

Memorandum of Understanding
on the working relations between the European Commission
and the European Stability Mechanism

1- General objectives

- The European Commission (the “Commission”) and the European Stability Mechanism (the “ESM”) (each a “Party”, together the “Parties”) share common objectives and exercise specific tasks in the context of financial assistance programmes for euro area Member States on the basis of European Union law (EU law) and the ESM Treaty. Therefore, the Parties work in close cooperation to achieve efficient governance of all the phases of financial assistance programmes in the pursuit of financial stability.
- This Memorandum of Understanding builds on the current practice to frame the working relations between the Commission and the ESM.
- This Memorandum of Understanding does not modify in any way the applicable legal rules and does not modify or affect the legal framework governing each of the Parties.
- This Memorandum of Understanding does not create any obligations under EU law or international law.
- This Memorandum of Understanding is without prejudice to the tasks and responsibilities assigned to the European Central Bank (ECB) in the context of ESM programmes. In particular the Commission will continue to perform its tasks “in liaison with the ECB” when foreseen by the ESM Treaty and EU Law.
- This Memorandum of Understanding does not preclude the Parties from concluding cooperation agreements and memoranda of understanding with other institutions.

2- Principles of cooperation

- This Memorandum of Understanding aims to facilitate the cooperation between the Parties in respect of, inter alia, Regulation 472/2013 of the European Parliament and the Council and the ESM Treaty.
- This Memorandum of Understanding is without prejudice to the existing competences and responsibilities of the Commission, including with regard to both coordination of economic policies and budgetary surveillance of Member States in the euro area and financial and other sectoral policies in accordance with the TFEU; without prejudice to the existing competences and responsibilities of the ESM in providing financial stability support in accordance with the ESM Treaty; and also without prejudice to the existing competences and responsibilities of the ESM under its Service Level Agreement with the European Financial Stability Facility.
- This Memorandum of Understanding acknowledges the case-law of the European Court of Justice relevant to the tasks of each of the Parties which has emphasised that the Commission is bound to ensure that the memoranda of understanding signed by the Commission on behalf of the ESM are consistent with EU law. It also takes account of the experience over the years since the provision of the first ESM financial assistance.
- When deemed useful and appropriate, the Commission, in agreement with the Member State concerned, invites ESM staff to join the Commission's missions related to economic policy coordination and budgetary monitoring.
- The Members of the Commission responsible for Financial Stability and Economic and Financial Affairs and the ESM Managing Director meet at least twice a year to discuss and review the working arrangements between the Commission and the ESM.

3- Working arrangements under ESM financial assistance programmes and post-programme surveillance

- When an ESM Member requests stability support, the Chairperson of the ESM Board of Governors entrusts the Commission, in liaison with the ECB, with the assessment of financial stability risks, public debt sustainability and the financing needs of the ESM Member requesting such support. The ESM Board of Governors decides to grant, in principle, stability support, based on a proposal by the ESM Managing Director on the

basis of the above mentioned assessments. The Commission and the ESM collaborate on the preparation of these assessments.

- The Commission ensures that the memoranda of understanding signed by the Commission on behalf of the ESM are fully consistent with EU law, in particular, where relevant, with the macroeconomic adjustment programmes approved by Implementing Decision of the Council. The Commission informs the ESM as early as possible of any difficulty it encounters in that regard.
- The Commission and the ESM collaborate on the design and negotiation of policy conditionality, as well as on financial aspects related to the assistance facility, as appropriate, to achieve the goals of the programme.
- In performing their respective roles in relation to a Member State's request for financial assistance, the Commission and the ESM share information relevant to fulfil their tasks.
- Where the ESM and the Commission collaborate closely and to avoid duplication of work:
 - The Commission plans programme missions in cooperation with the ESM.
 - The Commission prepares policy briefs in liaison with the ESM and shares with it other relevant documents ahead of programme negotiations and reviews. The Commission drafts the related memorandum of understanding as well as the compliance reports after consultation with the ESM. The ESM will mainly contribute in those areas where it has particular policy expertise and which relate to its responsibility of providing financial assistance.
 - The Commission is in charge of preparing a debt sustainability analysis in liaison with the ECB and in cooperation with the ESM taking into consideration the responsibilities of the ESM in the context of its Early Warning System (EWS). The Commission prepares fiscal and macroeconomic projections and the ESM provides inputs on Member States funding plans and costs, particularly in relation to actual or possible ESM and EFSF support. Building on fiscal and macro projections and analysis, the Commission and the ESM assess the overall financing needs for the programme.
 - The Commission and the ESM collaborate in monitoring compliance with conditionality and financial aspects of the programme where appropriate, including through joint review missions.

- The Commission carries out post-programme surveillance missions in accordance with Regulation 472/2013. The ESM operates its EWS, as stipulated in Article 13 of the ESM Treaty, to ensure that it receives any repayments due by an ESM Member in a timely manner and carries out surveillance missions to gather the information that it considers relevant to that effect. In principle, post-programme surveillance missions and EWS missions are combined, to prevent unnecessary duplication of analysis by the Commission and the ESM and to avoid unnecessary burden on the relevant Member State.
- The Parties inform each other in advance on the content of any press releases and reports related to post-programme surveillance and Early Warning System missions.
- The Parties exchange information, on the basis of a mutually agreed framework, to enable the evaluation of ESM financial assistance programmes.

4- Operational arrangements on exchanges of information and confidentiality

- To facilitate the ESM's ability to carry out its tasks described under 3, above, the Commission provides the ESM with reliable access and the right to use relevant data compiled by the Commission on the economic and fiscal performance of programme and post-programme euro area Member States, in a form to be defined by the Commission in consultation with the ESM and in a way which preserves the Commission's confidentiality obligations. To facilitate the Commission's ability to carry out its tasks described under 3, above, the ESM provides the Commission with similar access to data compiled by the ESM regarding ESM's borrowing and lending activities as well as its Early Warning System, in a form to be defined by the ESM in consultation with the Commission and in a way which preserves the ESM's confidentiality obligations and safeguards the ESM's funding activities.
- The Parties will not exchange information whose disclosure to the other Party would contravene the legal obligations of the Party possessing the information, or would adversely affect important interests of said Party.

5- Training programmes and staff exchange

- The Commission and the ESM intend to provide for and develop joint training programmes for their respective staff members as well as for Member States as regards financial assistance, programme design and monitoring.
- The Parties intend to cooperate in the field of professional training, seminars and workshops, by informing each other of and inviting each other to relevant activities, which they organise and which may be of common interest. These activities may also include joint events in this field.

This Memorandum of Understanding may be amended from time to time, in particular to reflect potential future changes in the legal framework governing the Commission and the ESM, respectively.

Signed in Sofia on [insert date], in two originals in the English language by the Parties' duly authorised representatives.

For the European Commission

For the European Stability Mechanism