COMMISSION DECISION (EU) 2023/1786

of 15 September 2023

repealing Decision 2006/928/EC establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption

THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

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

Whereas:

(1) In its monitoring report of 26 September 2006 on the state of preparedness for EU membership of Bulgaria and Romania ([1]), prior to the accession of Romania to the Union, the Commission identified a number of issues, in particular as regards the accountability and efficiency of the judicial system and law enforcement bodies in Romania, where further progress was still necessary in order to ensure the capacity to implement and apply the measures adopted to establish the internal market and the area of freedom, security and justice.

(2) On 13 December 2006, the Commission adopted a Decision 2006/928/EC ([2]) establishing a mechanism for cooperation and verification of progress in Romania to address four specific benchmarks in the areas of judicial reform and the fight against corruption. That Decision states that it is to be repealed when all the benchmarks have been satisfactorily fulfilled.

(3) The Decision 2006/928/EC requires Romania to regularly report to the Commission on the progress made in addressing the benchmarks. The Commission communicated to the European Parliament and the Council its own comments and findings on Romania's report for the first time in June 2007, and has reported on a regular basis since then. Each report by the Commission has been the result of a careful analysis, drawing on close cooperation with the national authorities, as well as on input from civil society, and other stakeholders and observers.

(4) In its report of January 2017 ([3]), the Commission undertook a comprehensive assessment of the progress made by Romania since the establishment of the cooperation and verification mechanism. On that basis, the Commission set out a clear path towards the conclusion of the mechanism, based on twelve recommendations which clarified the requirements that Romania needed to comply with to satisfy the four benchmarks laid down in the Decision 2006/928/EC. Given the progress made, the Commission considered that the fulfilment of these recommendations would be sufficient to close the cooperation and verification mechanism, providing that there would be no developments in the meantime clearly reversing the course of progress. Many of the recommendations focused on building internal safeguards to ensure the irreversibility of results and to demonstrate that ongoing reforms would be continued and progress consolidated, even without the mechanism.

([1]) Monitoring Report on the State of Preparedness for EU Membership of Bulgaria and Romania, 26 September 2006, COM(2006) 549.

([2]) Commission Decision 2006/928/EC of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption (OJ L 354, 14.12.2006, p. 56).

([3]) Commission report on progress in Romania under the cooperation and verification mechanism, COM(2017) 44 final.

(5) Since then, the Commission has carried out four assessments of progress on the implementation of the recommendations ([4]). Commission reports on progress in Romania under the cooperation and verification mechanism from late 2017 to 2019 identified a backtracking of reforms. Steps taken by Romania re-opened issues that the January 2017 report had considered as closed, and eight additional recommendations were made in the November 2018 report ([5]).

(6) In its report of June 2021, the Commission welcomed progress in Romania towards the swift conclusion of the cooperation and verification mechanism ([6]). The Commission notably took account of Romania's renewed impetus to reform and to reverse the backtracking of the 2017-2019 period. It noted progress across all the remaining recommendations, with many on the path to being fulfilled if progress remained steady.

(7) The Commission report of November 2022 ([7]) established that progress made by Romania under the cooperation and verification mechanism was sufficient to meet its commitments made at the time of its accession to the Union and that all four benchmarks set out in the Decision 2006/928/EC, and clarified through the twelve recommendations of the report of January 2017 and the eight additional recommendations of the report of November 2018, had been satisfactorily complied with. The Commission notably took note of the progress made by Romania in strengthening the independence and the effectiveness of the judiciary through a comprehensive overhaul of the justice system. New Justice Laws were adopted that brought important changes regarding the career organisation and liability regimes for magistrates; the appointment, dismissal, and powers of high-ranking prosecutors; and the governance of the Judicial Inspectorate. The Commission also noted progress on the implementation of the national anti-corruption strategy and the positive track record in investigating and sanctioning high-level corruption. It further noted that institutions responsible for applying rules on integrity and conflicts of interest, and for managing and recovering criminal assets, have been working effectively.

