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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the Ukraine Facility - Partial Mandate for negotiations with the European Parliament

At its meeting on 10 January 2024, Coreper confirmed the partial agreement reached at technical level on the text of the above-mentioned regulation, as set out in Annex.

This partial mandate will serve as a basis for negotiations with the European Parliament.

Changes compared to the Commission proposal have been marked **in bold** (for additions) and ~~strikethrough~~ (for deletions).

ANNEX

2023/0200 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

~~on~~ establishing the Ukraine Facility

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 and Article 322(1) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the Court of Auditors,

Acting in accordance with the ordinary legislative procedure,

Whereas:

~~(1) Since 2014, Ukraine has embarked on an ambitious reform path leading to a progressive integration with the European Union, as materialised in the signature on 27 June 2014 of an association agreement between the Union and Ukraine, including a Deep and Comprehensive Free Trade Area, which entered into force on 1 September 2017.~~

(2) Since the beginning of Russia's unprovoked and unjustified war of aggression against Ukraine on 24 February 2022, the Union, its Member States and European financial institutions have mobilised unprecedented support to Ukraine's economic, social and financial resilience, combining support from the Union budget, including the exceptional macro-financial assistance and support from the European Investment Bank and the European Bank for Reconstruction and Development, fully or partially guaranteed by the Union budget, as well as further financial support by Member States.

(3) The European Council of 23 June 2022 decided[1] to grant the status of candidate country to Ukraine, which expressed a strong will to link reconstruction with reforms on its European path. Ongoing strong support to Ukraine is a key priority for the Union and an appropriate response to the Union's strong political commitment to support Ukraine for as long as necessary.

[1] European Council Conclusions, 23-24 June 2022; EUCO 24/22.

(4) The provision by the Union of macro-financial assistance of up to EUR 18 billion for 2023 under Regulation (EU) 2022/2463 of the European Parliament and of the Council[2] was considered an appropriate response to Ukraine's financing gap for 2023 and helped to mobilise significant financing from other donors and international financial institutions. This constituted a major contributing factor to Ukraine's macroeconomic and financial resilience at a critical time.

(5) The Union is also providing significant financial support through an additional package combining funds under the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI) established under Regulation (EU) 2021/947 of the European Parliament and of the Council[3] and loans by the European Investment Bank.

(6) In addition, in its Decision (CFSP) 2021/509[4], the Council decided on off-budget assistance measures to support the Ukrainian armed forces under the European Peace Facility, in the amount of EUR 5,6 billion, and **in its Decision (CFSP) 2022/1968 established** a military assistance mission in support of Ukraine with EUR 0,1 billion for the common costs. The Union and its Member States have also delivered unprecedented in-kind emergency response via the Union Civil Protection Mechanism under Decision No 1313/2013/EU[5] of the European Parliament and of the Council, as amended by Regulation (EU) 2021/836 of the European Parliament and the Council[6], constituting the largest emergency operation since the creation of that mechanism.

(7) Furthermore, the EU-Ukraine Solidarity Lanes established in May 2022 have contributed to generating an estimated export value of EUR 31 billion for the Ukrainian economy until end May 2023.

(8) Russia's war of aggression against Ukraine has caused Ukraine damages amounting to more than EUR 270 billion[7] as of 24 February 2023, and reconstruction costs being estimated at EUR 384 billion, as well as a loss of access to financial markets and a significant drop in public revenue, while public expenditure to address the humanitarian situation and to maintain the continuity of State services has increased markedly. Such estimates, as well as the analytical information from all other appropriate and subsequent sources, provide a relevant basis to establish the respective funding needs for the coming years, including regional and sectoral considerations.

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2 Regulation (EU) 2022/2463 of the European Parliament and of the Council of 14 December 2022 establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +); (OJ L 322, 16.12.2022, p. 1–14).

3 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 (OJ L 209, 14.6.2021, p. 1).

4 Council Decision (CFSP) 2021/509 of 22 March 2021 establishing a European Peace Facility, and repealing Decision (CFSP) 2015/528, (OJ L 102 24.3.2021, p. 14).

