



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

Brussels, 3 April 2024
(OR. en)

2024/0019(COD)

PE-CONS 50/24

ECOFIN 216
FIN 174
CODEC 547

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the subscription by the European Union to additional shares in the capital of the European Bank for Reconstruction and Development (EBRD) and amending the Agreement establishing the EBRD as regards the extension of the geographic scope of EBRD operations to sub-Saharan Africa and Iraq, and the removal of the statutory capital limitation on ordinary operations

DECISION (EU) 2024/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

**on the subscription by the European Union to additional shares
in the capital of the European Bank for Reconstruction and Development (EBRD)
and amending the Agreement establishing the EBRD
as regards the extension of the geographic scope of EBRD operations
to sub-Saharan Africa and Iraq,
and the removal of the statutory capital limitation on ordinary operations**

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 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 procedure¹,

¹ Position of the European Parliament of 14 March 2024 (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) Pursuant to Article 4(3) of the Agreement establishing the European Bank for Reconstruction and Development² ('Agreement establishing the EBRD'), and in order to maintain enough capital to sustain, over the medium term, a reasonable level of activity in the EBRD countries of operation within statutory limits, the Board of Governors of the European Bank for Reconstruction and Development (EBRD) decided in its Resolution No. 265 of 15 December 2023 ('Resolution No. 265') to increase by EUR 4 000 000 000 the authorised capital stock of the EBRD.
- (2) Prior to that capital increase, the Union holds 90 044 shares, each share having a par value of EUR 10 000.
- (3) Pursuant to Resolution No. 265, the authorised capital stock of the EBRD is increased by 400 000 paid-in shares, and EBRD members can subscribe, on or before 30 June 2025, or on or before such subsequent date not later than 31 December 2025 as the Board of Directors of the EBRD may determine on or before 30 June 2025, to a number of whole shares, pro rata to their existing shareholding. The capital increase is to be paid in five equal instalments, the first of which is to be paid by each member by the later of (i) 30 April 2025; or (ii) 60 days after its instrument of subscription has become effective. The remaining four instalments are to be paid by 30 April 2026, by 30 April 2027, by 30 April 2028 and by 30 April 2029, respectively. Accordingly, the Union will be allowed to subscribe to 12 102 new shares, each having a par value of EUR 10 000 for a total of EUR 121 020 000, thus increasing the number of paid-in shares of the Union to 102 146.

² OJ L 372, 31.12.1990, p. 4.

- (4) The capital increase is necessary to enable continued activities and investments by the EBRD in Ukraine during Russia's war of aggression against Ukraine and in particular during a future post-war period to support Ukraine's reconstruction. In supporting those activities and investments, the capital increase also ensures that such support does not restrict the capacity of the EBRD to meet needs in its other countries of operation. Furthermore, the capital increase is consistent with the requirement set out in Article 13, point (v), of the Agreement establishing the EBRD that the EBRD is to seek to maintain reasonable diversification in all its investments. As a consequence, a paid-in capital increase would sustain a financially strong EBRD which is able to pursue its mandate and to meet shareholders' objectives in all of its countries of operation.
- (5) It is appropriate for the Union to subscribe to those additional shares in order to achieve the Union's objectives in the field of economic external relations and to preserve its relative voting power within the EBRD.
- (6) In its Resolution No. 259 of 18 May 2023 ('Resolution No. 259'), the Board of Governors of the EBRD voted in favour of amendments to the Agreement establishing the EBRD, which are necessary to enable the EBRD to expand in a limited and incremental way the geographic scope of its operations to sub-Saharan Africa and Iraq while maintaining its full commitments to Ukraine and to its existing countries of operation. That Resolution confirmed that the extension of the EBRD's mandate should be achieved without requiring additional capital contributions from its shareholders.