(8) The Commission noted in the conclusion of its report of November 2022 three specific commitments made by the Romanian government. The President of Romania informed the Commission, by letter of 28 June 2023, about the measures taken to fulfil these commitments. First, Romania committed to further analyse and take the utmost account of the opinions of the Venice Commission on its Justice Laws, and more generally if further actions are necessary. A panel of high-level experts was set up to reflect on adequate legislative solutions to follow up on the Venice Commission opinion, in order to further reinforce the efficiency and independence of the judiciary. Second, Romania committed to complete the revision of the Criminal Code and Criminal Procedure Code, to ensure alignment with the decisions that the Constitutional Court of Romania has taken since 2016. Legislation to this effect was adopted by the Romanian Parliament on 28 June 2023. Completing the revision of the two Codes is also part of Romania's commitments under its Recovery and Resilience Plan ([8]). Finally, the Romanian government expressed its confidence in the ability of the new Superior Council of the Magistracy to contribute to the momentum of the reform, and to give a new impetus to transparency and accountability. The Superior Council of the Magistracy has adopted a statement of principles on transparency and accountability, which it published on 3 April 2023.

(9) Therefore, all benchmarks set out in the Decision 2006/928/EC, and clarified through the twelve recommendations of the January 2017 report and the eight additional recommendations in the November 2018 report, as well as the specific commitments ([9]) listed in the conclusions of the 2022 report, have been satisfactorily complied with.

([4]) COM(2017) 751; COM(2018) 851; COM(2019) 499; COM(2021) 370.
([5]) COM(2018) 851.
([6]) COM(2021) 370.
([7]) COM(2022) 664.
([8]) Council implementing Decision on the approval of the assessment of the recovery and resilience plan for Romania, 26 October 2021, ST 12319 2021 INIT. The Commission will assess the fulfilment of the milestone in Romania's recovery and resilience plan upon the submission by Romania of the relevant payment request.
([9]) This assessment is without prejudice to the assessment of the fulfilment of the relevant milestones and targets in Romania's recovery and resilience plan.

(10) The evolution of the Union's rule of law landscape has given a new context for the Commission's cooperation with Romania. In particular, the annual Rule of Law cycle, launched by the Commission Communication of July 2019 on 'Strengthening the rule of law within the Union' ([10]) and in the Political Guidelines of President von der Leyen, provides an ongoing framework with a long-term perspective to accompany sustainable reform, with Romania as with other Member States. As part of that cycle, the Commission's annual Rule of Law Report, which since 2022 also includes recommendations to the Member States, stimulates a positive direction on rule of law issues, deepening dialogue and joint awareness and preventing challenges from emerging or deepening. It will enable the monitoring of the implementation of Romania's agreed reforms.

(11) The Commission presented its November 2022 report on progress in Romania under the cooperation and verification mechanism to the relevant Committee of the European Parliament. The Commission duly took into account the observations received from the European Parliament by letter from the President of the European Parliament of 6 February 2023.

(12) The Commission presented its November 2022 report on progress in Romania under the cooperation and verification mechanism to the relevant working party of the Council, and the Commission duly took into account the Council Presidency report of 16 December 2022.

(13) On 5 July 2023, the Commission informed the Council about its intention to repeal Decision 2006/928/EC establishing a cooperation and verification mechanism for Romania and definitively close the mechanism. This was also communicated to the European Parliament. By letter dated 26 July, the Council took note of the Commission's intention to formally close the cooperation and verification mechanism for Bulgaria and Romania.

(14) Therefore the Decision 2006/928/EC should be repealed.

HAS ADOPTED THIS DECISION:

Article 1

The Decision 2006/928/EC is repealed.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 15 September 2023.

For the Commission
The President
Ursula VON DER LEYEN

([10]) COM(2019) 343.