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**COMMISSION IMPLEMENTING DECISION**

**of 22.9.2021**

**on an exceptional assistance measure regarding Myanmar**

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## on an exceptional assistance measure regarding Myanmar

THE EUROPEAN COMMISSION,

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

Having regard to 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<sup>1</sup>, and in particular Article 110 thereof,

Having regard to 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<sup>2</sup>, and in particular Article 23(6) thereof,

Whereas:

- (1) On 1 February 2021, Myanmar's military once again seized power in a coup contesting the results of the 2020 general elections. After almost 10 years of democratic transition, the military capture of power has spiralled the country into political, social and economic turmoil. Popular protest has been met by deadly repression from the military junta. There are reports of numerous severe human rights abuses and crimes. Since the coup, information shared with the Independent Investigative Mechanism for Myanmar (IIMM) about alleged human rights and criminal violations in Myanmar has increased exponentially, as has the risk of impunity for crimes. The IIMM collects, processes and preserves this evidence. The IIMM is also examining financial information to advance and complement criminal investigations and can facilitate the identification of perpetrators and their financiers. Highly specialised expertise and technology is required for this type of investigation in an effort to ensure accountability. The present situation makes it necessary to adopt an exceptional assistance measure regarding Myanmar.
- (2) In order to ensure the implementation of the measure, it is necessary to adopt a financing decision. Article 110 of Regulation (EU, Euratom) 2018/1046 establishes detailed rules on financing decisions.

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<sup>1</sup> OJ L 193, 30.7.2018, p. 1.

<sup>2</sup> OJ L 209, 14.6.2021, p. 1.

- (3) The planned assistance is to comply with the conditions and procedures set out by the restrictive measures<sup>3</sup> adopted pursuant to Article 215 TFEU.
- (4) The objective of the measure set out in this Decision is to support accountability for human rights violations and serious international crimes in Myanmar through the IIMM. The measure aims to enhance capabilities and capacities for the collection, analysis and preservation of financial information for the purpose of investigating the most serious international crimes and violations of international law committed in Myanmar, contributing to sharing of relevant financial information with national, regional or international authorities, as well as developing and advancing good practice and standards in international criminal justice with regards to financial investigation methodologies in order to remedy exceptional and unforeseen situations as referred to in Article 4(4), point (a) of Regulation (EU) 2021/947.
- (5) In accordance with point (e) of Annex IV, paragraph 1, of Regulation (EU) 2021/947, the activities set out in this Decision include the development of a financial investigations strategy for the IIMM, the increase of capacities and human resources for the investigation, collection and analysis of financial information, to enhance cooperation and information-sharing with national, regional and international authorities to support investigations and legal proceedings through the sharing of relevant financial information, as well as to advance the development of good practice and standards in international criminal justice with regards to the use of financial information for criminal investigations regarding the legal settlement of human rights claims.
- (6) The effectiveness of the Union response to the situation referred to in recital 1 depends on the rapid and flexible implementation of an exceptional assistance measure of limited duration in accordance with Article 23(6) of Regulation (EU) 2021/947.
- (7) The measure provided for in this Decision is complementary to assistance provided under other Union short-term or long-term external assistance instruments. No fully adequate response can be provided under those instruments to the specific needs being addressed. Therefore, an effective response is required to enable early action in accordance with Article 4(4) of Regulation (EU) 2021/947.
- (8) The measure provided for in this Decision is consistent with the Union strategic policy framework for Myanmar. Synergies and complementarities are expected with other Union interventions, as detailed in point 7 of the Annex.
- (9) In order to address the risk of impunity for human rights violations and international serious crimes committed in Myanmar since 2011 and in particular during and after the military coup in February 2021, it is necessary to use indirect management for the implementation of the measure.
- (10) The Commission is to ensure a level of protection of the financial interests of the Union with regard to entities and persons entrusted with the implementation of Union funds by indirect management as provided for in Article 154(3) of Regulation (EU, Euratom) 2018/1046. To this end, such entities and persons are to be subject to an assessment of their systems and procedures in accordance with Article 154(4) of

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<sup>3</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu). Note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy, the OJ prevails.

Regulation (EU, Euratom) 2018/1046<sup>4</sup> and, if necessary, to appropriate supervisory measures in accordance with Article 154(5) of Regulation (EU, Euratom) 2018/1046 before a contribution agreement can be signed.

- (11) It is necessary to allow for the payment of interest due for late payment on the basis of Article 116(5) of Regulation (EU, Euratom) 2018/1046.
- (12) In order to allow for flexibility in the implementation of the measure, it is appropriate to define changes which should not be considered substantial for the purposes of Article 110(5) of Regulation (EU, Euratom) 2018/1046.
- (13) The European Parliament and the Council have been informed of the exceptional assistance measure to be adopted by this Decision, in accordance with Article 25(3) of Regulation (EU) 2021/947,

HAS DECIDED AS FOLLOWS:

*Article 1*  
*The measure*

The financing decision for the implementation of the exceptional assistance measure regarding Myanmar, for 2021, as set out in the Annex, is adopted.

The measure shall include the following action: “Supporting the fight against impunity in Myanmar” set out in the Annex.

*Article 2*  
*Union contribution*

The maximum Union contribution for the implementation of the measure for 2021 is set at EUR 1 000 000 and shall be financed from the appropriations entered in the budget line 14 02 03 10 of the general budget of the Union.

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

*Article 3*  
*Methods of implementation and entrusted entities or persons*

The implementation of the actions carried out by way of indirect management, as set out in the Annex, may be entrusted to the entities or persons referred to or selected in accordance with the criteria laid down in point 6 of that Annex.

*Article 4*  
*Duration of the measure*

The maximum duration of the exceptional assistance measure adopted under this Decision shall be 18 months. The authorising officer responsible may decide to extend this period twice

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<sup>4</sup> Except for the cases set out in Article 154(6) of Regulation (EU, Euratom) 2018/1046, where the Commission may decide not to require an ex-ante assessment.

by a further period of up to six months, up to a total maximum duration of 30 months, under the conditions laid down in Article 23(6) of Regulation (EU) 2021/947.

If the implementation of this measure or any of its components is suspended owing to 'force majeure' or circumstances beyond the control of the contracting authority and its implementing partner(s), the period of suspension shall not be taken into account for the calculation of the duration of the implementation of this measure.

*Article 5*  
*Flexibility clause*

Increases or decreases of up to EUR 10 million 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 for the purposes of Article 110(5) of Regulation (EU, Euratom) 2018/1046 provided that these changes do not significantly affect the nature and objectives of the actions.

The authorising officer responsible may apply the changes referred to in the first paragraph. Those changes shall be applied in accordance with the principles of sound financial management and proportionality.

Done at Brussels, 22.9.2021

*For the Commission*  
*Josep BORRELL FONTELLES*  
*High Representative / Vice-President*