DECISIONS

DECISION (EU) 2022/563 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 6 April 2022

providing macro-financial assistance to the Republic of Moldova

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ([1]),

Whereas:

(1) Relations between the European Union (the 'Union') and the Republic of Moldova ('Moldova') continue to develop within the framework of the European Neighbourhood Policy (ENP) and the Eastern Partnership. Moldova joined the Eastern Partnership in 2009, which was followed by the negotiation of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part ([2]) (the 'Association Agreement'). The Association Agreement, which includes the gradual introduction of a Deep and Comprehensive Free Trade Area (DCFTA), was signed on 27 June 2014 and entered into force on 1 July 2016.

(2) Moldova's economy has been significantly affected by the recession in 2020 which was caused by the COVID-19 pandemic, by the protracted political stalemate in the country after the presidential elections in November 2020, and by the recent energy crisis. Those circumstances have contributed to Moldova's sizable financing gap, deteriorating external position and growing fiscal needs.

(3) Following the parliamentary elections in July 2021, the new Moldovan government has demonstrated a strong commitment to implementing further reforms, with an ambitious programme entitled 'Moldova in good times 2021-2025'. That programme focuses on key policy areas including justice sector reforms, the fight against corruption, good governance and the rule of law.

(4) A renewed commitment to carrying out such reforms and a strong political will have led the Moldovan authorities to significantly accelerate the implementation of reforms. This has also enabled Moldova to successfully complete the macro-financial assistance operation in the context of the COVID-19 pandemic pursuant to Decision (EU) 2020/701 of the European Parliament and of the Council ([3]), as all reform actions agreed with the Union in the Memorandum of Understanding were fulfilled, with the exception of one action, on asset recovery, for which a waiver was granted. To that end, the Commission consulted the committee of representatives of the Member States and received no objections.

(5) After the adoption of a new International Monetary Fund (IMF) programme, negotiated in 2020, stalled, the IMF re-engaged with Moldova following the parliamentary elections in July 2021 and reached a staff-level agreement on a programme under the Extended Credit Facility and the Extended Fund Facility for the amount of

([1]) Position of the European Parliament of 24 March 2022 (not yet published in the Official Journal) and decision of the Council of 4 April 2022.

([2]) OJ L 260, 30.8.2014, p. 4.

([3]) Decision (EU) 2020/701 of the European Parliament and of the Council of 25 May 2020 on providing macro-financial assistance to enlargement and neighbourhood partners in the context of the COVID-19 pandemic (OJ L 165, 27.5.2020, p. 31).

USD 564 000 000. The new programme was adopted by an IMF Executive Board decision of 20 December 2021. That programme aims to sustain the economic recovery of Moldova, launch an ambitious governance and institutional reform agenda, strengthen transparency and accountability, improve public policy predictability, strengthen financial institutions and foster deregulation.

(6) In view of the worsening economic situation and outlook, Moldova requested complementary macro-financial assistance from the Union in November 2021.

(7) The Union's indicative allocation for Moldova under the European Neighbourhood Instrument was EUR 518 150 000 for the 2014-2020 period, including budgetary support and technical assistance. The single support frameworks for the periods 2014-2017 and 2017-2020 identified the priority sector for cooperation with Moldova funded by the European Neighbourhood Instrument for the previous budgetary period. The priorities for the period 2021-2027 will be set out in the new multiannual indicative programme, which has been prepared in close consultation with all relevant stakeholders.

(8) Given that Moldova is a country covered by the ENP, it should be considered eligible to receive macro-financial assistance from the Union.

(9) The Union's macro-financial assistance should be an exceptional financial instrument of untied and undesignated balance-of-payments support which aims to address the beneficiary's immediate external financing needs, and it should underpin the implementation of a policy programme containing strong immediate adjustment and structural reform measures designed to improve the beneficiary's balance-of-payments position in the short term.

(10) Given that there is still a significant residual external financing gap in Moldova's balance of payments over and above the resources provided by the IMF and other multilateral institutions, the Union's macro-financial assistance to be provided to Moldova is, under the current exceptional circumstances, considered to be an appropriate response to Moldova's request for support to its economic stabilisation, in conjunction with the IMF programme. The Union's macro-financial assistance would support the economic stabilisation and the structural reform agenda of Moldova, supplementing resources made available under the IMF's financial arrangement.

(11) The Union's macro-financial assistance should aim to support the restoration of a sustainable external financing situation for Moldova, thereby supporting its economic and social development.

