

DECISIONS

DECISION No 534/2014/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 May 2014

providing macro-financial assistance to the Republic of Tunisia

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) Relations between the European Union and the Republic of Tunisia ('Tunisia') are developing within the framework of the European Neighbourhood Policy (ENP). The Euro-Med Association Agreement between the European Communities and their Member States, on the one hand, and Tunisia, on the other hand ⁽²⁾ ('the EU-Tunisia Association Agreement'), entered into force on 1 March 1998. Under the EU-Tunisia Association Agreement, Tunisia finalised dismantling tariffs for industrial products in 2008, thereby making Tunisia the first Southern Mediterranean country to enter into a free trade area with the Union. Bilateral political dialogue and economic cooperation have been further developed within the framework of ENP Action Plans, of which the most recent under discussion would cover the period 2013-2017.
- (2) Tunisia's economy has been significantly affected by domestic events related to the events in the Southern Mediterranean since the end of 2010, known as the 'Arab Spring', and by the regional unrest that followed, particularly in neighbouring Libya. Those events and the weak global economic environment, in particular the recession in the euro area, which is Tunisia's main trading and financial partner, have had a very negative impact on the Tunisian economy, leading to a slowdown in growth and generating large external and budgetary financing gaps.
- (3) Following the ousting of President Ben Ali on 14 January 2011, Tunisia's first free and democratic elections took place on 23 October 2011. A National Constituent Assembly has been in place since then, and although the political transition has not been without difficulties, there have been concerted efforts by the main political actors to proceed with reforms towards a fully-fledged democratic system.
- (4) The Constitution adopted by the National Constituent Assembly of Tunisia includes some advances in the field of individual rights and freedoms and gender equality, which set Tunisia on the path towards democracy and the rule of law.
- (5) Since the Arab Spring began, the Union has, on various occasions, declared its commitment to supporting Tunisia in its economic and political reform process. That commitment was reaffirmed in November 2012, in the conclusions of the meeting of the Association Council between the Union and Tunisia. The Union's political and economic support for Tunisia's reform process is consistent with the Union's policy towards the Southern Mediterranean region, as set out in the context of the ENP.

⁽¹⁾ Position of the European Parliament of 16 April 2014 (not yet published in the Official Journal) and Decision of the Council of 6 May 2014.

⁽²⁾ Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part (OJ L 97, 30.3.1998, p. 2).

- (6) In line with the Joint Declaration by the European Parliament and the Council adopted together with Decision No 778/2013/EU of the European Parliament and of the Council ⁽¹⁾, Union macro-financial assistance should be an exceptional financial instrument of untied and undesignated balance-of-payments support, which aims at restoring a beneficiary's sustainable external finance situation and should underpin the implementation of a policy programme containing strong adjustment and structural reform measures designed to improve the balance of payment position, in particular over the programme period, and reinforce the implementation of relevant agreements and programmes with the Union.
- (7) In April 2013, the Tunisian authorities and the International Monetary Fund (IMF) agreed on a non-precautionary three-year Stand-By-Arrangement ('IMF programme') of SDR 1 146 million (Special Drawing Rights) in support of Tunisia's economic adjustment and reform programme. The objectives of the IMF programme are consistent with the purpose of the Union macro-financial assistance, namely to alleviate short-term balance of payment difficulties, and the implementation of strong adjustment measures is consistent with the aim of Union macro-financial assistance.
- (8) The Union has made available EUR 290 million in grants for the period 2011-2013 under its regular cooperation programme in support of Tunisia's economic and political reform agenda. In addition, EUR 155 million has been allocated to Tunisia for the period 2011-2013 under the 'Support for partnership, reforms and inclusive growth' (SPRING) programme.
- (9) In August 2013, in view of the worsening economic situation and outlook, Tunisia requested Union macro-financial assistance.
- (10) Given that Tunisia is a country covered by the ENP, it should be considered to be eligible to receive Union macro-financial assistance.
- (11) Given that there is still a significant residual external financing gap in Tunisia's balance of payments over and above the resources provided by the IMF and other multilateral institutions, and despite the implementation of strong economic stabilisation and reform programmes by Tunisia, the Union macro-financial assistance to be provided to Tunisia ('the Union's macro-financial assistance') is, under the current exceptional circumstances, considered to be an appropriate response to Tunisia's request to support economic stabilisation in conjunction with the IMF programme. The Union's macro-financial assistance would support the economic stabilisation and the structural reform agenda of Tunisia, supplementing resources made available under the IMF financial arrangement.
- (12) The Union's macro-financial assistance should aim to support the restoration of a sustainable external financing situation for Tunisia thereby supporting its economic and social development.
- (13) The determination of the amount of the Union's macro-financial assistance is based on a complete quantitative assessment of Tunisia's residual external financing needs, and takes into account its capacity to finance itself with its own resources, in particular the international reserves at its disposal. The Union's macro-financial assistance should complement the programmes and resources provided by the IMF and the World Bank. The determination of the amount of the assistance also takes into account expected financial contributions from multilateral donors and the need to ensure fair burden sharing between the Union and other donors, as well as the pre-existing deployment of the Union's other external financing instruments in Tunisia and the added value of the overall Union involvement.
- (14) The Commission should ensure that the Union's macro-financial assistance is legally and substantially in line with the key principles, objectives and measures taken within the different areas of external action and other relevant Union policies.
- (15) The Union's macro-financial assistance should support the Union's external policy towards Tunisia. Commission services and the European External Action Service should work closely together throughout the macro-financial assistance operation in order to coordinate, and to ensure the consistency of, Union external policy.

