



Brussels, 29.7.2014
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COMMISSION IMPLEMENTING DECISION

of 29.7.2014

on the Preparatory Action for Supporting Arab Spring countries to implement asset recovery to be financed from the general budget of the European Union

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THE EUROPEAN COMMISSION,

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

Having regard to 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 (EU, Euratom) No 1605/2002¹, and in particular Article 54(2)(b) thereof,

Whereas:

- (1) Across the Southern Mediterranean, Arab Spring countries in transition are experiencing serious political, economic and social challenges. The recovery of assets is particularly important for these countries such as Egypt, Libya and Tunisia, where high-level corruption has plundered the national wealth and where resources are badly needed for reconstruction and rehabilitation of society under new government. The return of misappropriated assets stolen by former dictators, their families and their regimes, back to Arab Spring countries in transition, is a highly political issue due to its symbolism of justice and accountability being restored in the spirit of democracy and rule of law. The recovery of stolen assets is also of significant economic and social importance, as funds are needed to help stabilize economies and create jobs and growth across those countries, which face serious economic challenges. Asset recovery also has an important preventive effect, as it is a strong message against the impunity of those involved in corruption. Egypt, Libya and Tunisia are also suffering from the associated problem of money laundering. In developing economies with a strong 'cash economy', perpetrators often succeed in integrating money derived from corrupt acts into the legitimate economy through money laundering.
- (2) Following the Arab Spring there was a strong call for action at the regional and global level to ensure that there are no safe havens for stolen assets, either in the Arab World, in the global financial centres or elsewhere. In support of Egypt, Libya and Tunisia, the EU promptly froze the assets of former dictators, their families and several other persons associated with their regimes. The call for action led to the establishment in 2012 of the Arab Forum on Asset Recovery (AFAR), as a standalone initiative in support of the asset recovery efforts by Arab Countries in Transition. It works as a platform for bringing together the G8, the Deauville Partnerships², as well as countries in the Arab World in cooperation for the return of stolen assets. To promote effective cooperation in asset recovery, the G8 in 2012 called on its members to give priority to the requests of transition countries for case assistance in recovering the proceeds of

¹ OJ L 298, 26.10.2012, p. 1.

² The Deauville Partnership with Arab Countries in Transition is an international effort launched by the G-8 at the Leaders Meeting in Deauville, France in May 2011 to support countries in the Arab World engaged in transition toward "free, democratic and tolerant societies."

corruption and organized crime. Therefore, effective asset recovery has become an urgent area of focus in the region and international community.

- (3) Egypt, Libya and Tunisia have made considerable efforts to ensure that misappropriated stolen assets are repatriated, including the setting up of dedicated national investigative commissions tasked with tracing, identifying and recovering such assets. They have also initiated legal cases in the courts of EU Member States. However, despite strong political will from all sides, there has been very limited success experienced by practitioners in Egypt, Libya and Tunisia who are attempting to engage in the recovery of misappropriated assets. The difficulties are very much recurring in their nature, i.e. lack of knowledge of domestic legal systems, lack of administrative capacity and expertise, breakdowns in communication, legal rigidity and unresponsiveness and insufficient law enforcement responses.
- (4) As diversity and complexity of national legislations in Egypt, Libya and Tunisia and limited legal expertise and institutional capacities remain major obstacles in the field of asset recovery to Arab Spring countries in transition, the European Parliament has proposed a Preparatory Action to offer substantial legal and technical assistance to Southern Mediterranean partner countries concerned.
- (5) The objective is to support and empower the governments, asset recovery practitioners and civil society from the Arab Spring countries, particularly Egypt, Tunisia and Libya, to recover the assets of former leaders and other high-ranking officials accused of, or found to have engaged in, widespread corruption over long periods of time, guided by the framework and provisions of the United Nations Convention Against Corruption (UNCAC). By strengthening national capacities to ensure effective and timely asset recovery, the project will play an important role in combating corruption and money laundering, promoting transparency and good governance initiatives.
- (6) This Decision complies with the conditions laid down in Article 94 of 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 Union³.
- (7) The Commission may entrust budget-implementation tasks under indirect management to the entity identified in this Decision, subject to the conclusion of a delegation agreement. However, the United Nations Interregional Crime and Justice Research Institute is currently undergoing the ex-ante assessment. In anticipation of the results of this review, the responsible authorising officer deems that, based on a preliminary evaluation and on the long-standing and problem-free cooperation with it, budget-implementation tasks can be entrusted to this entity.
- (8) The maximum contribution of the European Union set by this Decision should cover any possible claims for 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 1268/2012⁴.
- (9) The Commission is required to define the term "non-substantial change" in the sense of Article 94(4) of Delegated Regulation (EU) No 1268/2012 to ensure that any such changes can be adopted by the authorising officer by delegation, or under his or her responsibility, by sub-delegation (hereinafter referred to as the 'responsible authorising officer').

³ OJ L 362, 31.12.2012, p. 1.

⁴ OJ L 362, 31.12.2012, p. 1.

- (10) The measure provided for in this Decision does not fall in the categories of measures for which the opinion of the Committee is required. The European Neighbourhood Instrument Committee set up by Regulation (EU) No 232/2014⁵ should be informed of this Decision within one month following its adoption.

HAS DECIDED AS FOLLOWS:

Article 1

Adoption of the measure

The following preparatory action, attached as annex, is approved:

- Supporting Arab Spring countries to implement asset recovery

Article 2

Financial contribution

The maximum contribution of the European Union authorised by this Decision for the implementation of the preparatory action is set at EUR 2,740,012 to be financed from budget line 21 03 77 05 of the general budget of the European Union for 2014.

Article 3

Implementation modalities

Budget-implementation tasks under indirect management may be entrusted to the entity identified in the attached Annex, subject to the conclusion of the relevant agreements.

Section 4 of the Annex referred to in Article 1 sets out the elements required by Article 94(2) of Delegated Regulation (EU) No 1268/2012.

The financial contribution referred to in Article 2 shall also cover any possible interests due for late payment.

Article 4

Non-substantial changes

Increases or decreases of up to EUR 10 million not exceeding 20 % of the contribution referred to in Article 2, or cumulated changes to the allocations of specific actions not exceeding 20 % of that contribution shall not be considered substantial, provided that they do not significantly affect the nature and objectives of the actions.

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

Done at Brussels, 29.7.2014

For the Commission

Štefan FÜLE

Member of the Commission

⁵ Regulation of the European Parliament and of the Council establishing a European Neighbourhood Instrument, OJ L 77, 15.3.2014.