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C O N F I D E N T I A L SECTION 01 OF 02 SOFIA 000325

SENSITIVE
SIPDIS

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TAGS: PGOV PREL ECON BU
SUBJECT: BULGARIA/EC MONITORING TEAM: "HOW DO YOU MAKE
THEM REFORM WHEN THEY DON'T WANT TO?"

REF: A. SOFIA 0225
¶B. 08 SOFIA 0365
¶C. 08 SOFIA 0499

Classified By: DCM Alex Karagiannis for reasons 1.4 (b) and (d).

¶1. (C) SUMMARY: XXXXXXXXXXXXXXX (please strictly protect) confided that the July report on Bulgaria's anti-crime and corruption efforts would be negative, but the EU political level would "water down" the tone of the final version. The report's release might be delayed until September because of the formation of a new Commission. In contrast to previous conversations, XXXXXXXXXXXXXXX emotionally reflected Brussels, growing and by now extreme frustration with Sofia's cosmetic fixes to get a "good report" while failing to undertake real reforms. He confirmed that the Dutch want to invoke the safeguard clause when the report is released and that others, including the Swedes who hold the next presidency, favor extending the Mechanism beyond its three-year mandate. END SUMMARY.

¶2. (C) XXXXXXXXXXXXXXX

Judicial Reform -- Fatigue and Frustration

¶3. (C) XXXXXXXXXXXXXXX said the monitors raised key issues with the GOB such as the appointment procedure for top judicial officials, vote buying, and progress in organized crime and high-level corruption cases. XXXXXXXXXXXXXXX called the appointment/nomination procedure for the top judicial officials "non-transparent" because the vote on the nominees is secret and does not take into full account disciplinary actions against the nominees. Furthermore, the process lacks real debate among the Supreme Judicial Council (SJC) members on the nominees' qualifications and does not allow the

members to release "opinions" on why they voted for or against a nominee. The non-transparent procedure permits the selection of corrupt and/or incompetent judges and prosecutors to the higher courts, perpetuating the cycle of incompetence and corruption in the Bulgarian judiciary. XXXXXXXXXXXXXXX said the entire team believes the Bulgarians only address issues in the Commission's report to get a "good report," not to create a better judicial system. For example, Prosecutor General Boris Velchev asked if his nomination of a certain person for a position in the prosecutor's office would be recorded negatively in the upcoming Commission report. They replied to Velchev that if he thinks the nomination would be reported negatively, then it is a "good sign that it probably would be." XXXXXXXXXXXXXXX added that Velchev often asks how he is perceived in Brussels when they discuss reforms in the prosecution service. Another example is that Sofia City Court has two courtrooms specifically available for hearing EU funds fraud cases, while available courtrooms for other cases are hard to come by.

¶4. (C) The Bulgarian government -- especially PG Velchev and European Minister Passy -- are lobbying heavily for a positive monitoring report, magnifying modest progress. The government keeps presenting the Commission a list of on-going high profile organized crime and corruption court cases (the number has grown from 30 to 52 over the last two and a half years) as "successes." Incredibly, several of the "success" cases have been suspended. Several other cases, against notorious shady businessmen Angel Khristov and Plamen Galev AKA the Galevi brothers, and others can hardly be called

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successes as these defendants gained immunity by running for parliament. XXXXXXXXXXXXXXX said the team found this "loophole" quite disturbing, along with how some Bulgarian officials vehemently defend the law that permits this phenomenon. Along with the "Galevization" of politics (referring to the Galevi brothers election campaign), Brussels is also concerned with vote buying and general election fraud.

Only Sticks Seem to Work

¶5. (C) XXXXXXXXXXXXXXX told us that the Commission feels they have "tried everything" to make the Bulgarians reform their judicial system, but concluded "how do you make them reform when they do not want to?" The government's defensive arrogance -- and lack of political will -- is intensifying enlargement fatigue in Brussels. He underscored that EC pressure via the monitoring reports and withholding EU funds are the only ways to produce results. He confirmed media reports that Dutch Minister of European Affairs Franz Timmermans requested the Commission to consider activating the safeguard clause against Bulgaria and Romania when the EC releases both reports. (Activating the safeguard clause in Justice and Home Affairs would mean that the European Union

would not recognize Bulgaria's legal decisions and exclude Bulgaria from legal and police cooperation.) XXXXXXXXXXXX said currently only The Netherlands is demanding the safeguard clause, but others are increasingly fed-up with Bulgaria (and Romania's) lack of progress. There is talk within the Commission about extending the Monitoring and Verification Mechanism beyond the three years stated in Bulgaria's and Romania's EU Accession Acquis. Sweden, which holds the next EU presidency, favors extending the monitoring mechanism and is committed to pursue "rule of law issues" in both countries.

¶6. (C) The report's release date hinges on EU internal political maneuvering for the formation and nomination of the new Commission and the election of its next president -- a process that begins in July. XXXXXXXXXXXX told us that the team is preparing the report to be released the last week of July, but it may be published the second half of September if the new Commission formation is drawn out. The team's report will be critical, saying overall reform has stopped, but likely the final EC report will be "watered down" as in the past for political reasons.

¶7. (C) COMMENT: XXXXXXXXXXXX's frustration with the Bulgarian government's lame and insincere reform efforts was striking. It appears to be spreading in Brussels where at least the working level appears to be feeling "buyers remorse" over letting Bulgaria and Romania into the club too early. According to reliable contacts, Brussels Eurocrats have dubbed enlargement fatigue the "Bulgarian Break," further tarnishing Bulgaria's bad image within the EU (REFTEL A).
END COMMENT.

McEldowney