

ONE-MONTH ANNIVERSARY OF THE MAY MONITORING REPORT

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On May 16, at 16h01 Bulgarian time, Portal EUROPE was the first media to publish the May monitoring report of the European Commission.

A month later, we would like to present to you a text by a foreign observer who published his analysis on May 17, a day after Olli Rehn's report.

The issues raised in this text are, in our understanding, still at the agenda.

Does the accession date of Bulgaria and Romania really matter?

DAVID KRAL, 17. 5. 2006

The political circles in Europe have been eagerly expecting this week's verdict of the European Commission whether the two Balkan countries are fit for accession as of 1 January 2007. It was expected that the Commission will not give a definite green light for the two countries to join next year, claiming that further progress is still needed before the final decision on accession could be made. The area which seems to be the most of a concern for the Commission officials lies in Justice and Home Affairs – namely the two countries would have to show further progress in fighting high-level corruption, organized crime and reorganizing the judiciary.

The decision of the Commission to postpone the final recommendation to member states to autumn 2006, with another report due in October, is understandable. It has been highlighted that if the Commission said yes already at this stage, much of the leverage that the EU has over the reform processes in both countries would be lost. At the same time, proposing the postponement already now would have largely similar effect – as the accession can be delayed by one year only. On the other hand, the postponement of the decision on the accession date also has a serious impact in the national parliaments. It is not insignificant that only 15 member states ratified the accession treaty thus far. The German Bundestag sent clear signals that it will wait for the recommendation of the Commission which was now postponed and which can further slow down the ratification process. The question therefore arises what the stakes of acceding either in 2007 and 2008 are for both the EU and Bulgaria and Romania.

For the areas that are mostly in focus of the Commission, it is hardly conceivable that Bulgaria and Romania can sort out all the problems relating to organized crime, corruption and judiciary within the additional five months, let alone year and a half if the membership is finally postponed. These problems are large-scale and long-term. It is more difficult to tackle them than to adopt other largely technical measures (such as set up the agencies for paying the EU farm subsidies or align the remaining legislation with the *acquis*, including for instance food safety standards). The pressure of the Commission to show tangible results in fighting criminality and corruption, including indictments and dissuasive sentences, seems to be quite inappropriate. These measures often require large scale investigations,

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collection of evidence and long trials. The push to get people accused and convicted at the shortest possible time could lead to serious shortcomings in criminal procedures, especially as the whole judicial system of both countries is equally subject to a strong criticism. The fact that Romania allegedly made better progress than Bulgaria in the last year is not so important either – organized crime and corruption still remain a very serious problem in both countries. The Commission should therefore push both countries, particularly Bulgaria, to further improve the overall framework to ensure these policies work effectively even after the accession, including furthering the independence of the judiciary or equipping the prosecutors and other law enforcement bodies with stronger investigating powers into political corruption and organized crime, rather than focusing too much on the delivery. This task is even more difficult because its evaluation really goes beyond a simple checklist of how many laws still have to be aligned with the *acquis* – as it is largely about the overall efficiency of certain policy and fulfilment of a broad political criterion of the rule of law. If the Commission had serious concerns about both countries capacity to align with EU standards in respect, it should not have recommended the conclusion of the accession treaty at all – as a few months or a year would really not make any substantial difference. On part of Bulgaria and Romania, it is often highlighted that postponement of membership would send negative signals to the citizens of both countries, and possibly to other candidate countries as well. This is doubtful – the levels of support for the EU in both countries are still very high, substantially higher than in the EU-25. Also, their membership is not disputed as such – unlike in case of Western Balkan countries or Turkey, who are politically considered candidates but very little tangible progress seems to be on the way in terms of their rapprochement with the EU.

Another issue is whether it would make a difference for the two states to be members of the club in 2007 already, in terms of their possibility to participate in the strategic and crucial decisions taken by the EU. This is not likely to be the case either. The negotiations on the financial perspectives for 2007-2013 have been concluded without them, and they contain the financial deal for the two countries already. The review of common agricultural policy, if at all, will not happen before 2009, but is more likely to continue in the current framework until 2013. The next elections to the European Parliament will take place in 2009 as well as the appointment of the new European Commission, when both countries will already be in. Thus the only big issue in which the two countries might like to have a say is possibly the future of the Constitutional Treaty. 2007 can be a key year in this respect, with the French and the Dutch elections and German presidency determined to push the Constitutional Treaty up on the agenda. Even if the EU leaders decide to hurry the current Constitutional Treaty and adopt a slimmer version of it, the IGC is not likely to convene before second half of 2007 or in 2008. As the negotiations will take some time, Bulgaria and Romania will already be in, or they can be granted a full-fledged participation in the IGC like the 10 then candidate countries in 2003, because they will have to ratify the new treaty if it is signed in 2008. Thus, the difference of joining either in 2007 or 2008 for both countries remains largely symbolical – they will not participate in everyday decision making (although they already do so as observers) but no big strategic decisions are likely to be taken without them.

It is beyond doubt that both countries still have to concentrate on their preparation for membership no matter what the final decision on the accession date is. Their leaders have to realize that if the problems highlighted by the Commission endure, the member states are going to take the warning cautiously and strong monitoring mechanisms are going to be set up or the salvatory clauses contained in the accession treaty could be activated. If they manage to use the remaining time effectively, the possibility of them being treated as second (or even third) class member states is diminishing. And the EU should remain

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focused on pushing the countries into structural change rather than focusing on how many high-ranking people are convicted.

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