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COUNCIL DECISION

of 6 May 2009

providing Community medium-term financial assistance for Romania

(2009/459/EC)

(OJ L 150, 13.6.2009, p. 8)

Amended by:

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COUNCIL DECISION

of 6 May 2009

providing Community medium-term financial assistance for Romania

(2009/459/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balance of payments ([1]) and in particular Article 3(2) thereof,

Having regard to the proposal from the Commission made after consulting the Economic and Financial Committee (EFC),

Whereas:

(1) By Decision 2009/458/EC ([2]) the Council has decided to grant mutual assistance to Romania.

(2) Despite the expected improvement in the current account, Romania's external financing needs in the period until the first quarter of 2011 are estimated by the Commission, the International Monetary Fund (IMF) and the authorities of Romania at EUR 20 billion in March 2009; in view of the recent financial market developments the capital and financial account could substantially deteriorate.

(3) It is appropriate to provide Community support to Romania of up to EUR 5 billion under the Facility providing medium-term financial assistance for Member States' balance of payments established by Regulation (EC) No 332/2002. That assistance should be provided in conjunction with a loan from the IMF of SDR 11,443 billion (around EUR 12,95 billion) under a Stand-by arrangement expected to be approved on 6 May 2009. The World Bank has also agreed to provide a loan to Romania of EUR 1 billion and the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD) will provide a total EUR 1 billion of additional support.

(4) The Community assistance should be managed by the Commission. The specific economic policy conditions agreed with the authorities of Romania after consultation of the EFC should be laid down in a Memorandum of Understanding. The detailed financial terms should be laid down by the Commission in the Loan Agreement.

(5) The Commission should verify at regular intervals that the economic policy conditions attached to the assistance are fulfilled through missions and regular reporting by the authorities of Romania.

([1]) OJ L 53, 23.2.2002, p. 1.
([2]) See page 6 of this Official Journal.

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(6) Throughout the implementation of the programme, the Commission will provide additional policy advice and technical assistance in specific areas.

(7) Without prejudice to Article 27 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the European Court of Auditors shall have the right to carry out any financial controls or audits that it considers necessary in relation to the management of this assistance. The Commission, including the European Anti-Fraud Office, shall have the right to send its own officials or duly authorised representatives to carry out technical or financial controls or audits that it considers necessary in relation to the management of the Community medium-term financial assistance.

(8) Independently of the lifetime and the framework of the assistance programme, the Commission will also, applying the existing relevant procedures, including the Cooperation and Verification Mechanism, continue to monitor progress in the areas contributing to transparent and effective public spending, in particular in the field of justice and implementation of structural funds in order to facilitate Romania to reinforce the impact of the Community assistance.

(9) The assistance should be provided with a view to supporting the balance of payments sustainability in Romania and, in this way, contributing to the successful implementation of the Government's economic policy programme,

HAS ADOPTED THIS DECISION:

Article 1

1. The Community shall make available to Romania a medium-term loan amounting to a maximum of EUR 5 billion, with a maximum average maturity of seven years.

2. The Community financial assistance shall be made available during three years starting from the first day after the date when this Decision becomes effective.

Article 2

1. The assistance shall be managed by the Commission in a manner consistent with Romania's undertakings and recommendations by the Council, in particular the Country Specific Recommendations in the context of the implementation of the National Reform Programme as well as of the convergence programme.

2. The Commission shall agree with the authorities of Romania, after consulting the EFC, the specific economic policy conditions attached to the financial assistance as laid down in Article 3(5). Those conditions shall be laid down in a Memorandum of Understanding consistent with the undertakings and recommendations referred to in paragraph 1. The detailed financial terms shall be laid down by the Commission in the Loan Agreement.

3. The Commission shall verify at regular intervals in collaboration with the EFC that the economic policy conditions attached to the assistance are fulfilled. To this end, the authorities of Romania shall

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place all the necessary information at the disposal of the Commission and cooperate in full with the latter. The EFC shall be kept informed by the Commission of possible refinancing of the borrowings or restructuring of the financial conditions.

