

## COMMISSION DECISION

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**

(notified under document number C(2006) 6569)

(2006/928/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.

(4) On 1 January 2007, Romania will become a Member of the European Union. The Commission, whilst noting the considerable efforts to complete Romania'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 Romania 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 Romania 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 Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption.

(7) If Romania 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, Romanian 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:

*Article 1*

Romania 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.

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 Romania for this purpose. The Romanian authorities shall give the necessary support in this context.

*Article 2*

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

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

*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.

*Article 4*

This Decision is addressed to all Member States.

Done at Brussels, 13 December 2006.

*For the Commission*

Olli REHN

*Member of the Commission*

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ANNEX

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

1. Ensure a more transparent, and efficient judicial process notably by enhancing the capacity and accountability of the Superior Council of Magistracy. Report and monitor the impact of the new civil and penal procedures codes.
  2. Establish, as foreseen, an integrity agency with responsibilities for verifying assets, incompatibilities and potential conflicts of interest, and for issuing mandatory decisions on the basis of which dissuasive sanctions can be taken.
  3. Building on progress already made, continue to conduct professional, non-partisan investigations into allegations of high-level corruption.
  4. Take further measures to prevent and fight against corruption, in particular within the local government.
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