5 Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (*OJ L 347, 20.12.2013, p. 924–947).*

6 Regulation (EU) 2021/836 of the European Parliament and of the Council of 20 May 2021 amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism (OJ L 185, 26.5.2021, p. 1).

7 Rapid Damage and Needs Assessment, prepared by the World Bank, European Commission and United Nations. See World Bank Document.

(9) On 30 March 2023, the International Monetary Fund (IMF) estimated the State financing gap up to 2027 at EUR 75.1 billion and agreed with Ukraine a EUR 14.4 billion four-year programme to anchor policies that sustain fiscal, external, price and financial stability and support economic recovery, while enhancing governance and strengthening institutions to promote long-term growth in the context of post-war reconstruction and Ukraine's path of accession to the European Union.

(10) Given that a residual gap remains in Ukraine's financing needs for at least until 2027, flexible support to the Ukrainian government to maintain its functions as well as to support the recovery, reconstruction and modernisation of the country has to be mobilised.

(11) Given the damage from Russia's war of aggression to the Ukrainian economy, society and infrastructure, the support to the country to maintain its functions, as well as short relief, fast recovery, reconstruction and modernisation of Ukraine will require comprehensive support to rebuild the economy, to create the foundations of a free**,** ~~, and~~ prosperous **and culturally vibrant** country, anchored in European values, well integrated into the European and global economy, and progressing well on its path of accession to the European Union.

(12) In this context, it is necessary to set up a**n exceptional** medium-term single instrument that brings together the bilateral support provided by the Union to Ukraine, ensuring coordination and efficiency. To that end, it is necessary to establish a Ukraine Facility ('the Facility') **for the period 2024-2027**, providing a balance between flexibility and programmability of the Union's response to address Ukraine's financing gap, recovery, reconstruction and modernisation needs, while at the same time supporting Ukraine's reforms effort as part its accession path to the Union.

(13) **Given the exceptional nature of** ~~T~~**t**he Ukraine Facility**, it** should be underpinned by a coherent and prioritised plan for reconstruction (the 'Ukraine Plan'), prepared by the Government of Ukraine providing a structured and predictable framework for the recovery, reconstruction and modernisation of Ukraine, clearly articulated with Union accession requirements.

(14) Union support to Ukraine from 2024 to 2027 should be provided primarily and mainly under the Ukraine Facility, **avoiding any potential overlap with other programmes, in particular the Instrument for Pre-Accession assistance, and** ensuring a consistent approach through a unified instrument, by replacing or, where appropriate, complementing activities under the existing instruments.

(15) In this regard, Union support under the Facility should replace the bilateral support provided under the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI**-GE**) established under Regulation (EU) 2021/947 of the European Parliament and of the Council. It is nevertheless important to ensure that Ukraine can continue to benefit from regional, thematic, rapid response, and other f**or**~~or~~m of support under NDICI, ~~including~~ **in particular** cross-border cooperation programmes, and more generally continue to advance regional, macro-regional and cross-border cooperation and territorial development, including through the implementation of Union macro-regional strategies.

(16) Humanitarian aid, defence or support to Member States providing protection for **people** ~~Ukrainian refugees~~ fleeing the war **in Ukraine** should be provided outside the Facility. ~~In addition,~~ Ukraine may continue to benefit from relevant existing Union programmes **within the EU budget**, **such as NDICI-GE for actions ~~as~~ referred to in recital 15, the European Instrument for International Nuclear Safety Cooperation, Humanitarian Aid, and ~~as well as~~ activities under the Common Foreign and Security Policy, as well as measures under the European Peace Facility outside the EU budget. Furthermore, Ukrainian entities may participate in internal policy Union programmes such as Horizon Europe, EURATOM Research and Training Programme, Digital Europe Programme, Cooperation in the field of taxation (Fiscalis), Cooperation in the field of Customs (Customs), Erasmus+, EU4Health Programme, Creative Europe, LIFE, Single Market Programme, Union Civil Protection Mechanism, Connecting Europe Facility (CEF), Union Anti-Fraud Programme as well as other relevant programmes in accordance with their respective rules, objectives and the relevant association agreements**.

(17) The Facility should contribute to closing the funding gap of Ukraine until 2027, by providing ~~grants~~ **non-repayable support** and highly concessional ~~financial relief~~ **loans** in a predictable, continuous, orderly and timely manner. The assistance should support macro-financial stability in Ukraine, and ease Ukraine's external financing constraints.

