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LIMITE

COVEME 1

**NOTE**

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From:	European Commission
To:	Delegations
Subject:	Information note from the Commission on the Closing of the Cooperation and Verification Mechanism for Bulgaria and Romania

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Delegations will find attached the above Information Note from the Commission as received by the General Council Secretariat on 5 July.

The note was accompanied by the following message from Commission Director William Sleath:

“Dear colleagues

The College has today agreed the attached information note from the Commission to the Council. The note recalls the information provided by the Commission in previous meetings of the COVEME working group on the CVM process and the position taken by the Commission in the final CVM reports (2019 for Bulgaria and 2022 for Romania) that the conditions for the final closures would be met when both Member States would have fulfilled certain outstanding commitments. This is now the case.

The note also sets out the procedure for closing the CVM and of the Commission's intention to now repeal the two Commission Decisions of 2006 establishing the CVM for Bulgaria and Romania. This will definitively close the mechanism, which will be fully replaced by the annual Rule of Law cycle established in 2020 and covering all Member States. The latest developments in the area of the Rule of Law in Bulgaria and Romania, as well as the Commission's intention to proceed with the closure of the CVM as explained in this note, are also set out in the 2023 Rule of Law report, which has also been adopted today and transmitted to the European Parliament and the Council.

If the Council decides to make observations, these are requested by 25 August 2023. The Commission intends to repeal Commission Decisions 2006/928/EC and 2006/929/EC at the beginning of September 2023.

This information note will also be copied to the European Parliament.

We would be grateful if this information note could be shared with the Member States, and the Commission is of course available to present the note in working group, if requested.”

**Closing of the Cooperation and Verification Mechanism for Bulgaria and Romania**  
**Information note from the Commission to the Council**

Since the start of the Cooperation and Verification Mechanism (CVM) in 2007, the Commission has stayed in close contact with the Council and regularly reported on progress in Bulgaria and Romania with regard to judicial reform, the fight against corruption and (for Bulgaria) the fight against organised crime. The CVM has been instrumental in fostering reform in these areas in Bulgaria and Romania since their accession to the EU.

The Commission was in a position to adopt on 22 October 2019 a report concluding that Bulgaria had satisfactorily met its obligations set out under the CVM for Bulgaria at the time of its accession to the Union, also underlining that Bulgaria would need to continue working to implement specific commitments listed in the conclusions of the report. On 22 November 2022, the Commission adopted a report reaching the conclusion that Romania had satisfactorily met its obligations as set out in the CVM at the time of its accession to the Union and that Romania would need to continue working to implement specific commitments listed in the conclusions of the report.

The Commission made clear in these two closing reports that from the time of their adoption, the Commission will no longer monitor Bulgaria and Romania under the CVM, but that monitoring will continue within the annual Rule of Law cycle. Reporting has since been consolidated in the Commission's annual Rule of Law Reports.

The progress made by Bulgaria in addressing the issues covered in the specific commitments has been set out in the three editions of the country chapters for Bulgaria accompanying the Rule of Law Reports (in 2020, 2021 and 2022). As indicated in a letter to the Czech Presidency of 22 November 2022, these specific commitments included putting in place procedures concerning the accountability and criminal liability of the Prosecutor General, and repealing provisions in the Judicial System Act on the automatic suspension of magistrates in case of a criminal investigation and on a requirement for magistrates to report their membership in professional associations. Bulgaria also committed to continue its cooperation with Council of Europe bodies on the Bulgarian anti-corruption framework and effective criminal investigations, and to embed and internalise monitoring at the national level through a new monitoring council. All but one of these commitments had been fulfilled by the time of the 2022 Rule of Law Report.

On 27 June 2023 the Bulgarian Prime Minister informed the Commission about the most recent and ongoing developments in the area of the rule of law in Bulgaria, including measures taken to fulfil the last outstanding commitment that was listed in the conclusions of the 2019 CVM report and the implementation of key international commitments to increase the efficiency of criminal procedures and to better protect the victims of crimes. The final outstanding commitment from Bulgaria was to put in place procedures concerning the accountability and criminal liability of the Prosecutor General, a reform which is also part of the broader rule of law commitments undertaken by Bulgaria in its Recovery and Resilience Plan. Legislation to this effect has now been adopted by the Bulgarian Parliament on 26 May 2023 and entered into force on 6 June 2023.