⁽¹⁾ Decision No 778/2013/EU of the European Parliament and of the Council of 12 August 2013 providing further macro-financial assistance to Georgia (OJ L 218, 14.8.2013, p. 15).

- (16) The Union's macro-financial assistance should support Tunisia's commitment to values shared with the Union, including democracy, the rule of law, good governance, respect for human rights, sustainable development and poverty reduction, as well as its commitment to the principles of open, rule-based and fair trade.
- (17) A pre-condition for granting the Union's macro-financial assistance should be that Tunisia respects effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and guarantees respect for human rights. In addition, the specific objectives of the Union's macro-financial assistance should strengthen the efficiency, transparency and accountability of the public finance management systems in Tunisia and promote structural reforms aimed at supporting sustainable and inclusive growth, employment creation and fiscal consolidation. Both fulfilment of the pre-condition and the achievement of those objectives should be regularly monitored by the Commission.
- (18) In order to ensure that the Union's financial interests linked to the Union's macro-financial assistance are protected efficiently, Tunisia should take appropriate measures relating to the prevention of, and fight against, fraud, corruption and any other irregularities linked to the assistance. In addition, provision should be made for the Commission to carry out checks and for the Court of Auditors to carry out audits.
- (19) Release of the Union's macro-financial assistance is without prejudice to the powers of the European Parliament and of the Council.
- (20) The amounts of the provision required for the Union's macro-financial assistance should be consistent with the budgetary appropriations provided for in the multi-annual financial framework.
- (21) The Union's macro-financial assistance should be managed by the Commission. In order to ensure that the European Parliament and the Council are able to follow the implementation of this Decision, the Commission should regularly inform them of developments relating to the assistance and provide them with relevant documents.
- (22) In order to ensure uniform conditions for the implementation of this Decision, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.
- (23) The Union's macro-financial assistance should be subject to economic policy conditions, to be laid down in a Memorandum of Understanding. In order to ensure uniform conditions of implementation and for reasons of efficiency, the Commission should be empowered to negotiate such conditions with the Tunisian authorities under the supervision of the committee of representatives of the Member States in accordance with Regulation (EU) No 182/2011. Under that Regulation, the advisory procedure should, as a general rule, apply in all cases other than as provided for in that Regulation. Considering the potentially important impact of assistance of more than EUR 90 million, it is appropriate that the examination procedure be used for operations above that threshold. Considering the amount of the Union's macro-financial assistance to Tunisia, the examination procedure should apply to the adoption of the Memorandum of Understanding, and to any reduction, suspension or cancellation of the assistance,

HAVE ADOPTED THIS DECISION:

