



Brussels, 5.11.2015  
C(2015) 7454 final

**COMMISSION DECISION**

**of 5.11.2015**

**on the Annual Action Programme 2015 in favour of Kenya to be financed from the  
11<sup>th</sup> European Development Fund**

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### on the Annual Action Programme 2015 in favour of Kenya to be financed from the 11<sup>th</sup> European Development Fund

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11<sup>th</sup> European Development Fund<sup>1</sup>, and in particular Article 9 (1) thereof,

Having regard to Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the 11<sup>th</sup> European Development Fund<sup>2</sup>, and in particular Article 26 thereof,

Whereas:

- (1) The Commission has adopted the Multiannual Indicative Programme for the period 2014 - 2020<sup>3</sup>, point 1.2 of which provides for the following priorities: Focal Sector 1: Food security and resilience to climatic shocks; Focal Sector 2: Sustainable infrastructure; Focal Sector 3: Accountability of Public Institutions.
- (2) The objectives pursued by the Annual Action Programme to be financed under the 11<sup>th</sup> European Development Fund<sup>4</sup> (EDF) are “Food security of the rural population and their resilience to future climatic shocks is sustainably improved”, “Contribute to poverty reduction and accelerated and inclusive economic growth through more sustainable and efficient energy and transport sectors” and “Enhance the accountability of public institutions in the delivery of their constitutional mandate”, and “Technical Support Programme, which includes support to the office of the National Authorising Officer (NAO)”.
- (3) Action 1 entitled “Support to the agriculture sector transformation process and to decentralised land governance”. This action has the overall objective of “Food security of smallholder farmers and pastoralists’ communities is strengthened with improved access to agriculture services and to land” with the specific objective of component 1 being: “institutional support to the agriculture sector: Agriculture sector transformation process is supported and coordination mechanisms established and functional in the new devolved context” and specific objective of component 2 being: “Equitable access and management of land for better livelihoods and socioeconomic development is improved as per the voluntary guidelines for responsible land tenure governance (VGGT)”. Implementation of the Action 1 is by way of indirect

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<sup>1</sup> OJ L 58, 3.3.2015, p. 1.

<sup>2</sup> OJ L 58, 3.3.2015, p. 17.

<sup>3</sup> C(2014)3680 of 10.6.2014

<sup>4</sup> Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multi-annual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the EU applies, OJ L 210, 6.8.2013;

management with one international organisation, the Food and Agriculture Organisation of the United Nations (FAO), and two Member States, Sweden and Germany.

- (4) Action 2 entitled “Ending Drought Emergencies: support to Drought Risk Management and Coordination”. This action has the overall objective of contributing to the resilience of communities in drought-prone areas and to reduce the impacts of drought and for specific objective to develop and strengthen at all levels the institutional capacities and mechanisms that build resilience to drought and climate change. Implementation of the action is by way of a grant awarded without a call for proposals to National Drought Management Authority justified because of a De Jure Monopoly.
- (5) Action 3 entitled "Support to Kenya Energy and Transport sectors". The overall objective of the project is to contribute to poverty reduction and accelerated and inclusive economic growth through more sustainable and efficient energy and transport sectors. The specific objective of the project is to develop more efficient climate and environmentally friendly energy services that are accessible to all as well as develop a more efficient and safe transport system for increased productivity and reduced negative impacts on environment and the climate. Implementation is by Indirect management with Kenya (Component 1 “Capacity Development facility to the energy and transport sector” and part of component 3 “Investment project preparation facility 1”); grant - direct award (Component 2 “Support to Kenyan road safety policy and programme”) and procurement (Part of component 3 “Investment project preparation facility”).
- (6) Action 4 entitled “Contribution to the African Investment Facility to support the Kenya Energy and Transport sectors”. The overall objective of the project is to contribute to poverty reduction and accelerated and inclusive economic growth through more sustainable and efficient energy and transport sectors. The specific objective of the project is to develop more efficient climate and environmentally friendly energy services that are accessible to all as well as develop a more efficient and safe transport system for increased productivity and reduced negative impacts on environment and the climate. Implementation will be by a contribution to the African Investment Facility (AFIF).
- (7) Action 5 entitled “Long Term Elections Assistance Programme (LEAP)”. This action has the overall objective to consolidate the gains of the past elections to improve the electoral process for the 2017 polls and beyond. The specific objective is to contribute to a harmonised and coordinated framework among donors to support all critical stages and actors of the electoral cycle for the 2017 elections while ensuring ownership of this framework by the election stakeholders and sustainability of its results in the long-term. Implementation will be by indirect management with an international organisation.
- (8) Action 6 entitled “Technical Support Programme 3 (TSP3)”. The project’s overall objective is to assist the Government to Kenya in the fulfilment of the objectives of the EU-ACP cooperation as set out in the ACP-EU Partnership Agreement The project purpose is the efficient and effective design and implementation of EU funded programmes and projects in line with the objectives set out in the 11<sup>th</sup> EDF National Indicative Programme (NIP). Implementation of the action is indirect management for activities ‘a’ and ‘b’ and direct management for activity ‘c’.

