COMMISSION DECISION

of 24.11.2017

on the Annual Action Programme 2017 in favour of Kenya to be financed from the 11th European Development Fund
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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund1, and in particular Article 9(1) thereof,

Having regard to Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the 11th European Development Fund2, and in particular Article 26 thereof,

Whereas:

(1) The Commission has adopted the National Indicative Programme for the period 2014-20203, point 1.2 of which prioritises: Focal Sector 1: Food security and resilience to climatic shocks; Focal Sector 2: Sustainable infrastructure; Focal Sector 3: Accountability of Public Institutions. The National Indicative Programme is in line with the Government's Kenya Vision 2030.

(2) The objectives pursued by the annual action programme to be financed under the 11th European Development Fund (EDF) Internal Agreement4 ("Internal Agreement") are to contribute to end drought emergency and provide a contribution to the Africa Investment Facility (AfIF) in view of improving urban mobility in Nairobi.

(3) The action entitled "Ending Drought Emergency: Support to Resilient Livelihoods and Drought Risk Management" will contribute to supporting communities in the arid and semi-arid lands (ASAL) areas of Kenya to become more resilient to drought and other effects of climate change. More specifically, the action aims at (i) enhancing food and nutrition security of vulnerable households, especially for women and children and (ii) generating sustainable livelihoods and protecting productive assets. This action will be implemented by direct management (grant via direct award to National Drought Management Authority (NDMA) and grants via call for proposals).

(4) The action entitled "Urban Mobility Programme in Kenya" foresees a contribution to the AfIF in view of improving urban mobility in Nairobi. This action will be

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1 OJ L 58, 3.3.2015, p. 1.
2 OJ L 58, 3.3.2015, p. 17.
4 Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies (OJ L 210, 6.8.2013, p. 1).
implemented in indirect management by entities to be indicated in complementary financing decisions through the African Investment Facility award procedure.

(5) It is necessary to adopt a financing decision the detailed rules of which are set out in Article 94 of Commission Delegated Regulation (EU) No 1268/2012, applicable in accordance with Article 2(1) and Article 26 of Regulation (EU) 2015/323.

(6) It is necessary to adopt a work programme for grants the detailed rules on which are set out in Article 128(1) of Regulation (EU, Euratom) No 966/2012 and in Article 188(1) of Delegated Regulation (EU) No 1268/2012, applicable in accordance with Article 2(1) and Article 37(1) of Regulation (EU) 2015/323. The work programme is set out in Annex 1.

(7) The Commission should entrust budget-implementation tasks under indirect management to the entities specified in Annex 2 to this Decision, subject to the conclusion of delegation agreements. In accordance with Article 60(1)(c) and (2) of Regulation (EU, Euratom) No 966/2012, applicable in accordance with Article 2(1) and Article 17 of Regulation (EU) 2015/323, the authorising officer responsible needs to ensure that these entities guarantee a level of protection of the financial interests of the European Union equivalent to that required when the Commission manages European Union funds. These entities comply with the conditions set out in points (a) to (d) of the first subparagraph of Article 60(2) of Regulation (EU, Euratom) No 966/2012 and the supervisory and support measures are in place as necessary.

(8) The authorising officer responsible should be able to award grants without a call for proposals only in the exceptional cases set out in Article 190 of Delegated Regulation (EU) No 1268/2012, applicable in accordance with Article 2(1) and Article 37(1) of Regulation (EU) 2015/323.

(9) It is necessary to allow the payment of 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 1268/2012 applicable in accordance with Article 2(1) and Article 29(1) of Regulation (EU) 2015/323.

(10) Pursuant to Article 94(4) of Delegated Regulation (EU) No 1268/2012, any substantial change to a financing decision that has already been adopted should follow the same procedure as the initial decision. It is therefore appropriate that the Commission defines the changes to this Decision that are considered non-substantial in order to ensure that any such changes can be adopted by the authorising officer responsible.

(11) The measures provided for in this Decision are in accordance with the opinion of the EDF Committee set up by Article 8 of the Internal Agreement.

HAS DECIDED AS FOLLOWS:

Article 1

Adoption of the programme

The Commission Decision on the Annual Action Programme 2017 in favour of Kenya to be financed from the 11th European Development Fund, as set out in the Annexes, is adopted.

The programme shall include the following actions:

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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 75,500,000 and shall be financed from the 11th European Development Fund.

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

Article 3

Methods of implementation

Budget-implementation tasks under indirect management may be entrusted to the entities identified in Annex 1, subject to the conclusion of the relevant agreements.

The elements required by Article 94(2) of Delegated Regulation (EU) No 1268/2012 applicable in accordance with Article 2(1) and Article 26 of Regulation (EU) 2015/323, are set out in the Annexes to this Decision.

Grants may be awarded without a call for proposals by the authorising officer responsible in accordance with Article 190 of Delegated Regulation (EU) No 1268/2012, applicable in accordance with Article 2(1) and Article 37(1) of Regulation (EU) 2015/323.

Article 4

Non-substantial changes

Increases or decreases of up to EUR 10,000,000 not exceeding 20% of the contribution set in the first paragraph of Article 2, or cumulated changes to the allocations of specific actions not exceeding 20% of that contribution, as well as extensions of the implementation period shall not be considered substantial within the meaning of Article 94(4) of Delegated Regulation (EU) No 1268/2012, applicable in accordance with Article 2(1) and Article 26 of Regulation (EU) 2015/323, provided that they do not significantly affect the nature and objectives of the actions. The use of contingencies shall be taken into account in the ceiling set by this Article.

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

Done at Brussels, 24.11.2017

For the Commission  
Neven Mimica  
Member of the Commission