Bulgaria has therefore addressed all the commitments made under the CVM<sup>1</sup>.

Regarding Romania, on 28 June 2023 the President of Romania wrote to the Commission detailing current progress on rule of law issues and informed the Commission about the measures taken to fulfil the outstanding commitments listed in the conclusions of the 2022 CVM report.

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<sup>1</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

Progress by Romania has been made on the three commitments highlighted in that report. First, Romania has committed to further analyse and take the utmost account of the opinions of the Venice Commission on its Justice Laws, and more generally assess if further actions are necessary. A panel of experts set up by the Romanian Ministry of Justice for this purpose will present an independent report on 1 September 2023 and propose solutions to further strengthen the Romanian judiciary in line with the Venice Commission's most relevant recommendations. The President of the Venice Commission has voiced appreciation for this approach. Second, Romania has also 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. Completing the revision of the two Codes is also part of the commitments undertaken by Romania in its Recovery and Resilience Plan. Legislation to this effect has now been adopted by the Romanian Parliament on 28 June 2023. Finally, the Romanian government expressed its confidence in the ability of the new Superior Council of the Magistracy (SCM) to contribute to the momentum of the reform, and the to give a new impetus to transparency and accountability. The SCM has adopted a statement of principles on transparency and accountability in April 2023 and this is available online (published on 3 April 2023).

Romania has therefore addressed all the commitments made under the CVM<sup>2</sup>.

As set out in the CVM Decisions of 2006<sup>3</sup>, the CVM is brought to an end when all the benchmarks are satisfactorily met. In January 2017, the Commission made a global assessment of progress and set out the precise reforms which were deemed necessary to complete the process.

As mentioned above, the Commission reached the conclusion in 2019 for Bulgaria and in 2022 for Romania that this stage had been reached and informed the Council, as well as the European Parliament.

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<sup>2</sup> This assessment is without prejudice to the assessment of the fulfilment of the relevant milestones and targets in Romania's recovery and resilience plan

<sup>3</sup> Commission decisions 2006/929/EC and 2006/928/EC of 13 December 2006 established the cooperation and verification mechanisms for Bulgaria and Romania.

Under the 2nd subparagraph of Articles 37 and 38 of the Act of Accession, which constitute the legal basis for the two 2006 CVM Decisions, the ‘Commission shall inform the Council in good time before revoking the safeguard measures [the Mechanism], and it shall duly take into account any observations of the Council in this respect’.

Concerning Bulgaria, the 2019 CVM report concluded that “the Commission considers that the progress made by Bulgaria under the CVM is sufficient to meet Bulgaria’s commitments made at the time of its accession to the EU”. Further to the presentation of the CVM report by the Commission, a report by the Finnish Presidency was issued on 13 December 2019 and the European Parliament sent its observations in a letter from President Sassoli of 20 December 2019.

Concerning Romania, the 2022 CVM report concluded that ‘the Commission considers that the progress made by Romania under the CVM is sufficient to meet Romania’s commitments made at the time of its accession to the EU’. Further to the presentation of the CVM report by the Commission, a report by the Czech Presidency was issued on 16 December 2022 and the European Parliament sent its observations in a letter from President Metsola of 6 February 2023.

In both reports, the Commission had made clear that it would take duly into account the observations of the Council, as well as those of the European Parliament. It was also made clear that terminating the CVM would take the form of Commission Decisions repealing the original Commission Decisions from December 2006.

It is thus for the Commission to decide on when to revoke the CVM. In the light of the above, the Commission now confirms its intention to repeal Commission Decisions 2006/928/EC and 2006/929/EC, and, in a spirit of loyal cooperation is informing the Council thereof. This will also be communicated to the European Parliament.

The Commission looks forward to continuing cooperation with Bulgaria and Romania under the annual Rule of Law cycle, and in the context of other parts of the rule of law toolbox, as for all Member States.

The Council could make observations by 25 August 2023. The Commission intends to repeal Commission Decisions 2006/928/EC and 2006/929/EC by the beginning of September 2023. The Commission is available to present the note if requested.

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