

## I

*(Legislative acts)*

## DECISIONS

**DECISION (EU) 2016/1112 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 6 July 2016**  
**providing further macro-financial assistance to 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(2) 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 <sup>(1)</sup>,

Whereas:

- (1) Relations between the European Union (the 'Union') and the Republic of Tunisia ('Tunisia') are developing within the framework of the European Neighbourhood Policy (ENP). Tunisia was the first Mediterranean country to sign an Association Agreement <sup>(2)</sup> with the Union on 17 July 1995, which came into force on 1 March 1998. Under that Agreement, Tunisia finalised dismantling tariffs for industrial products in 2008, thus making Tunisia the first 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 covers the period 2013-2017.
- (2) Following the revolution and the ousting of President Ben Ali on 14 January 2011, Tunisia's first free and democratic elections took place on 23 October 2011. A new constitution was adopted in January 2014, and parliamentary and presidential elections took place in the fourth quarter of 2014, with concerted efforts by the main political actors to proceed with reforms towards a fully-fledged democratic system.
- (3) In parallel with this political transition process, the Tunisian economy has suffered from continuous domestic unrest, regional instability (including the impact of the Libyan conflict) and a weak international environment (particularly in the Union, Tunisia's main trading partner). Those unfavourable developments have substantially weakened its growth performance, as well as its fiscal and balance of payments positions.
- (4) Since 2011, following the political changes in Tunisia, the Union has expressed its unequivocal commitment to supporting Tunisia in its economic and political reform process. It has increased its financial support to Tunisia, strengthening its cooperation in many fields, including civil society, the electoral system, security, regional development and social and economic reforms. In addition, it has offered the possibility of concluding a Deep and Comprehensive Free Trade Area agreement, the negotiations of which were launched in October 2014.

<sup>(1)</sup> Position of the European Parliament of 8 June 2016 (not yet published in the Official Journal) and decision of the Council of 24 June 2016.

<sup>(2)</sup> 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 278, 21.10.2005, p. 9).

- (5) In this difficult economic and financial context, the Tunisian authorities and the International Monetary Fund (IMF) agreed, in April 2013, on a non-precautionary three-year Stand-By Arrangement of SDR 1 146 million (Special Drawing Rights) in support of Tunisia's economic adjustment and reform programme, which was subsequently extended until the end of 2015. In total, USD 1 500 million has been drawn under the IMF programme following six completed programme reviews.
- (6) In August 2013, Tunisia requested complementary macro-financial assistance from the Union. In response, a decision providing macro-financial assistance of EUR 300 million in the form of loans was adopted in May 2014 (MFA-I) <sup>(1)</sup>. The Memorandum of Understanding defining the policy conditions related to MFA-I entered into force on 4 March 2015. Following implementation of the agreed policy measures, the first tranche of MFA-I was disbursed on 7 May 2015 and the second tranche was disbursed on 1 December 2015.
- (7) The Union made EUR 524 million available in grants for the period 2011-2015 under its regular cooperation programme in support of Tunisia's economic and political reform agenda. In addition, EUR 155 million was allocated to Tunisia in 2011-2013 under the 'Support for partnership, reforms and inclusive growth' (SPRING) programme and EUR 122 million was allocated in 2014-2015 under the 'Umbrella' programme. Moreover, the European Investment Bank has provided loans in the amount of EUR 1 338 million since 2011.
- (8) In 2015, Tunisia's economy was significantly affected by several terrorist attacks which targeted key economic industries, such as tourism and transport, and aimed to disrupt the consolidation of its political transition. Those attacks have had a negative impact on the economic recovery Tunisia was beginning to experience. Together with persistent regional instability (including the reactivation of the Libyan conflict), and the still weak European and global economic environment, those events have exacerbated Tunisia's already weak balance of payments and fiscal positions. This has resulted in significant external and budgetary financial gaps.
- (9) In this challenging context, the Union has reaffirmed its commitment to supporting Tunisia in its economic and political reform process. In particular, this commitment was expressed in the conclusions of the meeting of the Association Council between the Union and Tunisia in March 2015, as well as following the June 2015 terrorist attack near Sousse, in the Council conclusions of 20 July 2015. Political and economic support from the Union 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.
- (10) Following the deterioration in Tunisia's economic and financial situation, the IMF and Tunisia have started discussions on a successor arrangement of a larger amount, which could take the form of an Extended Financing Facility ('IMF programme') and would likely cover a period of four years, starting in the spring of 2016. The new IMF programme would aim to alleviate Tunisia's short-term balance of payment difficulties while encouraging the implementation of strong adjustment measures.
- (11) In August 2015, in view of the worsening economic situation and outlook, Tunisia requested additional macro-financial assistance from the Union.
- (12) Given that Tunisia is a country covered by the ENP, it should be considered to be eligible to receive macro-financial assistance from the Union.
- (13) The Union's macro-financial assistance should be an exceptional financial instrument of untied and undesignated balance-of-payments support, which aims to address the beneficiary's immediate external financing needs and should underpin the implementation of a policy programme containing strong immediate adjustment and structural reform measures designed to improve the balance-of-payments position in the short term.
- (14) 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, the Union's macro-financial assistance to be provided to Tunisia is, in 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's financial arrangement.

