EUROPEAN
COMMISSION

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2021/0220 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, as regards the extension of the EU-Algeria Partnership Priorities until new updated joint documents are adopted by the EU and Algeria

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf within the Association Council set up by the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, in connection with the envisaged adoption of a decision to extend the EU-Algeria Partnership Priorities until new updated joint documents are adopted by the EU and Algeria.

2. CONTEXT OF THE PROPOSAL

2.1. The Association Agreement

The Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part (the 'Association Agreement'), was signed on 22 April 2002 and entered into force on 1 September 2005. The Association Agreement forms the legal basis for the bilateral relations between the EU and Algeria. The Agreement aims to

– provide an appropriate framework for the political dialogue between the Parties, allowing the development of close relations and cooperation in all areas they consider relevant to such dialogue,

– promote trade and the expansion of harmonious economic and social relations between the Parties and establish the conditions for the gradual liberalisation of trade in goods, services and capital,

– facilitate human exchanges, particularly in the context of administrative procedures,

– encourage integration of the Maghreb countries by promoting trade and cooperation within the Maghreb group and between it and the Community and its Member States,

– promote economic, social, cultural and financial cooperation.

2.2. The Association Council

The Association Agreement establishes an Association Council, which has the power to take decisions for the purpose of attaining the objectives of the Agreement in the cases provided for therein. The decisions are binding on the Parties. According to the Rules of Procedure, the Association Council is presided over, alternately for a period of 12 months, by the EU and Algeria. The Association Council meets regularly at ministerial level once a year. Special sessions of the Association Council may be held if the Parties so agree, at the request of either Party.

2.3. The envisaged act of the Association Council

The Association Council is to adopt a decision concerning the extension of the EU-Algeria Partnership Priorities 2016-2020 until new updated joint documents are adopted by the EU and Algeria. In accordance with Article 10 of the Rules of Procedure of the Association Council, the decision will be adopted by written procedure.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The position to be adopted by the European Union in the Association Council established by the Association Agreement on the adoption of a decision on the extension of the EU-Algeria Partnership Priorities is based on the text of the decision annexed to this Decision.

By Decision No. 1/2017 of the Association Council of 13 March 2017, the EU and Algeria have agreed on Partnership Priorities to guide the partnership for the period 2016-20.

In the framework of the ongoing process of renewal of the EU's partnership with the Southern Neighbourhood and following the adoption of the Multiannual Financial Framework 2021-2027 and the new Neighbourhood, Development and International Cooperation Instrument (NDICI), the preparation and adoption of new updated joint documents with Southern Neighbourhood countries, including Algeria, is planned for 2021. In this framework and to avoid a gap between the expiration of the EU-Algeria Partnership Priorities and the adoption of new ones, it is in the interest of the Parties to extend the current Partnership Priorities until new updated ones are adopted.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing '*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement*.'

The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*'[1].

4.1.2. Application to the present case

The Association Council is a body set up by an agreement, namely the Association Agreement.

The act which the Association Council is called upon to adopt constitutes an act having legal effects. The envisaged act has legal effects because it will extend the current Partnership Priorities until new updated joint documents are adopted.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

[1] Judgment of the Court of Justice of 7 October 2014, Germany v Council, Case C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to cooperation with a third country in the framework of an association agreement and the European Neighbourhood Policy.

Therefore, the substantive legal basis of the proposed decision is Article 217.

4.3. Conclusion

The legal basis of the proposed decision should be Article 217 in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

Given that the act of the Association Council will amend the validity period of the EU-Algeria Partnership Priorities, it should be published in the *Official Journal of the European Union* once it has been adopted.

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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 217 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, was signed on 22 April 2002 and entered into force on 1 September 2005[2].

(2) The EU-Algeria Partnership Priorities were adopted by the Association Council in March 2017.

(3) In an exchange of letters, both parties agreed to extend the period of validity of the EU-Algeria Partnership Priorities.

(4) Pursuant to Article 94 of the Euro-Mediterranean Agreement, the Association Council may take decisions for the purpose of attaining the objectives of the Agreement.

(5) The Association Council is to adopt a decision by written procedure to extend the Partnership Priorities until new updated joint documents are adopted by the EU and Algeria.

(6) It is appropriate to establish the position to be taken on the Union's behalf in the Association Council, as the decision will be binding on the Union.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Association Council set up by the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, as regards the extension of EU-Algeria Partnership Priorities until

[2] Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part; OJ L 265, 10.10.2005, p. 2–228

new updated joint documents are adopted by the EU and Algeria, shall be based on the draft Decision of the EU-Algeria Association Council attached to this Decision.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President