(18) Under the new Facility, investment in Ukraine's recovery, reconstruction and modernisation should start as a matter of urgency to **help** provid**inge** decent living conditions for the Ukrainian population, to ensure generation of employment and revenues and progressively **to** lower the volume of international assistance needed.

(19) The Facility should tie the recovery, reconstruction and modernisation closely to the Union perspective, by linking financial support to the fulfilment of reforms and investments in view of accession.

(20) The medium-term perspective provided by the Ukraine Plan through a single instrument should also encourage Ukraine to channel investments and reforms toward the transition to a green, digital ~~and~~ inclusive **and sustainable** economy, and help mobilise like-minded donors for multiannual contributions to support Ukraine.

(21) The recovery, reconstruction and modernisation effort should build on Ukraine's ownership, close cooperation and coordination with supporting countries and organisations, and Ukraine's path towards accession to the Union. Regional and local administrations **as well as civil society** are also expected to play an important role. Peer-to-peer cooperation and programmes embedded in partnerships between cities and regions in the Union and those in Ukraine should enrich and accelerate the recovery, reconstruction and modernisation process.

(22) The Union should also foster close consultation and association of local authorities, which embrace a large variety of sub-national levels and branches of government, including regions, municipalities, rayons and hromadas and their associations, as well as their participation in the recovery, reconstruction and modernisation of Ukraine, based on sustainable development and through the implementation of the Sustainable Development Goals at local level. The Union should recognise the multiple roles played by the local authorities as promoters of a**n inclusive and** territorial approach to local development, including decentralisation processes, participation **of civil society organisations and local communities, transparency** and accountability, and further enhance its support for local authorities' capacity building.

(23) The Union should provide support to the transition towards accession for the benefit of Ukraine, drawing on the experience of the Member States. Such cooperation should focus particularly on the sharing of experience that was acquired by the Member States during their own reform processes.

(24) Support under the Facility should also build on and maximise synergies with key organisations supporting Ukraine's reforms and reconstruction, such as **the European Investment Bank Group, international financial institutions including** ~~the European Investment Bank, the European Bank for Reconstruction and Development,~~ the World Bank, the Organisation for Economic Co-operation and Development, and the International Monetary Fund**; and European multilateral finance institutions, including the European Bank for Reconstruction and Development and the Council of Europe Development Bank; and bilateral finance institutions such as development banks and export credit agencies**.

(25) Given the uncertainties linked to the war, it is appropriate that the Facility should be able to provide support to Ukraine in duly justified exceptional circumstances, in particular in the event of a significant deterioration of the war, and in order to maintain its macro-financial stability and to ensure the achievement of the objectives of the Facility. Such exceptional financing should **be provided for individual periods of up to three months and should** only be provided, through a Council implementing decision upon a proposal by the Commission, if it is concluded that it is impossible for Ukraine to fulfil the conditions attached to the forms of support under this Regulation, when it is the beneficiary of the support, and should cease as soon as the fulfilment of the conditions becomes possible again. Such financing should not affect funding from other specific Union instruments which should be mobilised in case of natural disasters or other humanitarian or civil protection emergencies. **If necessary, exceptional financing should be available under the Facility before the adoption of the Ukraine Plan and the conclusion of the Framework Agreement. It could be additional to exceptional bridge financing, as applicable.**

(26) The enlargement policy framework defined by the European Council and the Council, the association agreement, partnership and cooperation agreement, multilateral agreements to which the Union is a party and other agreements that establish a legally-binding relationship with Ukraine, as well as resolutions of the European Parliament, communications of the Commission and joint communications of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy should constitute the overall policy framework for the implementation of this Regulation. The Commission should ensure coherence between the assistance under the Facility and the enlargement policy framework.

(27) Article 49 of the Treaty on European Union provides that any European State which respects the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, and is committed to promoting those values may apply to become a member of the Union. Those values are common to Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and **gender** equality ~~between women and men~~ prevail.

