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2023/0220 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Union, of a Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, on a Framework Agreement between the European Union and the Arab Republic of Egypt on the general principles for the participation of the Arab Republic of Egypt in Union programmes

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part¹, was signed in Luxembourg on 25 June 2001 and entered into force on 1 June 2004.

The European Council of 17 and 18 June 2004 welcomed the European Commission's proposals for a European Neighbourhood Policy (ENP) and endorsed the Council conclusions of 14 June 2004².

As part of the European Neighbourhood Policy (ENP), the gradual opening up of certain European Union programmes and agencies to ENP partner countries is one of many measures to promote reform, modernisation and transition in the European Union's neighbourhood. The European Commission has expanded on this in its December 2006 Communication on the general approach to enable European Neighbourhood Policy partner countries to participate in Community agencies and Community programmes³.

The Council endorsed this approach in its conclusions of 5 March 2007⁴.

Further to this Commission Communication and the 5 March 2007 Council conclusions, the Council, on 18 June 2007, issued directives to the Commission to negotiate Framework Agreements with Algeria, Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, the Palestinian Authority, Tunisia and Ukraine, on the general principles for their participation in Community programmes⁵.

The June 2007 European Council⁶ reaffirmed the paramount importance of the ENP and endorsed a Presidency Progress Report⁷ that had been submitted to the Council meeting of 18 and 19 June 2007 as well as the related Council conclusions⁸. This report recalled the Council directives to negotiate relevant additional protocols.

The Joint Communication by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy on a new response to a changing Neighbourhood⁹, endorsed by the Council conclusions of 20 June 2011, further emphasised the EU's intention to facilitate partner countries' participation in EU programmes.

The revised European Neighbourhood Policy spelt out in the new EU Agenda for the Mediterranean¹⁰ and the Council Conclusions on a renewed Partnership with the Southern

¹ OJ L 304, 30.9.2004, p. 39.

² EUCO 79/14.

³ COM(2006) 724 final of 4 December 2006.

⁴ GAERC conclusions of 5 March 2007.

⁵ Council Decision (restricted) authorising the Commission to negotiate Protocols [...], Doc 10412/07

⁶ Presidency Conclusions — Brussels, 21/22 June 2007, Doc 11177/07.

⁷ Presidency Progress Report on 'Strengthening the European Neighbourhood Policy', Doc 10874/07.

⁸ Conclusions on Strengthening the European Neighbourhood Policy, adopted by the Council (General Affairs and External Relations) on 18 June 2007, Doc 11016/07.

⁹ COM(2011) 303 final of 25 May 2011.

¹⁰ JOIN(2021) 2 final.

Neighbourhood of 16 April 2021¹¹, reiterated the intention to open up and facilitate access to EU programmes for the EU's Southern Partners and to enhance cooperation in Research and Innovation, including through association with the Horizon Europe Programme.

To date, similar protocols have been signed with Algeria¹², Armenia¹³, Azerbaijan¹⁴, Georgia¹⁵, Israel¹⁶, Jordan¹⁷, Lebanon¹⁸, Moldova¹⁹ Morocco²⁰, the Palestinian Authority²¹, Tunisia²², and Ukraine²³. In October 2021, during the EU-Egypt Association Committee, Egypt expressed its interest in signing a Protocol to a Framework Agreement for their association to Horizon Europe and potential full participation in further selected EU programmes.

The objective of the Protocol is to lay down the financial and technical rules enabling the Arab Republic of Egypt to participate in EU programmes. This framework applies only to these programmes for which the relevant constitutive legal acts provide the possibility of the participation of the Arab Republic of Egypt. The horizontal framework established by the Protocol sets out principles for economic, financial and technical cooperation, the modalities for establishing participation in (association to) any given Union programme and the involvement of Egypt in the governance of the Union Programmes or activities. It also allows the Arab Republic of Egypt to receive assistance, in particular financial assistance, from the European Union to participate in the programmes.

The specific terms and conditions regarding the participation of Egypt in each particular Union programme, in particular, the financial contribution to be paid by Egypt as well as reporting and evaluation procedures, should be determined by agreement between the European Commission and the competent authorities of Egypt.

2. LEGAL BASIS

The substantive legal basis for the conclusion of the Protocol is Article 212 of the Treaty on the Functioning of the European Union (TFEU). The procedural legal basis is Article 218(6a) and (7) of the TFEU.

3. BUDGETARY IMPLICATIONS

Egypt shall contribute financially to the programmes in which it participates and to the related management, execution and operation costs under the general budget of the Union.

The specific terms and conditions regarding the participation of Egypt in each particular programme, in particular the financial contribution payable and reporting and evaluation

¹¹ https://ec.europa.eu/neighbourhood-enlargement/news_corner/news/new-agenda-mediterranean-council-approves-conclusions-renewed-partnership-southern_en

¹² OJ L 14/2, of 18.1.2017.

¹³ OJ L 174/1, of 13.6.2014.

¹⁴ OJ L 199/1, of 26.7.2016.

¹⁵ OJ L 165/16, of 4.6.2014.

¹⁶ OJ L 129/39, of 17.5.2008.

¹⁷ OJ L 89/6, of 25.3.2014.

¹⁸ OJ L 202/3, of 28.7.2016.

¹⁹ OJ L 131/1, of 18.5.2011.

²⁰ OJ L 90/1, of 28.3.2012.

²¹ OJ L 121, of 8.3.2021.

²² OJ L 297/1, of 13.11.2015.

²³ OJ L 133/1, of 20.5.2011.

procedures, shall be determined by agreement between the European Commission and the competent authorities of Egypt on the basis of the criteria established by the programmes concerned.

In the event that Egypt applies for external assistance of the Union to participate in a given Union programme on the basis of Article 7 of Regulation (EU) 2021/947 of the European Parliament and of the Council²⁴ or pursuant to any similar Regulation providing for external assistance of the Union to Egypt that may be adopted in the future, the conditions governing the use by Egypt of external assistance of the Union shall be determined in a financing agreement.

Each agreement concluded pursuant to Article 5 shall stipulate, in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council²⁵, that financial control or audits or other verifications, including administrative investigations shall be carried out by, or under the authority of, the European Commission, the European Anti-Fraud Office and the Court of Auditors.

Detailed provisions shall be made on financial control and auditing, administrative measures, investigation and prosecution, penalties and recovery granting the European Commission, the European Anti-Fraud Office, the European Public Prosecutor's Office, and the Court of Auditors powers equivalent to their powers with regard to beneficiaries or contractors established in the Union.

4. OTHER ELEMENTS

No later than three years after the date of entry into force of this Protocol, and every three years thereafter, both Parties may review the implementation of this Protocol on the basis of the actual participation of Egypt in Union programmes.

²⁴ 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 480/2009, OJ L 209, 14.6.2021, p. 1.

²⁵ 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 966/2012, OJ L 193, 30.7.2018, p. 1.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212, in conjunction with Article 218(6)(a) and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) The Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, on a Framework Agreement between the European Union and the Arab Republic of Egypt on the general principles for the participation of the Arab Republic of Egypt in Union programmes ('the Protocol') was signed on behalf of the Union on [...].
- (2) The objective of the Protocol is to lay down the financial and technical rules enabling the Arab Republic of Egypt to participate in certain EU programmes. The horizontal framework established by the Protocol sets out principles for economic, financial and technical cooperation measures and allows the Arab Republic of Egypt to receive assistance, in particular financial assistance, from the European Union pursuant to the programmes.
- (3) The framework set up by this Protocol applies only to those programmes for which the relevant constitutive legal acts provide for the possibility of the participation of the Arab Republic of Egypt. The signing and provisional application of the Protocol does not therefore entail the exercise of powers under the various sectoral policies, which are exercised when establishing the programmes.
- (4) The Protocol should be approved on behalf of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, on a Framework Agreement between the European Union and the

Arab Republic of Egypt on the general principles for the participation of the Arab Republic of Egypt in Union programmes is hereby approved on behalf of the Union.

The text of the Protocol is attached to this Decision.

Article 2

The Commission shall designate the person empowered to proceed, on behalf of the European Union, to the notification provided for, in Article 10(1) of the Protocol in order to express the consent of the European Union to be bound by the Protocol.

The date of entry into force of the Protocol shall be published in the Official Journal of the European Union.

Article 3

The Commission is authorised to determine, on behalf of the Union, the specific terms and conditions applicable to the participation of the Arab Republic of Egypt in any particular Union programme, including the financial contribution to be paid. The Commission shall keep the relevant Council working party informed.

Article 4

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council
The President*