- (7) The geographic scope of EBRD operations should be extended in a limited and incremental way to sub-Saharan Africa and Iraq, and should be fully compliant with the EBRD's values of supporting those countries that are committed to and apply the principles of multiparty democracy, the rule of law, respect for human rights, pluralism, and market economics. The EBRD has developed a phased approach to starting its activities in the regions concerned, which will take into consideration the regional and national specificities. First investments in sub-Saharan Africa are envisaged to take place from 2025 onwards in Benin, Côte d'Ivoire, Ghana, Kenya, Nigeria and Senegal, subject to their application and approval as EBRD recipient countries. Taking into account the EBRD's focus on private sector development and its transition mandate, the value that the EBRD can add in sub-Saharan Africa and Iraq is substantial and is of geostrategic importance for the Union.
- (8) The representatives of the Union in the governing bodies of the EBRD should encourage the EBRD to continue its close engagement with the Union and its collaboration with civil society, as well as to develop further its close cooperation with other European and international public financing institutions, in order to make full use of their comparative advantages, when extending its operations to sub-Saharan Africa and Iraq.

- (9) In line with the existing practice, before the EBRD approves a new country of operation, it should make a detailed technical assessment of the economic and political conditions in the country concerned, including: an assessment of that country's commitment to the principles of multiparty democracy, pluralism and market economics, as enshrined in Article 1 of the Agreement establishing the EBRD, an assessment of transition gaps, and a review of the activities of other international financing institutions in that country, and of the priorities in relation to which the EBRD could best make use of its unique knowledge and skills. Such an assessment should be undertaken subject to any new country applying for membership of the EBRD and for country of operation status and subject to the subsequent approval thereof by the Board of Governors of the EBRD.
- (10) Currently, Article 12(1) of the Agreement establishing the EBRD limits the total amount of outstanding loans, equity investments and guarantees made by the EBRD in its ordinary operations to the total amount of its unimpaired subscribed capital, reserves and surpluses included in its ordinary capital resources. In its Resolution No. 260 of 18 May 2023 ('Resolution No. 260'), the Board of Governors of the EBRD recognised the essential role of the EBRD in addressing pressing global challenges and the recommendations of the 2022 G20 Independent Review of Multilateral Development Banks' Capital Adequacy Frameworks. The Board of Governors of the EBRD resolved that, in order to enable the optimal use of the EBRD's capital capacity to achieve the maximum potential impact in its recipient countries, an amendment to Article 12(1) of the Agreement establishing the EBRD to remove the statutory capital limitation was necessary.

- (11) Pursuant to Article 56 of the Agreement establishing the EBRD, the Board of Governors of the EBRD has asked all members of the EBRD whether they accept the proposed amendments.
- (12) In view of the need to enable the EBRD to continue its support in Ukraine without interruption and of the need to maintain the Union's direct shareholding in the EBRD, it is considered to be appropriate to invoke the exception to the eight-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (13) The capital increase and the amendments to the Agreement establishing the EBRD should therefore be approved on behalf of the Union,

HAVE ADOPTED THIS DECISION:

Article 1

The Union shall subscribe to 12 102 additional shares of EUR 10 000 each in the EBRD pursuant to Resolution No. 265 on or before 30 June 2025, or such subsequent date not later than 31 December 2025 as the Board of Directors of the EBRD may determine on or before 30 June 2025.

The subscription shall be paid in five equal instalments, the first of which shall be paid by the later of:

- (a) 30 April 2025; or
- (b) 60 days after the instrument of subscription by the Union has become effective.

The remaining four instalments shall be paid by 30 April 2026, by 30 April 2027, by 30 April 2028 and by 30 April 2029, respectively.

Article 2

The Governor of the EBRD representing the Union shall deposit the requisite instrument of subscription on behalf of the Union.

Article 3

The amendments to Article 1 of the Agreement establishing the EBRD to allow the limited and incremental extension of the geographic scope of its operations to sub-Saharan Africa and Iraq, as set out in Resolution No. 259, and the amendments to Article 12(1) of that Agreement to remove the statutory capital limitation, as set out in Resolution No. 260, are approved on behalf of the Union.