(28) A European State which has applied to join the Union can become a member of the Union only where it has been confirmed that it fully meets the accession criteria established at the Copenhagen European Council in June 1993 (the 'Copenhagen criteria') and provided that the Union has the capacity to integrate the new member. The Copenhagen criteria relate to the stability of institutions which guarantee democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union, and the ability to assume not only the rights but also the obligations under the Treaties, including the pursuit of the aims of political, economic and monetary union.

(29) It is in the common interest of the Union and Ukraine to advance the efforts of Ukraine to reform its political, legal and economic systems with a view to Union membership. Considering Ukraine as candidate to accession is a strategic investment of the Union in peace, security, stability and prosperity in Europe and allows the Union to be better positioned to address global challenges. It also provides increased economic and trade opportunities to the mutual benefit of the Union and Ukraine, while supporting a gradual transformation of the country. The prospect of Union membership has a powerful transformative effect, embedding positive democratic, political, economic and societal change.

(30) Embracing and committing to core European values is a choice and is essential for Ukraine's aspiration to Union membership. In line with this, Ukraine should take ownership and fully commit to European values as well as to upholding a global order based on rules and values and vigorously pursuing the necessary reforms in the interest of its people.

(31) Reconstruction from the damage caused by the war of Russian aggression cannot be limited to rebuilding what was destroyed as it was before the war. The reconstruction offers an opportunity to support Ukraine in its process of integration into the Single Market and in accelerating its sustainable green and digital transitions, in line with Union policies. The Facility should promote reconstruction in a way that modernises and improves Ukraine's economy and society, building on Union rules and standards, by investing in the transition of Ukraine towards a green, digital**,** ~~and~~ inclusive **and sustainable** economy and in the recovery, reconstruction and modernisation of its critical infrastructure, productive capacity and human capital in a resilient way. **Reconstruction of cultural heritage should be based on national, international and European norms, on standard-setting texts, principles (such as New European Bauhaus) and lessons learned, and be consistent with the European quality principles for EU-funded interventions with potential impact on cultural heritage**.

(32) The Facility should contribute to the adherence to the Paris Agreement and the United Nations Framework Convention on Climate Change, the United Nations Convention on Biological Diversity and the United Nations Convention to Combat Desertification and should not contribute to environmental degradation or cause harm to the environment or climate. In particular, funding allocated in the context of the Facility should be coherent with the long-term goal of holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1,5°C. It should also be coherent with the objective to increase the ability to adapt to the adverse effects of climate change and foster climate resilience, and with the support of biodiversity conservation, circular economy and zero-pollution. Particular attention should be given to actions that create co-benefits and meet multiple objectives, including for climate, biodiversity and the environment.

(33) In this context, measures funded under the Facility should **apply the rights-based approach and mainstream climate change, environmental protection, human rights, democracy, gender equality and non-discrimination, and where relevant, disaster risk reduction. Particular attention should be paid to interlinkages with the Sustainable Develepment Goals (SDGs), to promote integrated actions that can create co-benefits and meet multiple objectives in a coherent way, contributing to poverty reduction and promoting peaceful and inclusive societies without undermining other objectives. The measures funded under the Facility should** be guided by the principles of 'do no harm' and 'leaving no one behind'.

(34) The implementation of this Regulation should be guided by the principles of equality and non-discrimination, as elaborated in the Union of Equality strategies. It should promote gender equality and the empowerment of women and girls, and seek to **prevent and combat violence against women, gender-based violence and domestic violence and to** protect and promote women's and girls' rights ~~in line with~~ **taking into account** the EU Gender Action Plans and relevant Council conclusions and international conventions. The implementation of the Facility should be in line with the United Nations Convention on the Rights of Persons with Disabilities and ensure accessibility in its investments and technical assistance. **The implementation of the Facility should also be in line with the United Nations Convention on the rights of the child and support children and youth as key agents of change and as contributors to the realisation of the 2030 Agenda.**

(35) Strengthening the rule of law, including the independence of the judiciary, the fight against corruption, money laundering and organised crime, as well as transparency, good governance at all levels, safeguarding the free and pluralistic media and fighting disinformation **and hybrid threats**, strengthening public administration reform, including in the fields of public procurement, competition and State aid, remain key challenges and are essential for Ukraine to come closer to the Union and to prepare to fully assume the obligations of Union membership. In view of the longer-term nature of the reforms pursued in those areas and the need to build up track records, support under the Ukraine Facility should address those issues as early as possible.

