



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.4.2007
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2007/0080 (CNS)

Recommendation for a

COUNCIL DECISION

**concerning the accession of Bulgaria and Romania to the Convention of 29 May 2000,
established by the Council in accordance with Article 34 of the Treaty on European
Union, on Mutual Assistance in Criminal Matters between the Member States of the
European Union**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The 2005 Act of accession of Bulgaria and Romania¹ has introduced a simplified system for the accession of Bulgaria and Romania to the conventions (and protocols) concluded by the Member States on the basis of Art. 34 TEU (previously Art. K.3 TEU) or Art. 293 EC. It is indeed not anymore necessary, as in the past, to negotiate and conclude specific accession protocols to these conventions (which would have implied ratification by 27 States): Article 3(3) of the Act provides simply that Bulgaria and Romania accede to these conventions and protocols by virtue of the Act of Accession.

Article 3(3) and 3(4) of the Act of Accession provide that, to that effect, the Council shall adopt a decision in order to determine the date on which these conventions shall enter into force for Bulgaria and Romania and to make all the necessary adjustments to these conventions required by reason of the accession of the two new Member States (which would include, in any event, the adoption of the conventions in the Bulgarian and Romanian languages, so that these versions can be "equally authentic"). The Council shall act on a recommendation of the Commission, after consulting the European Parliament.

Annex I to the Act of Accession gives the list of the seven conventions and protocols concerned in the Justice and Home Affairs area.

The list includes the Convention of 29 May 2000, established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union and its Protocol of 16 October 2001, established by the Council in accordance with Article 34 of the Treaty on European Union, to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union

This Commission Recommendation for a Council Decision is intended to make the adjustments required by reason of the accession of Bulgaria and Romania to the aforementioned Convention and its Protocol, in accordance with Article 3(4) of the Act of Accession.

¹ OJ 2005, L 157, p. 203.

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concerning the accession of Bulgaria and Romania to the Convention of 29 May 2000, established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty of Accession of Bulgaria and Romania,

Having regard to the Act of Accession of Bulgaria and Romania (hereinafter referred to as the "Act of Accession"), and in particular Article 3(4) thereof,

Having regard to the recommendation from the Commission²,

Having regard to the opinion of the European Parliament³,

Whereas:

- (1) The Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union⁴ (hereinafter referred to as the "Mutual Assistance Convention") was signed at Brussels on 29 May 2000 and entered into force on 23 August 2005.
- (2) The Mutual Assistance Convention was complemented by the Protocol of 16 October 2001, established by the Council in accordance with Article 34 of the Treaty on European Union to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union⁵ (hereinafter referred to as the "Mutual Assistance Protocol"), which entered into force on 5 October 2005.
- (3) Article 3(3) of the Act of Accession provides that Bulgaria and Romania accede to the conventions and protocols concluded between the Member States, listed in Annex I to the Act of Accession, which comprises, *inter alia*, the Mutual Assistance Convention and the Mutual Assistance Protocol. They are to enter into force in relation to Bulgaria and Romania on the date determined by the Council.

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C 197, 12.7.2000, p. 3.

⁵ OJ C 326, 21.11.2001, p. 2.

- (4) In accordance with Article 3(4) of the Act of Accession the Council is to make all adjustments required by reason of accession to those conventions and protocols,

HAS DECIDED AS FOLLOWS:

Article 1

The Mutual Assistance Convention shall enter into force on the first day of the first month following the date of adoption of this decision between Bulgaria, Romania and the Member States for which the Convention is in force at that date. It shall enter into force between Bulgaria or Romania and each of the other Member States on the day the Mutual Assistance Convention enters into force for the other Member State concerned.

The Mutual Assistance Protocol shall enter into force on the first day of the first month following the date of adoption of this decision between Bulgaria, Romania and the Member States for which the Protocol is in force at that date. It shall enter into force between Bulgaria or Romania and each of the other Member States on the day the Mutual Assistance Protocol enters into force for the other Member State concerned.

Article 2

The Mutual Assistance Convention, as complemented by the Mutual Assistance Protocol, drawn up in the Bulgarian and Romanian languages and annexed to this Decision, shall be authentic under the same conditions as the other texts of the Mutual Assistance Convention and the Mutual Assistance Protocol.

Article 3

This Decision shall take effect on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, [...]

For the Council
The President

ANNEX

Text of the Convention of 29 May 2000, established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union and the Protocol of 16 October 2001, established by the Council in accordance with Article 34 of the Treaty on European Union to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, in the Bulgarian and Romanian languages