Article 1

1. The Union shall make macro-financial assistance available to Tunisia ('the Union's macro-financial assistance') of a maximum amount of EUR 300 million, with a view to supporting Tunisia's economic stabilisation and reforms. The assistance shall contribute to covering Tunisia's balance of payments needs as identified in the IMF programme.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

2. The full amount of the Union's macro-financial assistance shall be provided to Tunisia in the form of loans. The Commission shall be empowered on behalf of the Union to borrow the necessary funds on the capital markets or from financial institutions and to on-lend them to Tunisia. The loans shall have a maximum maturity of 15 years.
3. The release of the Union's macro-financial assistance shall be managed by the Commission in a manner consistent with the agreements or understandings reached between the IMF and Tunisia, and with the key principles and objectives of economic reforms set out in the EU-Tunisia Association Agreement and the EU-Tunisia Action Plan for 2013-2017, agreed under the ENP. The Commission shall regularly inform the European Parliament and the Council of developments regarding the Union's macro-financial assistance, including disbursements thereof, and shall provide those institutions with the relevant documents in due time.
4. The Union's macro-financial assistance shall be made available for a period of two and a half years, starting from the first day after the entry into force of the Memorandum of Understanding referred to in Article 3(1) of this Decision.
5. Where the financing needs of Tunisia decrease fundamentally during the period of the disbursement of the Union's macro-financial assistance compared to the initial projections, the Commission, acting in accordance with the examination procedure referred to in Article 7(2), shall reduce the amount of the assistance or suspend or cancel it.

Article 2

A pre-condition for granting the Union's macro-financial assistance shall be that Tunisia respects effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and guarantees respect for human rights.

The Commission shall monitor the fulfilment of this pre-condition throughout the life-cycle of the Union's macro-financial assistance.

This Article shall be applied in accordance with Council Decision 2010/427/EU ⁽¹⁾.

Article 3

1. The Commission, in accordance with the examination procedure referred to in Article 7(2), shall agree with the Tunisian authorities on clearly defined economic policy and financial conditions, focusing on structural reforms and sound public finances, to which the Union's macro-financial assistance is to be subject, to be laid down in a Memorandum of Understanding ('the Memorandum of Understanding'), which shall include a time-frame for the fulfilment of those conditions. The economic policy and financial conditions set out in the Memorandum of Understanding shall be consistent with the agreements or understandings referred to in Article 1(3), including the macro-economic adjustment and structural reform programmes implemented by Tunisia, with the support of the IMF.
2. Those conditions shall aim, in particular, to enhance the efficiency, transparency and accountability of the public finance management systems in Tunisia, including for the use of the Union's macro-financial assistance. Progress in mutual market opening, the development of rules-based and fair trade and other priorities in the context of the Union's external policy shall also be duly taken into account when designing the policy measures. Progress in attaining those objectives shall be regularly monitored by the Commission.
3. The detailed financial terms of the Union's macro-financial assistance shall be laid down in a Loan Agreement to be agreed between the Commission and the Tunisian authorities.
4. The Commission shall verify at regular intervals that the conditions in Article 4(3) continue to be met, including whether the economic policies of Tunisia are in accordance with the objectives of the Union's macro-financial assistance. In so doing, the Commission shall coordinate closely with the IMF and the World Bank and, where necessary, with the European Parliament and the Council.

⁽¹⁾ Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

Article 4

1. Subject to the conditions in paragraph 3, the Union's macro-financial assistance shall be made available by the Commission in three loan instalments. The size of each instalment shall be laid down in the Memorandum of Understanding.
2. The amounts of the Union's macro-financial assistance shall be provisioned, where required, in accordance with Council Regulation (EC, Euratom) No 480/2009 ⁽¹⁾.
3. The Commission shall decide on the release of the instalments subject to the fulfilment of all of the following conditions:
 - (a) the pre-condition set out in Article 2;
 - (b) a continuous satisfactory track record of implementing a policy programme that contains strong adjustment and structural reform measures supported by a non-precautionary IMF credit arrangement; and
 - (c) the implementation, within a specific time-frame, of the economic policy and financial 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. The disbursement of the third instalment shall not take place earlier than three months after the release of the second instalment.

