COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.6.2007
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2007/0100 (CNS)

Recommendation for a

COUNCIL DECISION

concerning the accession of Bulgaria and Romania to the Convention of 26 July 1995, drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests, the Protocol of 27 September 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests, the Protocol of 29 November 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests and the Second Protocol of 19 June 1997, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests

(presented by the Commission)

EXPLANATORY MEMORANDUM

The 2005 Act of accession of Bulgaria and Romania[1] 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 TEC. 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 on the protection of the European Communities' financial interests of 26.7.1995,[2] its Protocols of 27.9.1996,[3] of 29.11.1996[4] and the 2nd Protocol of 19.6.1997,[5] all adopted under Title VI EU Treaty, set out to establish a common base for the criminal-law protection of the EC's financial interests. The Convention and its Protocols of 27.9.1996 and of 29.11.1996 entered into force on 17 October 2002 following ratification by the then 15 Member States. Ratification of the 2nd Protocol is still awaited by Italy.

There is no need for this Commission Recommendation to make the adjustments required by reason of the accession of Bulgaria and Romania to the aforementioned Convention and its Protocols, in accordance with Article 3(4) of the Act of Accession.

In view of the foregoing the Commission recommends that the Council takes a decision concerning the accession of Bulgaria and Romania to the Convention on the protection of the European Communities' financial interests and its Protocols.

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1 OJ L 157, 21.6.2005, p. 203.

2 Convention on the protection of the European Communities' financial interests, OJ C 316, 27.11.1995, p. 49.

3 Protocol to the Convention on the protection of the European Communities' financial interests, OJ C 313, 23.10.1996, p. 2.

4 Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests, OJ C 151, 20.5.1997, p. 2.

5 Second Protocol to the Convention on the protection of the European Communities' financial interests, OJ C 221, 19.7.1997, p. 12.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Act of accession of Bulgaria and Romania, and in particular Article 3 (4) thereof,

Having regard to the recommendation from the Commission[6],

Having regard to the opinion of the European Parliament[7],

Whereas:

(1) The Convention on the protection of the European Communities' financial interests[8], signed on 26 July 1995 and drawn up on the basis of Article K.3 of the Treaty on European Union, (hereinafter referred to as "the Convention on the protection of the European Communities' financial interests"). The Convention on the protection of the European Communities' financial interests entered into force on 17 October 2002.

(2) The Convention on the protection of the European Communities' financial interests was complemented by the Protocol of 27 September 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests[9] (hereinafter referred to as "the Protocol of 27 September 1996") and the Protocol of 29 November 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of

6 OJ C […], […], p. […].
7 OJ C […], […], p. […].
8 OJ C 316, 27.11.1995, p. 49
9 OJ C 313, 23.10.1996, p. 2.

preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests[10] (hereinafter referred to as "the Protocol of 29 November 1996"), which both entered into force on 17 October 2002.

(3) The Convention on the protection of the European Communities' financial interests was further complemented by the Second Protocol of 19 June 1997, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests[11] (hereinafter referred to as "the Second Protocol of 19 June 1997") which has not yet entered into force.

(4) 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 Convention on the protection of the European Communities' financial interests, the Protocol of 27 September 1996, the Protocol of 29 November 1996 and the Second Protocol of 19 June 1997. They are to enter into force in relation to Bulgaria and Romania on the date determined by the Council,

HAS DECIDED AS FOLLOWS:

Article 1

The texts of the Convention on the protection of the European Communities' financial interests, the Protocol of 27 September 1996, the Protocol of 29 November 1996 and the Second Protocol of 19 June 1997, drawn up in the Bulgarian and Romanian languages and annexed to this Decision, shall be authentic.

Article 2

1. The Convention on the protection of the European Communities' financial interests, the Protocol of 27 September 1996 and the Protocol of 29 November 1996 shall enter into force in relation to between Bulgaria and Romania on the first day of the first month following the date of adoption of this Decision, unless they have already come into force for Bulgaria or Romania before that date.

2. The Second Protocol of 19 June 1997 shall enter into force in relation to Bulgaria and Romania on the same date when that Protocol enters into force with regard to the last State, which was a member of the European Union at the date of the adoption by the Council of the act drawing up that Protocol[12].

Article 3

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

[10] OJ C 151, 20.5.1997, p. 2.
[11] OJ C 221, 19.7.1997, p. 12.
[12] Council Act of 19 June 1997 drawing up the Second Protocol of the Convention on the protection of the European Communities' financial interests, OJ C 221, 19.7.1997, p. 11.

Journal of the European Union.

Done at Brussels,

For the Council
The President

ANNEX 1

Text of the Convention of 26 July 1995, drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests in the Bulgarian and Romanian languages

ANNEX 2

Text of the Protocol of 27 September 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests in the Bulgarian and Romanian languages

ANNEX 3

Text of the Protocol of 29 November 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests in the Bulgarian and Romanian languages

ANNEX 4

Text of the Second Protocol of 19 June 1997, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests in the Bulgarian and Romanian languages