(36) In accordance with the principle of participatory democracy, the Union should encourage the strengthening of parliamentary capacities, parliamentary oversight, democratic procedures and fair representation in Ukraine**, including civil society.**

(37) Enhanced strategic and operational cooperation between the Union and Ukraine on security is pivotal to addressing effectively and efficiently the threats of security, **including hybrid threats such as cyber threats,** organised crime and terrorism.

(38) Actions under the Ukraine Facility should also**, in line with point c of Article 21(2) of the TEU and in accordance with the purposes and principles of the UN Charter including the right of self-defence,** ~~support~~ **strengthen**, where appropriate, **capacities across the Ukrainian society for conflict prevention, peacebuilding and the addressing of pre- and post-crisis needs, including through** confidence-building measures and processes that promote justice, truth-seeking, **comprehensive post-conflict rehabilitation for an inclusive, peaceful society and** reparations and guarantees of non-recurrence as well as collection of evidence of crimes committed during the war. **Particular attention should be given to the promotion of a culture of non-violence, including by supporting formal, informal and non-formal peace education.**

(39) The support under the Facility should be made available under the precondition that Ukraine continues to respect effective democratic mechanisms and institutions, including a multi-party parliamentary system, and the rule of law, and to guarantee respect for human rights, including the rights of persons belonging to minorities. **If the precondition is not met or no longer met, payments under the Facility should be suspended through a Council implementing decision upon a proposal by the Commission.**

(40) The support under the Ukraine Facility, including to Ukraine's path toward accession, should be provided to meet general and specific objectives, based on established criteria and with clear conditionalities.

(41) The general objectives of the Ukraine Facility should be to assist Ukraine in addressing the social, economic and environmental consequences of the war, contributing to the reconstruction, including **a peaceful** recovery, and modernisation of the country; in fostering social **cohesion**, economic and environmental resilience and progressive integration into the Union and global economy and markets; and in preparing Ukraine for future membership of the Union by supporting its accession process. Such objectives should be pursued in a mutually reinforcing manner.

(42) In line with the European Pillar of Social Rights, the Facility should support solidarity, integration, and social justice with the aim of creating and sustaining quality employment and sustainable growth, ensuring equality of, and access to, opportunities**, education** and social protection, protecting ~~vulnerable~~ groups **in vulnerable situations** and improving living standards. The Facility should also contribute to fighting poverty and tackling unemployment and lead to quality job creation, the inclusion and integration of disadvantaged groups. The Facility should provide for investment opportunities in skills including through vocational education and training aiming to prepare the workforce to the digital and green transitions. It should also enable the strengthening of social dialogue, infrastructure and services.

(43) The Facility should ensure consistency with, and complementarity to, the general objectives of Union external action as laid down in Article 21 of the Treaty on European Union, including respect for fundamental rights and principles as well as the protection and promotion of human rights, democracy and fundamental principles of the rule of law, including on anti-corruption, judiciary, public administration**,** ~~and~~ good governance **and transparency and accountability**.

(44) Given the uncertainties linked to Russia's war of aggression, the Facility should be a flexible instrument enabling the Union to address Ukraine's needs through a diversified toolbox which provides financing of the Ukrainian State, support to short-term recovery and reconstruction priorities, support to investments and access to finance, as well as technical assistance and capacity building and other relevant activities.

(45) Union support should be organised around three pillars, namely (i) financial support to the Ukrainian State for the implementation of reforms and investments, as well as to maintain macro-financial stability of the country, as set out in the Ukraine Plan; (ii) a Ukraine Investment Framework to mobilise investments and enhance access to finance; (iii) accession assistance to mobilise technical expertise and capacity building.

(46) As the recovery, reconstruction and modernisation needs are substantial, and cannot be covered by the Union budget alone, both public and private investments should play a role. The Facility should enable the mobilisation of both public and private investments and should allow for the possibility to scale up support for investments in long-term reconstruction when circumstances allow, also considering implementation and absorption capacity of Ukraine.

(47) The overall maximum amount for the Union support to the Facility should be EUR **[**50 billion**]** in current prices for the period from 2024 to 2027, for all types of support. In light of the evolving circumstances and of the objectives of the Facility itself, the Union support needs to provide a balance between flexibility and programmability.

(48) As for the Union support, other than in the form of loans, this Regulation should be financed by and in accordance with the Ukraine Reserve, as proposed in the amendment to Council Regulation (EU, Euratom) 2020/2093[8], up to EUR ~~50~~ **[17** billion**]** for the period 2024 to 2027. Such maximum amount does not constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources, for the European Parliament and the Council during the annual budgetary procedure. **Potential revenues could be generated under the relevant legal acts, concerning the use of extraordinary revenues held by private entities stemming directly from the immobilised Central Bank of Russia assets.**

(49) **In accordance with Article 10b of the proposed amendment to Council Regulation (EU, Euratom) 2020/2093**[9] **t**~~T~~he mobilisation of the Ukraine Reserve should aim at providing ~~at least~~ an annual ~~indicative~~ **maximum** amount for support, other than in the form of loans, **of EUR 5 billion,** ~~in accordance with Article 10b of the proposed amendment to Council Regulation (EU, Euratom) 2020/2093~~[10]. **The unused portion of the annual amount of the non-repayable financial support should remain available for the remaining part of the period for which the Facility is established**.

(50) In the framework of the Union's restrictive measures, adopted on the basis of Article 29 of the Treaty on European Union (TEU) and 215(2) of the Treaty on the Functioning of the European Union (TFEU), no funds or economic resources may be made available, directly or indirectly, to or for the benefit of designated legal persons, entities or bodies. Such designated entities, and entities owned or controlled by them, therefore cannot be supported by the Facility.

(51) The commitment appropriations and corresponding payment appropriations from the Ukraine Reserve should be mobilised annually in the budget over and above the ceilings of the Multiannual Financial Framework.

(52) For the part of the Ukraine Facility support provided in the form of loans, it is appropriate to extend the Union budget guarantee to cover the financial assistance which is made available to Ukraine, authorised in accordance with Article 220(1) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[11]. As a consequence, **Council Regulation XXX amending** ~~the amendment to~~ Council Regulation (EU, Euratom) 2020/2093[12] ~~proposes to~~ mobilise**s** the necessary appropriations in the Union budget over and above the ceilings of the Multiannual Financial Framework for financial assistance to Ukraine available until the end of 2027.

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8 COM(2023)337 final.

9 Ibidem.

10 Ibidem.

11 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 (OJ L 193 30.7.2018, p. 1).

12 COM(2023) 337 final.

(53) While respecting the principle that the Union budget is set annually, the possibility to apply the flexibilities in accordance with Regulation (EU, Euratom) 2018/1046 for other policies should be ensured, namely for carry overs and re-commitments of funds, to ensure efficient use of the Union funds, thus maximising the Union funds available under the Facility.

(54) Restrictions of eligibility in award procedures under the Facility should be allowed on account of the specific nature of the activity or when the activity affects security or public order.

(55) In order to ensure an efficient implementation of the Facility, including the facilitation of Ukraine's integration in European value chains, all supplies and materials financed and procured under this Facility should originate from Member States, Ukraine, **Western Balkan partners, Georgia and Moldova,** contracting parties to the Agreement on the European Economic Area, ~~countries covered by Annex I to Regulation (EU) 2021/947 and Annex I to Regulation (EU) 2021/1529 of the European Parliament and of the Council,~~ and countries **which provide a level of support to Ukraine comparable to the one provided by the European Union taking into account the size of their economy and** for which reciprocal access to external assistance in Ukraine is established by the Commission, unless the supplies and materials cannot be sourced at reasonable conditions in any of those countries. **In the latter, case, the Commission should keep the Council informed.**

(56) The Union should seek the most efficient use of available resources in order to optimise the impact of its external action. That should be achieved through coherence, consistency and complementarity with the other Union's external financing instruments, as well as through synergies with other Union policies and programmes. In order to maximise the impact of combined interventions to achieve a common objective, it should be provided that the Facility should be able to contribute to actions under other programmes**, without causing duplication of support measures**.