4. Where the conditions in paragraph 3 are not met, the Commission shall temporarily suspend or cancel the disbursement of the Union's macro-financial assistance. In such cases, it shall inform the European Parliament and the Council of the reasons for that suspension or cancellation.
5. The Union's macro-financial assistance shall be disbursed to the Central Bank of Tunisia. Subject to provisions to be agreed in the Memorandum of Understanding, including a confirmation of residual budgetary financing needs, the Union funds may be transferred to the Tunisian Ministry of Finance as the final beneficiary.

Article 5

1. The borrowing and lending operations related to the Union's macro-financial assistance shall be carried out in euro, using the same value date, and shall not involve the Union in the transformation of maturities, or expose it to any exchange or interest rate risk, or to any other commercial risk.
2. Where the circumstances permit, and if Tunisia so requests, the Commission may take the steps necessary to ensure that an early repayment clause is included in the loan terms and conditions, and that it is matched by a corresponding clause in the terms and conditions of the borrowing operations.
3. Where circumstances permit an improvement of the interest rate of the loan, and if Tunisia so requests, the Commission may decide to refinance all or part of its initial borrowings, or may restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with paragraphs 1 and 4, and shall not have the effect of extending the maturity of the borrowings concerned or of increasing the amount of capital outstanding at the date of the refinancing or restructuring.
4. All costs incurred by the Union which relate to the borrowing and lending operations under this Decision shall be borne by Tunisia.
5. The Commission shall inform the European Parliament and the Council of developments in the operations referred to in paragraphs 2 and 3.

⁽¹⁾ Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10).

Article 6

1. The Union's macro-financial assistance shall be implemented in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾ and Commission Delegated Regulation (EU) No 1268/2012 ⁽²⁾.
2. The implementation of the Union's macro-financial assistance shall be under direct management.
3. The Memorandum of Understanding and the Loan Agreement to be agreed with the Tunisian authorities shall contain provisions:
 - (a) ensuring that Tunisia regularly checks that financing provided from the general budget of the Union has been properly used, takes appropriate measures to prevent irregularities and fraud, and, if necessary, takes legal action to recover any funds provided under this Decision that have been misappropriated;
 - (b) ensuring the protection of the Union's financial interests, in particular providing for specific measures in relation to the prevention of, and fight against, fraud, corruption and any other irregularities affecting the Union's macro-financial assistance, in accordance with Council Regulation (EC, Euratom) No 2988/95 ⁽³⁾, Council Regulation (Euratom, EC) No 2185/96 ⁽⁴⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽⁵⁾;
 - (c) expressly authorising the Commission, including the European Anti-Fraud Office, or its representatives to carry out checks, including on-the-spot checks and inspections;
 - (d) expressly authorising the Commission and the Court of Auditors to perform audits during and after the availability period of the Union's macro-financial assistance, including document audits and on-the-spot audits, such as operational assessments; and
 - (e) ensuring that the Union is entitled to early repayment of the loan where it has been established that, in relation to the management of the Union's macro-financial assistance, Tunisia has engaged in any act of fraud or corruption or any other illegal activity detrimental to the financial interests of the Union.
4. During the implementation of the Union's macro-financial assistance, the Commission shall monitor, by means of operational assessments, the soundness of Tunisia's financial arrangements, the administrative procedures, and the internal and external control mechanisms which are relevant to the assistance.

Article 7

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

⁽³⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽⁴⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽⁵⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

Article 8

1. By 30 June of each year, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Decision in the preceding year, including an evaluation of that implementation. That report shall:

- (a) examine the progress made in implementing the Union's macro-financial assistance;
- (b) assess the economic situation and prospects of Tunisia, as well as progress made in implementing the policy measures referred to in Article 3(1);
- (c) indicate the connection between the economic policy conditions laid down in the Memorandum of Understanding, Tunisia's on-going economic and fiscal performance and the Commission's decisions to release the instalments of the Union's macro-financial assistance.

2. Not later than two years after the expiry of the availability period referred to in Article 1(4), the Commission shall submit to the European Parliament and to the Council an ex post evaluation report, assessing the results and efficiency of the completed Union's macro-financial assistance and the extent to which it has contributed to the aims of the assistance.

Article 9

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 15 May 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS
