

COUNCIL DECISION
of 30 November 2009
providing macro-financial assistance to Serbia
(2009/892/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

After consulting the Economic and Financial Committee,

Whereas:

(1) Relations between Serbia and the European Union (EU) are developing within the framework of the Stabilisation and Association Process and the European Partnership; Serbia and the Commission signed on 29 April 2008 a Stabilisation and Association Agreement and the Interim Agreement on Trade and Trade related Matters.

(2) The Serbian economy has been increasingly hit by the international financial crisis since the second half of 2008, with declining output, falling fiscal revenues and rising external financing needs.

(3) Serbia's economic stabilisation and recovery is supported by financial assistance of the International Monetary Fund (IMF). In November 2008, the Serbian authorities agreed initially with the IMF on a new Stand-By Arrangement which was approved in January 2009.

(4) Following a further deterioration of the economic situation and a necessary revision of the programme's underlying economic assumptions as well as higher external financing needs, an agreement was reached between Serbia and the IMF in March 2009 to turn the Stand-By Arrangement into a EUR 3 billion disbursing programme, which was approved on 15 May 2009 by the IMF Board.

(5) The Community intends to provide in 2009 and 2010 Instrument for Pre-Accession (IPA) budget support grants of a total of EUR 100 million.

(6) Serbia has requested additional Community macro-financial assistance in view of the worsening economic situation and outlook.

(7) Given that a residual financing gap remains in the balance of payments in 2010, macro-financial assistance is considered an appropriate response to Serbia's request under the current exceptional circumstances to support economic stabilisation in conjunction with the current IMF programme. The present financial assistance is also expected to contribute to alleviating budgetary financing needs.

(8) In order to ensure efficient protection of the Community's financial interests linked to the present financial assistance, it is necessary to provide for appropriate measures by Serbia related to the prevention of, and the fight against, fraud, corruption and any other irregularities linked to this assistance, as well as for controls by the Commission and audits by the Court of Auditors.

(9) The release of the Community financial assistance is without prejudice to the powers of the budgetary authority.

(10) This assistance should be managed by the Commission, in consultation with the Economic and Financial Committee.

(11) The Treaty does not provide, for the adoption of this Decision, powers other than those of Article 308,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Community shall make available to Serbia macro-financial assistance in the form of a loan facility with a maximum principal amount of EUR 200 million and a maximum average maturity of 15 years with a view to supporting Serbia's economic stabilisation and alleviating its balance of payments and budgetary needs as identified in the current IMF programme.

2. To this end, the Commission is empowered to borrow on behalf of the Community the necessary resources.

3. The release of the Community financial assistance shall be managed by the Commission, in close cooperation with the Economic and Financial Committee, in a manner consistent with the agreements or understandings reached between the IMF and Serbia.

4. The Community financial assistance shall be made available for two years starting from the first day after the entry into force of the Memorandum of Understanding referred to in Article 2(1). However, if circumstances so require, the Commission, after consultation of the Economic and Financial Committee, may decide to extend the availability period by a maximum of one year.

Article 2

1. The Commission is empowered to agree with the authorities of Serbia, after consulting the Economic and Financial Committee, the economic policy conditions attached to the Community macro-financial assistance, to be laid down in a Memorandum of Understanding. The conditions shall be consistent with the agreements or understandings reached between the IMF and Serbia. The detailed financial terms of the assistance shall be laid down in a Loan Agreement to be agreed between the Commission and the authorities of Serbia.

2. During the implementation of the Community financial assistance, the Commission shall monitor the soundness of Serbia's financial arrangements, administrative procedures, and the internal and external control mechanisms which are relevant to such assistance.

3. The Commission shall verify at regular intervals that Serbia's economic policies are in accordance with the objectives of the Community assistance and that the agreed economic policy conditions are being satisfactorily fulfilled. In doing so, the Commission shall coordinate closely with the Bretton Woods Institutions, and, when required, with the Economic and Financial Committee.

Article 3

1. The Community financial assistance shall be made available by the Commission to Serbia in two loan instalments, subject to the conditions of paragraph 2. The size of the loan instalments will be laid down in the Memorandum of Understanding.

2. The Commission shall decide on the release of the instalments subject to satisfactory implementation of the economic policy conditions agreed in the Memorandum of Understanding. The disbursement of the second instalment shall not take place earlier than three months after the release of the first instalment.

3. The Community funds shall be paid to the National Bank of Serbia. Subject to provisions to be spelled out in the Memorandum of Understanding, including a confirmation of residual budgetary financing needs, their counter-value in local currency may be transferred to the Treasury of Serbia as the final beneficiary.

Article 4

1. The Community borrowing and lending operations referred to in this Decision shall be carried out in euro using the same value date and shall not involve the Community in the transformation of maturities, in any exchange or interest rate risks, or in any other commercial risk.

2. The Commission shall take the necessary steps, if Serbia so requests, to ensure that an early repayment clause is included in the loan terms and conditions and matched by a corresponding clause in the terms and conditions of the borrowing operations.

3. At the request of Serbia, and where circumstances permit an improvement of the interest rate of the loan, the Commission may refinance all or part of its initial borrowings or restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with the conditions set out in paragraph 1 and shall not have the effect of extending the average maturity of the borrowing concerned or increasing the amount of capital outstanding at the date of the refinancing or restructuring.

4. All costs incurred by the Community which are related to the borrowing and lending operations under this Decision shall be borne by Serbia.

5. The Economic and Financial Committee shall be kept informed of developments in the operations referred to in paragraphs 2 and 3.

Article 5

The Community financial assistance shall be implemented in accordance with the provisions of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ and its implementing rules ⁽²⁾. In particular, the Memorandum of Understanding and the Loan Agreement to be agreed with the authorities of Serbia shall provide for appropriate measures by Serbia in relation to the prevention of, and the fight against, fraud, corruption and other irregularities affecting the assistance. They shall also provide for controls by the Commission, including the European Anti-Fraud Office (OLAF), with the right to perform on-the-spot checks and inspections, and for audits by the Court of Auditors, where appropriate, to be carried out on the spot.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ Commission Regulation (EC, Euratom) No 2342/2002 (OJ L 357, 31.12.2002, p. 1).

Article 6

By 31 August of each year the Commission shall submit to the European Parliament and to the Council a report, including an evaluation of the implementation of this Decision in the preceding year. The report shall indicate the connection between the policy conditions as laid down in a Memorandum of Understanding pursuant to Article 2(1), Serbia's on-going economic and fiscal performance, and the Commission's decision to release the instalment of the assistance.

Article 7

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

Done at Brussels, 30 November 2009.

For the Council

The President

B. ASK