(12) The Union's macro-financial assistance is expected to go hand-in-hand with the implementation of budget support operations under the Neighbourhood, Development and International Cooperation Instrument – Global Europe, established by Regulation (EU) 2021/947 of the European Parliament and of the Council ([4]).

(13) The determination of the amount of the Union's macro-financial assistance is based on a complete quantitative assessment of Moldova's residual external financing needs, and takes into account its capacity to finance itself with its own resources, in particular the international reserves at its disposal. The Union's macro-financial assistance should complement the programmes and resources provided by the IMF and the World Bank. The determination of the amount of the assistance also takes into account expected financial contributions from multilateral donors and the need to ensure fair burden sharing between the Union and other donors, as well as the pre-existing deployment of the Union's other external financing instruments in Moldova and the added value of the overall Union involvement.

(14) Taking into consideration Moldova's residual external financing needs, the level of its economic development as measured by per capita income and poverty ratios, its capacity to finance itself with its own resources and in particular the international reserves at its disposal, and the assessment of its ability to repay drawing on debt sustainability analysis, a part of the assistance should be provided in the form of grants.

([4]) 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 of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1).

(15) The Commission should ensure that the Union's macro-financial assistance is legally and substantially in accordance with the key principles and objectives of the different areas of external action, with the measures taken in respect of those areas, and with other relevant Union policies.

(16) The Union's macro-financial assistance should support the Union's external policy towards Moldova. The Commission and the European External Action Service (EEAS) should work closely together throughout the macro-financial assistance operation in order to coordinate, and ensure the consistency of, Union external policy.

(17) The Union's macro-financial assistance should support Moldova's commitment to values shared with the Union, including democracy, the rule of law, good governance, respect for human rights, sustainable development and poverty reduction, as well as its commitment to the principles of open, rule-based and fair trade.

(18) A precondition for granting the Union's macro-financial assistance should be that Moldova respects effective democratic mechanisms, including a multi-party parliamentary system, and the rule of law, and guarantees respect for human rights. In addition, the specific objectives of the Union's macro-financial assistance should strengthen the efficiency, transparency and accountability of the public finance management systems, as well as of the governance and supervision of the financial sector, in Moldova and should promote structural reforms that aim to support sustainable and inclusive growth, decent employment creation and fiscal consolidation. The Commission and the EEAS should regularly monitor both the fulfilment of that precondition and the achievement of those objectives.

(19) In order to ensure that the Union's financial interests linked to its macro-financial assistance are protected efficiently, Moldova should take appropriate measures relating to the prevention of, and fight against, fraud, corruption and any other irregularities linked to that assistance. In addition, provision should be made for the Commission to carry out checks, for the Court of Auditors to carry out audits and for the European Public Prosecutor's Office to exercise its competences.

(20) Release of the Union's macro-financial assistance is without prejudice to the powers of the European Parliament and the Council as budgetary authority.

(21) The amounts of the Union's macro-financial assistance provided in the form of grants and the amounts of the provision required for macro-financial assistance in the form of loans should be consistent with the budgetary appropriations provided for in the multiannual financial framework.

(22) The Union's macro-financial assistance should be managed by the Commission. In order to ensure that the European Parliament and the Council are able to follow the implementation of this Decision, the Commission should regularly inform them of developments relating to that assistance and provide them with the relevant documents.

(23) In order to ensure uniform conditions for the implementation of this Decision, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([5]).

(24) The Union's macro-financial assistance should be subject to economic policy conditions, to be set out in a memorandum of understanding (MOU). In order to ensure uniform conditions of implementation and for reasons of efficiency, the Commission should be empowered to negotiate such conditions with the Moldovan authorities under the supervision of the committee of representatives of the Member States in accordance with Regulation (EU) No 182/2011. Under that Regulation, the advisory procedure should, as a general rule, apply in all cases other than as provided for in that Regulation. Considering the potentially significant impact of assistance of more than EUR 90 000 000, it is appropriate that the examination procedure as specified in Regulation (EU) No 182/2011 be used for operations above that threshold. Considering the amount of the Union's macro-financial assistance to Moldova, the examination procedure should apply to the adoption of the MOU, and to any reduction, suspension or cancellation of that assistance,

([5]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

HAVE ADOPTED THIS DECISION:

Article 1

1. The Union shall make macro-financial assistance of a maximum amount of EUR 150 000 000 available to Moldova (the 'Union's macro-financial assistance'), with a view to supporting Moldova's economic stabilisation and substantive reform agenda. Of that maximum amount, up to EUR 120 000 000 shall be provided in the form of loans and up to EUR 30 000 000 in the form of grants. The release of the Union's macro-financial assistance is subject to the approval of the Union budget for the relevant year by the European Parliament and the Council. The assistance shall contribute to covering Moldova's balance-of-payments needs as identified in the IMF programme.