The text of Resolutions No. 259 and No. 260 is attached to this Decision.

Article 4

The Governor of the EBRD representing the Union shall, on behalf of the Union, communicate to the EBRD the declaration of acceptance of the amendments referred to in Article 3.

Article 5

As part of the annual report to the European Parliament, the Governor of the EBRD representing the Union shall also report on the EBRD's activities and operations in sub-Saharan Africa and Iraq.

Article 6

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 ...,

For the European Parliament
The President

For the Council
The President

RESOLUTION NO. 259

AMENDMENT TO ARTICLE 1 OF THE AGREEMENT ESTABLISHING THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT TO ENABLE A LIMITED AND INCREMENTAL EXPANSION OF THE GEOGRAPHIC SCOPE OF THE BANK'S OPERATIONS TO SUB-SAHARAN AFRICA AND IRAQ

THE BOARD OF GOVERNORS,

Recalling Resolution No. 248, by which the Board of Governors approved, in principle, a limited and incremental expansion of the geographic scope of the Bank's operations to sub-Saharan Africa and Iraq;

Emphasising the importance of sub-Saharan Africa and Iraq to achieving the international community's geopolitical and development priorities, the growing links between many countries in sub-Saharan Africa and Iraq and current EBRD countries of operations, and the relevance and applicability of the Bank's mandate, business model, private sector focus and competencies in sub-Saharan Africa and Iraq;

Stressing that the most urgent priority of the Bank remains to support Ukraine and other countries of operations affected by the war on Ukraine;

Recognising that the war on Ukraine has reinforced the parallel relevance of continuing to address shareholder objectives in sub-Saharan Africa and Iraq;

Underlying that any possible limited and incremental expansion to new countries of operations must not: impair the Bank's ability to support its current countries of operations, compromise the Bank's triple-A rating, lead to a request for additional capital contributions, or deviate from the Bank's mandate to support transition and its operating principles of additionality and sound banking;

Emphasising the importance of complementarity and collaboration amongst development partners already active in sub-Saharan Africa and Iraq; and

Having considered the Report of the Board of Directors to the Board of Governors 'Amendment to Article 1 of the Agreement Establishing the European Bank for Reconstruction and Development in order to enable the limited and incremental expansion of the geographic scope of the Bank's operations to sub-Saharan Africa and Iraq' and being in agreement with its conclusions, amongst others, that:

- (i) The analysis of the capital and financial implications reconfirms that a limited and incremental expansion to Sub-Saharan Africa and Iraq will not in itself impair the Bank's ability to support its existing countries of operations, compromise the Bank's triple-A credit rating, or lead to a request for additional capital contributions;
- (ii) Such limited and incremental expansion of the geographic scope of the Bank's operations to sub-Saharan Africa and Iraq should be enabled through an amendment of Article 1 of the Agreement Establishing the European Bank for Reconstruction and Development ('the Agreement'); and

(iii) The implementation of the expansion must be carried out in a way that will not dilute the focus of the Bank in supporting Ukraine and other countries of operations affected by the war on Ukraine.

RESOLVES THAT:

1. Article 1 of the Agreement shall be amended to read as follows:

‘In contributing to economic progress and reconstruction, the purpose of the Bank shall be to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics. Subject to the same conditions, the purpose of the Bank may also be carried out in (i) Mongolia; (ii) member countries of the Southern and Eastern Mediterranean; and (iii) a limited number of member countries of sub-Saharan Africa; in each case under (ii) and (iii) as determined by the Bank upon the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members. Accordingly, any reference in this Agreement and its annexes to “Central and Eastern European countries”, “countries from Central and Eastern Europe”, “recipient country (or countries)” or “recipient member country (or countries)” shall refer to Mongolia and each of such countries of the Southern and Eastern Mediterranean and sub-Saharan Africa as well.’

a. The term ‘sub-Saharan Africa’ as set out under Article 1 of the Agreement shall be understood to mean the sub-Saharan Africa region as defined by the World Bank Group.

