



Brussels, 17.12.2021
C(2021) 9322 final

COMMISSION IMPLEMENTING DECISION

of 17.12.2021

amending Implementing Decisions C(2017)8795, C(2018)5873, C(2019)8176, and C(2020)5471 on the financing of the annual action programmes for 2017 (part 2), 2018 (parts 1 and 2), 2019 (parts 1 and 2), and 2020 (part 1 and 2) in favour of Afghanistan from the general budget of the Union

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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 thereof,

Whereas:

- (1) By Decisions C(2017)8795³, C(2018)5873⁴, C(2019)8176⁵ and C(2020)5471⁶, the Commission has adopted annual action programmes for 2017 (part 2), 2018 (parts 1 and 2), 2019 (parts 1 and 2), and 2020 (part 1 and 2) in favour of Afghanistan.
- (2) Regulation (EU) No 233/2014 of the European Parliament and of the Council⁷, the basic act under which these decisions were adopted, is not in force anymore. Therefore, substantial changes to the Decisions adopted under that basic act can only be accepted on an exceptional basis for reasons of business continuity or imperative needs. This Decision is based on imperative policy needs following the extraordinary circumstances due to the overthrow of the constitutionally based government of the Islamic Republic of Afghanistan by the Taliban on 15 August 2021.

¹ OJ L 193, 30.7.2018, p. 1.

² OJ L 209, 14.06.2021, p. 1.

³ Commission Implementing Decision of 15.12.2017 on the Annual Action Programme 2017 part II and 2018 part I in favour of Afghanistan to be financed from the general budget of the Union (C(2017) 8795 final).

⁴ Commission Implementing Decision of 7.9.2018 on the financing of the annual action programme in favour of Afghanistan for 2018 part 2, 2019 part 1 and 2020 part 1 (C(2018) 5873 final).

⁵ Commission Implementing Decision of 13.11.2019 on the financing of the annual action programme in favour of Afghanistan for 2019 part 2 (C(2019) 8176 final).

⁶ Commission Implementing Decision of 7.8.2020 on the financing of the annual action programme in favour of Afghanistan for 2020 part 2 (C(2020) 5471 final).

⁷ Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020 (OJ L 77, 15.3.2014, p. 44).

- (3) In line with the Council Conclusions on Afghanistan of 21 September 2021, until the five benchmarks for policies and actions under the Taliban appointed caretaker cabinet are not implemented by the latter, all EU programmes and contracts implemented through governmental channels or in support of the government need to be terminated, suspended or repurposed.
- (4) This Decision is also adopted on duly justified imperative grounds of urgency, since Afghanistan is facing a humanitarian disaster and risks imminent socio-economic collapse, with serious potential implications for regional stability, including the possibility of massive migration outflows and increased insecurity and terrorist threats.
- (5) It is necessary to repurpose available non-contracted funds that cannot be used anymore for their initially intended purpose towards direct support of the Afghan people and for continued provision of basic services and aiming to avoid a collapse of the precarious social safety net system and a significant immediate increase in humanitarian needs.
- (6) In view of the above-mentioned imperative policy needs and exceptional circumstances, it is of paramount importance to ensure the maximum use of all non-contracted funds for the benefit of the Afghan population. It is therefore necessary in the case of the budgetary commitments in Implementing Decisions C(2017)8795 and C(2018)5873 to extend their contracting deadline by one year within the implementation period of the programmes. This is in accordance with Article 114(4), points (a) and (d)(iii) of Regulation (EU, Euratom) 2018/1046 due to the withdrawal of one of the implementing entities mentioned in Implementing Decision C(2017)8795, and the foreseen contribution to a multi-donor trust fund in Implementing Decision C(2018)5873. The application of these exceptions has a one-off character and does not constitute a precedent for future cases.
- (7) Therefore, Implementing Decisions C(2017)8795, C(2018)5873, C(2019)8176 and C(2020)5471 should be amended accordingly.
- (8) The envisaged assistance is to comply with the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU⁸.
- (9) The amendments provided for in this Decision are in accordance with the opinion of the Neighbourhood, Development and International Cooperation Instrument Committee established pursuant to Article 45 of Regulation (EU) 2021/947,

HAS DECIDED AS FOLLOWS:

Article 1
Amendment of Implementing Decision C(2017)8795

Implementing Decision C(2017)8795 is amended as follows:

- (a) Article 2 is replaced by the following:

⁸ 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.

*“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 59 500 000 and shall be financed from the appropriations entered in the budget line 21.0205 of the general budget of the Union for 2017.

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

- (b) Annex 2 is replaced by the Annex I to this Decision.

*Article 2
Amendment of Implementing Decision C(2018)5873*

Implementing Decision C(2018)5873 is amended as follows:

- (a) Annex 1 is replaced by the Annex II to this Decision.
(b) Annex 3 is replaced by the Annex III to this Decision.

*Article 3
Amendment of Implementing Decision C(2019)8176*

Implementing Decision C(2019)8176 is amended as follows:

- (a) Article 1 is replaced by the following:

*“Article 1
The programme*

The annual financing decision, constituting the annual programme for the implementation of the annual action programme in favour of Afghanistan for 2019 part 2, as set out in the Annexes, is adopted.

The programme shall include the following actions:

- (a) Trade Related Assistance in Afghanistan: "Advancing Afghan Trade" phase 2 set out in Annex I;
(b) Support to Peace and Shared Prosperity through the Citizens' Charter Programme set out in Annex II.”
- (b) Article 2 is replaced by the following:

*“Article 2
Union contribution*

The maximum Union contribution for the implementation of the programme for 2019 part 2 is set at EUR 59 000 000, and shall be financed from the appropriations entered in the budget line 21.0205 of the general budget of the Union for 2019.

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

Article 4
Amendment of Implementing Decision C(2020)5471

Implementing Decision C(2020)5471 is amended as follows:

(a) Article 1 is replaced by the following:

“Article 1
The programme

The multi-annual financing decision, constituting the multi-annual action programme in favour of Afghanistan for 2017, 2018, 2019 and 2020, as set out in the Annex, is adopted.

The programme shall include the following action:

“Afghanistan basic services and livelihoods stabilisation programme”, set out in the Annex.”

(b) Article 2 is replaced by the following:

“Article 2
Union contribution

The maximum Union contribution for the implementation of the programme for 2020 part 2 is set at EUR 197 679 429, and shall be financed from the appropriations entered in the budget line 21.0205 of the general budget of the Union for 2017, 2018, 2019 and 2020.

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

(c) The Annex is replaced by the Annex IV to this Decision.

Done at Brussels, 17.12.2021

For the Commission
Jutta URPILAINEN
Member of the Commission