2. In order to finance the loan component of the Union's macro-financial assistance, the Commission shall be empowered, on behalf of the Union, to borrow the necessary funds on the capital markets or from financial institutions and to on-lend them to Moldova. The loans shall have a maximum average maturity of 15 years.

3. The release of the Union's macro-financial assistance shall be managed by the Commission in a manner consistent with the agreements or understandings reached between the IMF and Moldova, and with the key principles and objectives of economic reforms set out in the Association Agreement, including the DCFTA, agreed under the ENP.

The Commission shall regularly inform the European Parliament and the Council of developments regarding the Union's macro-financial assistance, including disbursements thereof, and shall provide those institutions with the relevant documents in due time.

4. The Union's macro-financial assistance shall be made available for a period of two and a half years, starting on the first day after the entry into force of the MOU referred to in Article 3(1).

5. If the financing needs of Moldova decrease fundamentally during the period of the disbursement of the Union's macro-financial assistance compared to the initial projections, the Commission, acting in accordance with the examination procedure referred to in Article 7(2), shall reduce the amount of the assistance or suspend or cancel it.

Article 2

1. A precondition for granting the Union's macro-financial assistance shall be that Moldova respects effective democratic mechanisms, including a multi-party parliamentary system, and the rule of law, and guarantees respect for human rights.

2. The Commission and the EEAS shall monitor the fulfilment of the precondition set out in paragraph 1 throughout the life-cycle of the Union's macro-financial assistance.

3. Paragraphs 1 and 2 of this Article shall apply in accordance with Council Decision 2010/427/EU ([6]).

Article 3

1. The Commission, in accordance with the examination procedure referred to in Article 7(2), shall agree with the Moldovan authorities on clearly defined economic policy and financial conditions, focusing on structural reforms and sound public finances, to which the Union's macro-financial assistance is to be subject. Those economic policy and financial conditions shall be set out in a MOU which shall include a timeframe for the fulfilment of those conditions. Those economic policy and financial conditions shall be consistent with the agreements or understandings referred to in Article 1(3), including the macroeconomic adjustment and structural reform programmes implemented by Moldova with the support of the IMF.

([6]) Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

2. The conditions referred to in paragraph 1 shall aim, in particular, to enhance the efficiency, transparency and accountability of the public finance management systems in Moldova, including for the use of the Union's macro-financial assistance. Progress in mutual market opening, the development of rule-based and fair trade, and other priorities in the context of the Union's external policy shall also be duly taken into account when designing the policy measures. The Commission shall regularly monitor progress in attaining those objectives.

3. The detailed financial terms of the Union's macro-financial assistance shall be laid down in a loan agreement and a grant agreement to be concluded between the Commission and Moldova.

4. The Commission shall verify, at regular intervals, that the conditions referred to in Article 4(3) continue to be met, including whether the economic policies of Moldova are in accordance with the objectives of the Union's macro-financial assistance. For the purposes of that verification, the Commission shall coordinate closely with the IMF and the World Bank, and, where necessary, with the European Parliament and with the Council.

Article 4

1. Subject to the conditions referred to in paragraph 3, the Union's macro-financial assistance shall be made available by the Commission in three instalments, each of which shall consist of a loan and a grant element. The size of each instalment shall be laid down in the MOU.

2. The amounts of the Union's macro-financial assistance provided in the form of loans shall be provisioned, where required, in accordance with Regulation (EU) 2021/947.

3. The Commission shall decide on the release of the instalments subject to the fulfilment of all of the following conditions:

(a) the precondition set out in Article 2(1);

(b) a continuous satisfactory track record of implementing a policy programme that contains strong adjustment and structural reform measures supported by a non-precautionary IMF credit arrangement;

(c) the satisfactory implementation of the economic policy and financial conditions agreed in the MOU.

4. The release of the second instalment shall not, in principle, take place earlier than 3 months after the release of the first instalment. The release of the third instalment shall not, in principle, take place earlier than 3 months after the release of the second instalment.