<sup>(1)</sup> Decision No 534/2014/EU of 15 May 2014 of the European Parliament and of the Council providing macro-financial assistance to the Republic of Tunisia (OJ L 151, 21.5.2014, p. 9).

- (15) 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.
- (16) 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.
- (17) 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.
- (18) 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.
- (19) 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.
- (20) 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 should promote structural reforms aimed at supporting sustainable and inclusive growth, employment creation and fiscal consolidation. Both the fulfilment of the preconditions and the achievement of those objectives should be regularly monitored by the Commission and the European External Action Service.
- (21) 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.
- (22) Release of the Union's macro-financial assistance is without prejudice to the powers of the European Parliament and of the Council, as budgetary authority.
- (23) The amounts of the provision required for macro-financial assistance should be consistent with the budgetary appropriations provided for in the multi-annual financial framework.
- (24) 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.
- (25) 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 <sup>(1)</sup>.
- (26) 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

<sup>(1)</sup> 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).

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 of a maximum amount of EUR 500 million available to Tunisia (the 'Union's macro-financial assistance'), with a view to supporting Tunisia's economic stabilisation and a substantive reform agenda. The assistance shall contribute to covering Tunisia's balance of payments needs as identified in the IMF programme.
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 average 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. 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).
5. If 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*

1. 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.
2. The Commission and the European External Action Service shall monitor the fulfilment of the pre-condition set out in paragraph 1 throughout the life-cycle of the Union's macro-financial assistance.
3. Paragraphs 1 and 2 shall be applied in accordance with Council Decision 2010/427/EU <sup>(1)</sup>.

#### *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

<sup>(1)</sup> 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).

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'). 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 macroeconomic adjustment and structural reform programmes implemented by Tunisia with the support of the IMF.

2. The conditions referred to in paragraph 1 shall aim, in particular, at enhancing 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 concluded between the Commission and the Tunisian authorities.

4. The Commission shall verify at regular intervals that the conditions referred to 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.

#### *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 <sup>(1)</sup>.

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 satisfactory implementation of the economic policy and financial conditions agreed in the Memorandum of Understanding.

The release of the second instalment shall not, in principle, take place earlier than three months after the release of the first instalment. The release of the third instalment shall not, in principle, take place earlier than three months after the release of the second instalment.

4. Where the conditions in the first subparagraph of paragraph 3 are continuously 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 the 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.

<sup>(1)</sup> 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 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.

*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 <sup>(1)</sup> and Commission Delegated Regulation (EU) No 1268/2012 <sup>(2)</sup>.
2. The implementation of the Union's macro-financial assistance shall be under direct management.
3. The Loan Agreement referred to in Article 3(3) shall contain provisions:
  - (a) ensuring that Tunisia regularly checks that financing provided from the 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 <sup>(3)</sup>, Council Regulation (Euratom, EC) No 2185/96 <sup>(4)</sup> and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(5)</sup>;
  - (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;

<sup>(1)</sup> 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).

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

<sup>(3)</sup> 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).

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

<sup>(5)</sup> 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).

- (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;
  - (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. Before the implementation of the Union's macro-financial assistance, the Commission shall assess, by means of an operational assessment, 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.

#### 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. The 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 ongoing 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 Strasbourg, 6 July 2016.

*For the European Parliament*

*The President*

M. SCHULZ

*For the Council*

*The President*

I. KORČOK

**Joint statement by the European Parliament and the Council**

This Decision is adopted without prejudice to the Joint Declaration adopted together with Decision 778/2013/EU of the European Parliament and of the Council providing further macro-financial assistance to Georgia, which is to continue to be regarded as the basis for all decisions of the European Parliament and Council providing macro-financial assistance to third countries and territories.

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