



Council of the
European Union

**Brussels, 12 December 2017
(OR. en)**

15587/17

COVEME 9

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

On: 12 December 2017

To: Delegations

No. prev. doc.: 15183/17 COVEME 8

No. Cion doc.: 14408/17 + ADD 1, 14412/17 + ADD 1

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 12 December 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 cooperation of Bulgaria and Romania with the Commission and with the other Member States under the Mechanism. The Council commends the Commission on its work, on the methodology followed, and fully shares the objective and balanced analysis of the progress made in following up the recommendations.
2. The Council reiterates its adherence to the values and principles of the EU, including the rule of law and the independence of the judiciary. In this context, the Council recalls the need for progress made to be irreversible in order to satisfactorily fulfil the respective benchmarks and to meet the ultimate objectives of the Mechanism, ensuring that all citizens can benefit fully from the opportunities offered by membership of the Union. Convincing track records and the need for broad, sustained and unequivocal political support for reforms and for the effective implementation of the key recommendations continue to be of utmost importance.
3. The Council continues to encourage Bulgaria and Romania to meet the key recommendations set out 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 put in question or reverse the course of progress. Recalling that the speed of the process will solely depend on progress made by Bulgaria and Romania, the Council notes that, provided all the benchmarks are met in an irreversible and sustainable way in the near future, the Mechanism could subsequently be concluded.

4. The Council welcomes the significant positive steps taken by the Bulgarian authorities in the reporting period, and the determination shown by the government to put the reform process back on track. Much still needs to be done, and overall progress now needs to be further accelerated urgently. Building on the recent progress, the Council encourages Bulgaria to maintain the current momentum and to fully address all the recommendations set out by the Commission. In this context, the Council underlines that an environment of mutual trust and close and constructive cooperation between institutions, as well as inclusive legislative processes relying on better regulation principles, are crucial for the successful implementation of irreversible and credible reforms.
5. The Council welcomes the recent election of the new Supreme Judicial Council (SJC), and looks forward to demonstrations of its independence and integrity through the establishment of a track-record of impartial and professional decision-making in key areas, notably with regard to transparent and merit-based appointments to high-level judicial positions. Workload imbalances between courts remain a major challenge and will also need to be addressed by the SJC. The Council underlines that continued reform of the judiciary to further improve professionalism, accountability and efficiency, in line with the recommendations of the Commission and the Venice Commission, remains of utmost importance. In this regard, the Council notes that, inter alia, proposals for major changes to the criminal laws should be carried out in a transparent way, following public debate and consultations of the civil society. These steps are crucial for ensuring the sustainability and irreversibility of reforms.
6. The fight against corruption, particularly at high-level and substantiated by a solid track record, remains a key priority for Bulgaria. The Council looks forward to the adoption of a new legal framework on the fight against corruption, including the setting up of an effective anti-corruption authority as soon as possible. The Council notes that, in order to command broad-based trust in the wider society and among public officials, the leadership appointment of the new anti-corruption authority will need to be made in an open and transparent manner. Those appointed would need to demonstrate the independence, integrity and professionalism required in order to enjoy the confidence of the public and to deliver effective results. The Council also welcomes the recent adoption of a number of amendments to the law on public administration, notably aimed at strengthening the role of internal inspectorates, and calls for speedy implementation in concrete organisational terms.

7. Bulgaria still needs to establish a track record of final court decisions on convictions and their enforcement in the area of anti-corruption, including with regard to high-level corruption cases. Bulgaria also needs to establish an effective mechanism for public reporting on progress (investigations, indictments, convictions, and enforcement) in high-level cases already in the public domain. Further measures are required to enhance prevention and tackle corruption at local level, including in the area of public procurement. As regards combating organised crime, Bulgaria should ensure that the recent organisational and legislative changes, in particular the transfer of jurisdiction over corruption cases involving high-level officials to the Specialised Court for Organised Crime, strengthen and consolidate the coherent track record achieved. The Council underlines that future changes to the legal framework should consolidate progress already made in this area and the institutions' abilities to continue the current positive trend.
8. The Council welcomes that Romania has taken a number of positive steps during the reporting period, such as the entry into operation of the PREVENT system and the fact that the National Agency for the Management of Seized Assets (ANABI) is now fully functional. The new Superior Council of the Magistracy is also fulfilling its role to defend the independence and reputation of magistrates. However, the Commission's report also highlights a number of concerns regarding the irreversibility and sustainability of reforms. These concerns need to be decisively addressed in a credible and trust-inducing manner, in order to pave the way for a successful conclusion of the Mechanism in the near future.
9. The Council continues to encourage Romania to renew the momentum on reforms, in particular those related to the independence of the judiciary, to the fight against corruption at all levels, and to other integrity issues highlighted in the report. In this context, the Council reiterates the importance of an unequivocal, sustained and broad-based political and institutional commitment to meet the objectives set out by the Mechanism. To ensure sustainable progress, political consensus to respect the independence of judiciary remains essential. Taking account of recent events, as well as the major progress already achieved over the years, the Council calls on Romania to focus its efforts on further consolidating this progress, to avoid taking any step backwards, and to fully address the concerns and all the recommendations set out by the Commission in its report.

10. In order to further ensure judicial independence, Romania, following consultations with the Venice Commission, needs to put in place a robust, independent and merit-based system to appoint top prosecutors, providing sufficient guarantees against politicisation. The Council also underlines the importance of an effective implementation of the newly adopted Codes of Conducts for parliamentarians and ministers. The judicial reforms should be finalised, notably on the Civil and Criminal codes, taking due note of the need for predictability, full transparency and inclusive consultations as set out in the Commission's report. 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 sustainability.

Romania needs to continue and intensify its efforts to prevent and tackle corruption. Addressing it effectively and dissuasively at all levels and within all institutions, should remain a top priority. The impressive track records of the National Anti-Corruption Directorate (DNA) and the High Court of Cassation and Justice (HCCJ) should be safeguarded. Adopting objective criteria for deciding on, and motivating, the lifting of immunity of Members of Parliament or Ministers remains an important priority. At the same time, more needs to be done with regard to the overall prevention of corruption, which should be a top priority and a core obligation of public administration at all levels. In the context of the implementation of the new Anti-Corruption Strategy (NAS), it is now for the Romanian authorities at all levels to demonstrate strong and visible political support for corruption prevention. Further necessary measures should be taken to fully support the implementation of the Anti-Corruption Strategy.

11. The Council reiterates that the Cooperation and Verification Mechanism continues to be instrumental for progress. It remains an appropriate tool to assist Bulgaria and Romania in their respective reform efforts, in order for each of them to achieve a record of concrete and lasting results required to 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 towards the end of 2018. 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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