5. Where the conditions referred to in paragraph 3 are not met, the Commission shall temporarily suspend or cancel the disbursement of the Union's macro-financial assistance. In such cases, it shall inform the European Parliament and the Council of the reasons for the suspension or cancellation.

6. The Union's macro-financial assistance shall be disbursed to the National Bank of Moldova. Subject to the agreed provisions set out in the MOU, including a confirmation of residual budgetary financing needs, the Union funds may be transferred to the Moldovan Ministry of Finance as the final beneficiary.

Article 5

1. The borrowing and lending operations related to the loan component of the Union's macro-financial assistance shall be carried out in euro using the same value date and shall not involve the Union in the transformation of maturities, or expose the Union to any exchange or interest rate risk, or to any other commercial risk.

2. Where the circumstances permit, and if Moldova so requests, the Commission may take the steps necessary to ensure that an early repayment clause is included in the loan terms and conditions and that it is matched by a corresponding clause in the terms and conditions of the borrowing operations.

3. Where circumstances permit an improvement of the interest rate of the loan and if Moldova so requests, the Commission may decide to refinance all or part of its initial borrowings or may restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with paragraphs 1 and 4 and shall not have the effect of extending the maturity of the borrowings concerned or of increasing the amount of capital outstanding at the date of the refinancing or restructuring.

4. All costs incurred by the Union which relate to the borrowing and lending operations under this Decision shall be borne by Moldova.

5. The Commission shall inform the European Parliament and the Council of developments in the operations referred to in paragraphs 2 and 3.

Article 6

1. The Union's macro-financial assistance shall be implemented in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([7]).

2. The Union's macro-financial assistance shall be implemented under direct management.

3. The loan agreement and the grant agreement to be agreed with the Moldovan authorities shall contain all of the following provisions:

(a) ensuring that Moldova regularly checks that financing provided from the general budget of the Union has been properly used, takes appropriate measures to prevent irregularities and fraud and, where necessary, takes legal action to recover any funds provided under this Decision that have been misappropriated;

(b) ensuring the protection of the Union's financial interests, in particular providing for specific measures in relation to the prevention of, and fight against, fraud, corruption and any other irregularities affecting the Union's macro-financial assistance, in accordance with Council Regulations (EC, Euratom) No 2988/95 ([8]) and (Euratom, EC) No 2185/96 ([9]), Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([10]) and, for those Member States participating in enhanced cooperation regarding the European Public Prosecutor's Office, also in accordance with Council Regulation (EU) 2017/1939 ([11]);

(c) expressly authorising the European Anti-Fraud Office to carry out investigations, including on-the-spot checks and inspections including digital forensic operations and interviews;

(d) expressly authorising the Commission, or its representatives, to carry out checks, including on-the-spot checks and inspections;

(e) expressly authorising the Commission and the Court of Auditors to perform audits during and after the availability period of the Union's macro-financial assistance, including document audits and on-the-spot audits, such as operational assessments;

(f) ensuring that the Union is entitled to early repayment of the loan or to full repayment of the grant where it has been established that, in relation to the management of the Union's macro-financial assistance, Moldova has engaged in any act of fraud or corruption or any other illegal activity detrimental to the financial interests of the Union;

([7]) 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 (EC, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

([8]) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

([9]) Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

([10]) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

([11]) Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

(g) ensuring that all costs incurred by the Union that relate to the borrowing and lending operations under this Decisions are to be borne by Moldova.

4. Before the implementation of the Union's macro-financial assistance, the Commission shall assess, by means of an operational assessment, the soundness of Moldova's financial arrangements, administrative procedures and internal and external control mechanisms which are relevant to the assistance.

Article 7

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 8

1. By 30 June of each year, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Decision in the preceding year, including an evaluation of that implementation. That report shall:

(a) examine progress made in implementing the Union's macro-financial assistance;

(b) assess the economic situation and prospects of Moldova, as well as progress made in implementing the policy measures referred to in Article 3(1);

(c) indicate the connection between the economic policy conditions set out in the MOU, Moldova's on-going economic and fiscal performance and the Commission's decisions to release the instalments of the Union's macro-financial assistance.

2. Not later than 2 years after the expiry of the availability period referred to in Article 1(4), the Commission shall submit to the European Parliament and to the Council an *ex-post* evaluation report, assessing the results and efficiency of the completed Union's macro-financial assistance and the extent to which it has contributed to the aims of the assistance.

Article 9

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

Done at Strasbourg, 6 April 2022.

For the European Parliament	*For the Council*
The President	*The President*
R. METSOLA	C. BEAUNE