them to achieve a record of concrete and lasting results required to satisfactorily fulfill the objectives of the Mechanism. The Council recalls its continued readiness to support efforts of Bulgaria and Romania in this regard through EU and bilateral assistance. Pending the results expected from each of the two Member States in this framework, and the Council's support thereof, the Mechanism stays in place. Until then, the Council invites the Commission to continue its reporting and looks forward to its next reports on Bulgaria and Romania foreseen later this year. The Council welcomes the Commission's intention to continue monitoring the situation in Bulgaria and Romania closely and to keep the Council regularly informed.
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