- (9) It is necessary to adopt a financing decision the detailed rules of which are set out in Article 94 of Commission Delegated Regulation (EU) No 1268/2012<sup>5</sup> applicable by virtue of Article 26 of Regulation (EU) 2015/323.
- (10) It is necessary to adopt a work programme for grants the detailed rules on which are set out in Article 128(1) of Regulation (EU, Euratom) No 966/2012 and in Article 188(1) of Delegated Regulation (EU) No 1268/2012. The work programme is constituted by Annexes 1, 2 and 3.
- (11) The Action “Support to Kenya Energy and Transport sectors”, component “Support to Kenyan road safety policy and programme” should be implemented by the National Transport Safety Authority (NTSA) in accordance with Article 17 of Annex IV to the ACP-EU Partnership Agreement.
- (12) The Commission should entrust budget-implementation tasks under indirect management to the entities specified in this Decision, subject to the conclusion of a delegation agreement. In accordance with Article 60(1) and (2) of Regulation (EU, Euratom) No 966/2012, the authorising officer responsible needs to ensure that these entities guarantee a level of protection of the financial interests of the Union equivalent to that required when the Commission manages Union funds. The FAO is currently undergoing the assessment under Regulation (EU, Euratom) No 966/2012. In anticipation of the results of this review, the authorising officer responsible deems that, based on the entity’s positive assessment under Council Regulation (EC, Euratom) No 1605/2002<sup>6</sup> and on the long-standing and problem-free cooperation with it, budget-implementation tasks can be entrusted to this entity.
- (13) The Commission should entrust budget-implementation tasks under indirect management to the partner country specified in this Decision, subject to the conclusion of a financing agreement. In accordance with Article 60(1)(c) of Regulation (EU, Euratom) No 966/2012 applicable by virtue of Articles 17 and 2(1) of Regulation (EU) 2015/323, the authorising officer responsible needs to ensure that measures are taken to supervise and support the implementation of the entrusted tasks. A description of these measures and the entrusted tasks are laid down in Annexes 1, 3 and 5 to this Decision.
- (14) The authorising officer responsible should be able to award grants without a call for proposals provided that the conditions for an exception to a call for proposals in accordance with Article 190 of Delegated Regulation (EU) No 1268/2012 applicable by virtue of Article 37(1) of Regulation (EU) 2015/323 are fulfilled.
- (15) It is necessary to allow the payment of interest due for late payment on the basis of Article 92 of Regulation (EU, Euratom) No 966/2012 and Article 111(4) of Delegated Regulation (EU) No 1268/2012 applicable by virtue of Article 29(1) of Regulation (EU) 2015/323.
- (16) Pursuant to Article 94(4) of Delegated Regulation (EU) No 1268/2012, the Commission should define changes to this Decision which are not substantial in order to ensure that any such changes can be adopted by the authorising officer responsible.

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<sup>5</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation 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).

<sup>6</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p.1).

- (17) The measures provided for in this Decision are in accordance with the opinion of the European Development Fund Committee set up by Article 8 of the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies<sup>7</sup>.

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### **Adoption of the measure**

The Annual Action Programme 2015 in favour of Kenya to be financed from the 11<sup>th</sup> European Development Fund, as set out in the Annexes, is approved.

The programme shall include the following actions:

- Annex 1: “Support to the agriculture sector transformation process and to decentralised land governance”;
- Annex 2: "Ending Drought Emergencies: support to Drought Risk Management and Coordination”;
- Annex 3: “Support to Kenya Energy and Transport sectors”;
- Annex 4: “Contribution to the African Investment Facility to support the Kenyan Energy and Transport Sectors”;
- Annex 5: “Long Term Elections Assistance Programme (LEAP)”;
- Annex 6: “Technical Support Programme 3 (TSP3)”

#### *Article 2*

##### **Financial contribution**

The maximum contribution of the European Union for the implementation of the programme referred to in Article 1 is set at EUR 96 000 000 and shall be financed from the 11<sup>th</sup> European Development Fund.

The financial contribution provided for in the first paragraph may also cover interest due for late payment.

#### *Article 3*

##### **Implementation modalities**

Budget-implementation tasks under indirect management may be entrusted to the entities identified in the attached Annexes 1, 3, and 5 subject to the conclusion of the relevant agreements.

The section “Implementation” of the Annexes to this Decision sets out the elements required by Article 94(2) of Delegated Regulation (EU) No 1268/2012.

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<sup>7</sup> OJ L 210, 6.8.2013, p. 1

Grants may be awarded without a call for proposals by the authorising officer responsible in accordance with Article 190 of Delegated Regulation (EU) No 1268/2012.

*Article 4*

**Non-substantial changes**

Increases or decreases of up to EUR 10 000 000 not exceeding 20% of the contribution set by the first paragraph of Article 2, or cumulated changes to the allocations of specific actions not exceeding 20% of that contribution, as well as extensions of the implementation period shall not be considered substantial within the meaning of Article 94(4) of Delegated Regulation (EU) No 1268/2012, provided that they do not significantly affect the nature and objectives of the actions. The use of contingencies shall be taken into account in the ceiling set by this Article.

The authorising officer responsible may adopt such non-substantial changes in accordance with the principles of sound financial management and proportionality.

Done at Brussels, 5.11.2015

*For the Commission*  
*Neven MIMICA*  
*Member of the Commission*