



Brussels, 16.12.2021
C(2021) 9305 final

COMMISSION IMPLEMENTING DECISION

of 16.12.2021

on the financing of the annual action plan in favour of the Republic of Kenya for 2021

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union (TFEU),

Having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012¹, and in particular Article 110 thereof,

Having regard to Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009², and in particular Article 23(2) thereof,

Whereas:

- (1) In order to ensure the implementation of the annual action plan in favour of the Republic of Kenya for 2021, it is necessary to adopt a annual financing decision, which constitutes the annual work programme, for 2021. Article 110 of Regulation (EU, Euratom) 2018/1046 ('the Financial Regulation') establishes detailed rules on financing decisions.
- (2) The envisaged assistance is to comply with the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU³.
- (3) The Commission has adopted the National Multiannual Indicative Programme⁴ for the period 2021-2027, which sets out the following three priorities: Green Transition, Human Development and Digitalisation, Governance.
- (4) The objectives pursued by the annual action plan to be financed under the Regulation (EU) 2021/947 geographic programme 'Sub-Saharan Africa' are to promote the sustainable development in the Republic of Kenya by contributing to improving the business environment, promoting digitalisation of land management and improving access to justice.
- (5) The action 1 entitled 'Business Environment and Export Enhancement Programme (BEEEP)' aims to increase green economic growth and to create decent jobs by

¹ OJ L 193, 30.7.2018, p.1.

² OJ L 209, 14.6.2021, p.1.

³ www.sanctionsmap.eu. Note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy, the OJ prevails.

⁴ Commission Implementing Decision on the adoption of a multiannual indicative programme for the Republic of Kenya for the period 2021-2027, C(2021) 9088 final of 14.12.2021.

increasing and diversifying trade in goods in selected value chains; reducing trading times and costs and enhancing the business climate.

- (6) The action 2 entitled ‘Digital Land Governance Programme (DLGP)’ aims to improve food and nutrition security, livelihoods and sustainable development in Kenya through equitable and secure access and management of land as per Kenya’s Vision 2030. The programme will improve security of tenure and equitable access to land and natural resources for the enhancement of livelihoods and sustainable socioeconomic development for all.
- (7) The action 3 entitled ‘Programme for Legal Empowerment and Aid Delivery in Kenya Phase II (PLEAD II)’ has the overall objective to reinforce the rule of law, improve access to justice, increase efficiency and accountability in the justice system, and use of technology as an enabler of justice. The action will help with the fight against corruption, improve the administration of the justice sector, increase competence, quality and efficiency of criminal justice institutions and enhance access to legal aid.
- (8) Pursuant to Article 26(1) of Regulation (EU) 2021/947 indirect management is to be used for the implementation of the actions 1, 2 and 3.
- (9) The Commission is to ensure a level of protection of the financial interests of the Union with regards to entities and persons entrusted with the implementation of Union funds by indirect management as provided for in Article 154(3) of the Financial Regulation.

To this end, such entities and persons are to be subject to an assessment of their systems and procedures in accordance with Article 154(4) of the Financial Regulation⁵ and, if necessary, to appropriate supervisory measures in accordance with Article 154(5) thereof before a contribution agreement can be signed.

- (10) It is necessary to allow for the payment of interest due for late payment on the basis of Article 116(5) of the Financial Regulation.
- (11) In order to allow for flexibility in the implementation of the annual action plan, it is appropriate to allow changes which should not be considered substantial for the purposes of Article 110(5) of the Financial Regulation.
- (12) The action plan provided for in this Decision is in accordance with the opinion of the Neighbourhood, Development and International Cooperation Instrument Committee – Global Europe established under Article 45 of Regulation (EU) 2021/947.

HAS DECIDED AS FOLLOWS:

Article 1 *The action plan*

The annual financing decision, constituting the annual action programme for the implementation of the annual action plan in favour of the Republic of Kenya for 2021, as set out in the Annexes, is adopted.

The action plan shall include the following actions:

- (a) Business Environment and Export Enhancement Programme (BEEEP)’ as set out in Annex 1;

⁵ Except for the cases referred to in Article 154(6) of the Financial Regulation, where the Commission may decide, not to require an ex-ante assessment.

- (b) Digital Land Governance Programme (DLGP), as set out in Annex 2;
- (c) Programme for Legal Empowerment and Aid Delivery in Kenya Phase II (PLEAD II), as set out in Annex 3.

Article 2
Union contribution

The maximum Union contribution for the implementation of the action plan for 2021 is set at EUR 80 000 000, and shall be financed from the appropriations entered in the budget line BGUE-B2021-14.020121-C1-INTPA: EUR 80 000 000 of the general budget of the Union.

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

Article 3
Methods of implementation and entrusted entities or persons

The implementation of the actions carried out by way of indirect management, as set out in the Annexes, may be entrusted to the entities or persons referred to or selected in accordance with the criteria laid down in point 4.4.1 of Annexes 1 and 2 and point 4.4.3 of Annex 3.

Article 4
Flexibility clause

Increases or decreases of up to EUR 10 000 000 and not exceeding 20% of the contribution set in the first paragraph of Article 2, or cumulated changes⁶ 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 for the purposes of Article 110(5) of the Financial Regulation provided that these changes do not significantly affect the nature and objectives of the actions.

The authorising officer responsible may apply the changes referred to in the first paragraph. Those changes shall be applied in accordance with the principles of sound financial management and proportionality.

Done at Brussels, 16.12.2021

For the Commission
Jutta URPILAINEN
Member of the Commission

⁶ These changes can come from assigned revenue made available after the adoption of the financing decision.