4. Romania shall be ready to adopt and implement additional consolidation measures to ensure macro-financial stability, in case such measures will be necessary during the assistance programme. The authorities of Romania shall consult the Commission in advance of the adoption of any such additional measures.

Article 3

1. The Community financial assistance shall be made available by the Commission to Romania in a maximum of five instalments, the size of which will be laid down in the Memorandum of Understanding.

2. The first instalment shall be released subject to the entry into force of the Loan Agreement and Memorandum of Understanding.

3. If required in order to finance the loan, the prudent use of interest rate swaps with counterparties of the highest credit quality shall be permitted.

4. The Commission shall decide on the release of further instalments after having obtained the opinion of the EFC.

5. The disbursement of each further instalment shall be made on the basis of a satisfactory implementation of the new economic programme of the Government of Romania to be included in the Convergence Programme of Romania, in the National Reform Programme and, more particularly, the specific economic policy conditions laid down in the Memorandum of Understanding. These shall include, inter alia,

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(a) implementing a clearly set medium-term fiscal programme so as to bring the general government deficit below the Treaty reference value of 3 % of GDP with a time-frame and a consolidation path which are consistent with the Council recommendations to Romania adopted under the excessive deficit procedure;

(b) adopting and implementing annual budgets for 2010 and beyond, consistent with the consolidation path set out in the Supplemental Memorandum of Understanding;

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(c) reducing the public sector wage bill in nominal terms compared to the 2008 outcome by foregoing public sector wage increases (totalling 5 % in nominal terms) scheduled for 2009 (or equivalent further cuts in employment) and by reducing public employment, including by replacing only one of seven departing employees;

(d) additional reductions in spending on goods and services and in subsidies to public enterprises;

(e) improving the budgetary management by the adoption and implementation of a binding medium-term fiscal framework, establishing limits on budget revisions during the year, including fiscal rules and creating a fiscal council to provide independent and expert scrutiny;

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(f) reforming the public compensation system, including by unifying and simplifying the pay scales and reforming the bonus system;

(g) reforming key parameters of the pension system by moving towards indexation of pensions to consumer prices rather than wages, gradually adjusting retirement age beyond the currently agreed plans, especially for women, and phasing in pension contributions of groups of public employees currently excluded from such contributions;

(h) amending banking and winding-up laws to be able to respond in a timely and effective fashion in the event of bank distress. A key objective of the amendments will be to strengthen powers of the administrators of banks placed under special administration. Beyond bank resolution, the remedial powers of the National Bank of Romania (NBR) should be strengthened with provisions allowing it to request that significant shareholders increase their share capital and financially support the bank. Financial supervision will be strengthened in line with the relevant EU legislation. In addition, more detailed reporting requirements on liquidity will be introduced. Furthermore, procedures for the activation of deposit insurance should be modified to simplify and accelerate payouts. Under modified legislation, deposit insurance will be activated upon the NBR's determination within the 20-day period. Finally, in order to guarantee sufficient liquidity provision, the NBR is committed to widening the range of assets acceptable as collateral. Considering the particular circumstances, the regulatory minimum level of the capital adequacy ratio should increase from 8 % to 10 % at an appropriate time;

(i) Structural reform measures in the areas of the Country Specific Recommendations issued in the context of the Lisbon strategy. These will include measures towards improving the efficiency and effectiveness of public administration, enhancing the quality of public expenditure, sound use and increased absorption of EU funds, reducing administrative, fiscal and legal burdens on business and tackling undeclared work, thereby broadening the tax base.

6. In order to ensure the smooth implementation of the programme conditionality and to help restoring imbalances in a sustainable way, the Commission will provide continued advice and guidance on fiscal, financial market and structural reforms.

7. Romania shall open a special account with the NBR for the management of the Community medium-term financial assistance.

Article 4

This Decision is addressed to Romania.

Article 5

This Decision shall be published in the *Official Journal of the European Union*.