- b. The limitation on the number of member countries of sub-Saharan Africa in which the Bank may carry out its purpose as set out under Article 1 of the Agreement shall be understood so as to enable a limited and incremental expansion of the geographic scope of the Bank's operations, in accordance with the measures and mechanisms set out in the report of Board of Directors 'Amendment of the Agreement Establishing the European Bank for Reconstruction and Development in order to enable the limited and incremental expansion of the geographic scope of the Bank's operations to sub-Saharan Africa and Iraq'. In this context, an affirmative vote of not less than three-fourths of the Governors, representing not less than four-fifths of the total voting power of the members shall be required to approve any further increment to the expansion.

- c. Iraq shall be incorporated into the Southern and Eastern Mediterranean region for the purposes of the Agreement, and consequently the term 'Southern and Eastern Mediterranean' as set out under Article 1 of the Agreement shall be understood to mean the region consisting of the countries that have a shoreline on the Mediterranean as well as Jordan and Iraq, which are closely integrated into this region.

2. Members of the Bank shall be asked whether they accept the said amendment by
 - (a) executing and depositing with the Bank an instrument stating that such member has accepted the said amendment in accordance with its law and
 - (b) furnishing evidence, in form and substance satisfactory to the Bank, that the amendment has been accepted and the instrument of acceptance has been executed and deposited in accordance with the law of that member.

3. The said amendment shall enter into force three (3) months after the date on which the Bank has formally confirmed to its members that the requirements for accepting the said amendment, as provided for in Article 56 of the Agreement, have been met.

(Adopted 18 May 2023)

RESOLUTION NO. 260

AMENDMENT TO ARTICLE 12.1 OF THE AGREEMENT ESTABLISHING THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT TO REMOVE THE STATUTORY CAPITAL LIMITATION ON ORDINARY OPERATIONS

THE BOARD OF GOVERNORS,

Recognising the essential role of Multilateral Development Banks (MDBs) in addressing multiple pressing global challenges;

Noting the significant changes in capital management practices in the financial sector since the Agreement entered into force on 28 March 1991;

Wishing to enable the optimal use of the Bank's capital capacity to support the Bank in achieving the maximum potential impact in its recipient countries;

Welcoming the wide ranging recommendations of the G20 Independent Review of Capital Adequacy Frameworks and the careful consideration accorded to them by the Bank, including specifically the recommendation to modernise MDBs' approach to managing capital adequacy by relocating specific leverage limits from MDB statutes to MDB capital adequacy frameworks, in a coordinated manner among MDBs;

Having considered and being in agreement with the report of the Board of Directors ‘Amendment of the Article 12.1 to the Agreement Establishing the European Bank for Reconstruction and Development in order to remove the statutory capital limitation on ordinary operations’ and its recommendation to approve an amendment of Article 12.1 of the Agreement to remove the statutory capital limitation on ordinary operations; and

On the understanding that the Board of Directors will maintain an appropriate nominal leverage limit on operations, set against relevant capital metrics, within the Bank’s capital adequacy framework, as part of its responsibility to protect the financial soundness and sustainability of the Bank.

RESOLVES THAT:

1. Article 12.1 of the Agreement shall be amended by deleting its existing text and introducing a new text as follows:
 - ‘1. The Board of Directors shall establish and maintain appropriate limits with respect to capital adequacy metrics, in order to protect the financial soundness and sustainability of the Bank.’
2. Members of the Bank shall be asked whether they accept the said amendment by
 - (a) executing and depositing with the Bank an instrument stating that such member has accepted the said amendment in accordance with its law and (b) furnishing evidence, in form and substance satisfactory to the Bank, that the amendment has been accepted and the instrument of acceptance has been executed and deposited in accordance with the law of that member.

3. The said amendment shall enter into force three (3) months after the date on which the Bank has formally confirmed to its members that the requirements for accepting the said amendment, as provided for in Article 56 of the Agreement, have been met.

(Adopted 18 May 2023)
