



Brussels, 15.9.2023  
C(2023) 5652 final

**COMMISSION DECISION (EU) .../...**

**of 15.9.2023**

**repealing Decision 2006/929/EC establishing a mechanism for cooperation and verification of progress in Bulgaria to address specific benchmarks in the areas of judicial reform and the fight against corruption and organised crime**

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## **repealing Decision 2006/929/EC establishing a mechanism for cooperation and verification of progress in Bulgaria to address specific benchmarks in the areas of judicial reform and the fight against corruption and organised crime**

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<sup>1</sup> prior to the accession of Bulgaria 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 Bulgaria, 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<sup>2</sup> establishing a mechanism for cooperation and verification of progress in Bulgaria to address six specific benchmarks in the areas of judicial reform and the fight against corruption and organised crime. That Decision states that it is to be repealed when all the benchmarks have been satisfactorily fulfilled.
- (3) The Decision of 13 December 2006 requires Bulgaria 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 Bulgaria'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<sup>3</sup>, the Commission undertook a comprehensive assessment of the progress made by Bulgaria since the establishment of the cooperation and verification mechanism. On that basis, the Commission set out a clear path towards the

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<sup>1</sup> Monitoring Report on the State of Preparedness for EU Membership of Bulgaria and Romania, 26 September 2006, COM(2006) 549.

<sup>2</sup> Commission Decision of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Bulgaria to address specific benchmarks in the areas of judicial reform and the fight against corruption and organised crime ((2006/929/EC), OJ L 354, 14.12.2006, p. 58).

<sup>3</sup> Commission report on progress in Bulgaria under the Co-operation and Verification Mechanism, COM(2017) 43 final.

conclusion of the mechanism, based on seventeen key recommendations, which clarified the requirements that Bulgaria needed to comply with in order to satisfy the six benchmarks laid down in the Decision of 13 December 2006. Given the progress made, the Commission considered that the fulfilment of those recommendations would be sufficient to close the cooperation and verification mechanism, provided 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.

- (5) In its report of November 2018<sup>4</sup>, the Commission welcomed progress in Bulgaria towards the swift conclusion of the cooperation and verification mechanism, and concluded that three of the benchmarks could be considered to be provisionally closed. The Commission notably took account of the progress made by Bulgaria since its accession in amending its constitutional and legislative framework to improve safeguards for judicial independence, as well as the transparency and the efficiency of the judicial process. In addition, the amendments to the constitution of Bulgaria in 2015 brought about a reform of the Supreme Judicial Council and a stronger judicial inspectorate. Those amendments have now been in place for a number of years.
- (6) The Commission report of October 2019<sup>5</sup> established that the progress made by Bulgaria under the cooperation and verification mechanism was sufficient to meet Bulgaria's commitments made at the time of its accession to the Union and that all six benchmarks, as set out in the Decision of 13 December 2006, and as clarified through the seventeen recommendations of the report of January 2017, had been satisfactorily complied with. The Commission notably took notice, among other things, of the comprehensive reforms of the general anti-corruption institutional framework that were carried out over the previous two years. In addition, the Commission noted in the conclusions of the report of October 2019 a list of specific commitments made by the Bulgarian government. Those specific commitments notably included the putting in place of procedures concerning the accountability of a Prosecutor General in line with recommendations by the Venice Commission, along with the commitment to amend the Judicial System Act in order to repeal the provisions requiring the automatic suspension of magistrates in the event of a criminal investigation against them, as well as the provisions obliging magistrates to report their membership of professional associations. Bulgaria also committed to continue its cooperation with Council of Europe bodies in the field of anti-corruption. The report of October 2019 also took due note of Bulgaria's efforts to internalise monitoring at the national level through a Coordination and Cooperation Council (the 'post-monitoring council') responsible for overseeing the continued progress of reforms.
- (7) Following up on the specific commitments noted in the report of October 2019, in February 2020, the Bulgarian Parliament adopted the aforementioned amendments to the Judicial System Act, leaving the specific commitment to put in place procedures concerning the accountability of a Prosecutor General as the only outstanding commitment from the report of October 2019.

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<sup>4</sup> Commission report on progress in Bulgaria under the Co-operation and Verification Mechanism, COM(2018) 850 final.

<sup>5</sup> Commission report on progress in Bulgaria under the Co-operation and Verification Mechanism, COM(2019) 498 final.

- (8) A framework for the investigation against the Prosecutor General and his or her deputies was established in the context of the Recovery and Resilience Facility, in close cooperation with the Commission and with the consultation of the Venice Commission<sup>6</sup>. On 4 May 2022, the Council of the European Union approved the proposed Recovery and Resilience Plan for Bulgaria, which includes among its milestones Bulgaria's commitment on the entry into force of the legislative amendments to safeguard the effectiveness of criminal proceedings and improve the accountability and criminal liability of the Prosecutor General. On 26 May 2023, the Bulgarian Parliament adopted the law putting in place procedures concerning the accountability of the Prosecutor General and his or her deputies. The law entered into force on 6 June 2023, thus finalising the last outstanding specific commitment under the report of October 2019. The Prime Minister of Bulgaria informed the Commission by letter of 26 June 2023 about the measures taken to fulfil the specific commitments that were listed in the conclusions of the 2019 report under the cooperation and verification mechanism, as well as further measures to continue upholding the rule of law.
- (9) As regards Bulgaria's commitment to continue its cooperation with Council of Europe bodies in the remit of anti-corruption, it should be noted that a number of anti-corruption milestones have been agreed upon in the context of the Recovery and Resilience Plan for Bulgaria, which require Bulgaria's cooperation with Council of Europe bodies.
- (10) Therefore, all benchmarks set out in the Decision of 13 December 2006, and clarified through the seventeen recommendations of the report of January 2017, as well as the specific commitments<sup>7</sup> of the report of October 2019, have been satisfactorily complied with.
- (11) The evolution of the Union's rule of law landscape has given a new context for the Commission's cooperation with Bulgaria. 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'<sup>8</sup> and in the Political Guidelines of President von der Leyen, provides an ongoing framework with a long-term perspective to accompany sustainable reform, with Bulgaria 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 Bulgaria's agreed reforms. The monitoring of the continued implementation of the reforms put in place by Bulgaria will also be ensured at national level by the post-monitoring council.
- (12) The Commission presented its October 2019 report on progress in Bulgaria under the cooperation and verification mechanism to the relevant Committee at the European Parliament. The Commission duly took into account the observations received from

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<sup>6</sup> See milestone 222, Council implementing Decision on the approval of the assessment of the recovery and resilience plan for Bulgaria, 28 April 2022, ST 8091 2022 INIT. The Commission will assess the fulfilment of the milestone in Bulgaria's recovery and resilience plan upon the submission by Bulgaria of the relevant payment request.

<sup>7</sup> This assessment is without prejudice to the assessment of the fulfilment of the relevant milestones and targets in Bulgaria's recovery and resilience plan.

<sup>8</sup> COM(2019) 343.

the European Parliament by letter from the President of the European Parliament of 20 December 2019.

- (13) On 5 July 2023, the Commission informed the Council about its intention to repeal Decision of 13 December 2006 establishing a cooperation and verification mechanism for Bulgaria and definitively close the mechanism. This was also communicated to the European Parliament. By a letter of 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 of 13 December 2006 should be repealed,

HAS ADOPTED THIS DECISION:

*Article 1*

The Decision of 13 December 2006 (2006/929/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, 15.9.2023

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*