(57) The Union should promote a multilateral, rules-based and values-based approach to global goods and challenges and should cooperate with Member States, partner countries, international organisations and other donors in that respect.

(58) In view of the need to coordinate international support to the recovery, reconstruction and modernisation of Ukraine, it should be possible for Member States, third countries, international organisations, international financial institutions or other sources to contribute to the implementation of the Facility. Such contributions should be implemented in accordance with the same rules and conditions and should constitute external assigned revenue within the meaning of Article 21(2)(a)(ii), (d), and (e) of Regulation (EU, Euratom) 2018/1046. **Support under the Facility should, as far as possible, be integrated into the overall financial architecture for the recovery of Ukraine and be coordinated with relevant donors and international financial institutions.**

(59) The Commission and the Member States should ensure the compliance, coherence, consistency and complementarity of their assistance, in particular through regular consultations and frequent exchanges of information during the different phases of the assistance cycle, including at local level. In light of the presence of various international donors, the necessary steps should also be taken to ensure better coordination and complementarity with other donors, including through regular consultations **and strategic outreach**. **These steps should strive to prevent excessive administrative burden for Ukrainian authorities and encourage a substantive division of labor based on specific expertise**. In this regard, the Multi-Agency Donor Coordination Platform should be used as an already established forum for such exchange.

(60) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU should apply to this Regulation. Those rules are laid down in Regulation (EU, Euratom) 2018/1046 and determine in particular the procedure for establishing and implementing the budget through grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts, and provide for checks on the responsibility of financial actors.

(61) The types of financing and the methods of implementation under this Regulation should be selected on the basis of their ability to achieve the objectives of the Facility and to deliver results, taking into account, in particular, the costs of controls, administrative burdens, and the expected risk of non-compliance. That should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of Regulation (EU, Euratom) 2018/1046.

(62) A Framework agreement should be concluded with Ukraine to set up the principles of the financial cooperation between the Union and Ukraine, including necessary mechanisms to control and audit expenditures, **and should ensure that Ukraine achieves a high level of protection of the financial interests of the Union, comparable to the one provided for in Regulation (EU, Euratom) 2018/1046 and other related Union legislation**. Financing and loan agreements should also be concluded with Ukraine, where appropriate depending on each pillar, to define conditions for releasing funds.

(63) By way of derogation from the first, second, and fourth subparagraphs of Article 209(3) of Regulation (EU, Euratom) 2018/1046, it is appropriate that repayments and revenues generated by a financial instrument should constitute internal assigned revenue to the Facility or its successor programme.

(64) By way of derogation from Article 213(4)(a) of Regulation (EU, Euratom) 2018/1046, it is appropriate that surplus from the provisions for the Ukraine Guarantee should constitute internal assigned revenue to the Facility or its successor programme.

(65) Under pillar I of the Facility, financing should be provided to support the implementation of the Ukraine Plan setting out the reform and investment agenda of Ukraine towards the achievement of the general and specific objectives of the Facility, which should also be integrated in an economic and fiscal policy framework. Financing under this pillar should be provided upon satisfactory fulfilment of conditions set out in the Plan.

(66) Ukraine should prepare the Plan as a coherent, comprehensive and adequately balanced response to rebuilding and modernising Ukraine, supporting its economic, social and environmental recovery and its progress towards accession to the Union. As such, the Ukraine Plan would also provide a basis for other donors to identify the priority funding areas for the reconstruction of Ukraine and foster ownership, coherence and additional contributions to that end. For that purpose, Ukraine should ensure that the Plan as prepared covers its recovery, reconstruction and modernisation needs in an integrated manner, identifying to what extent the measures of the Plan are expected to be financed by the Union through the Facility. In preparing the Plan, Ukraine should take into account support provided under other Union programmes **as well as from other donors**. Ukraine should develop its Plan ensuring that other donors are able to contribute to supporting the measures of the Plan, including by increasing the funding available under the Facility. **The Plan should ensure there is a proper coordination and complementarity with relevant donors and international financial institutions. The Commission should keep the Council regularly informed about the progress in the drafting of the Ukraine Plan.**

(67) While the Ukraine Plan should constitute the basis for the support provided under the first pillar of the Facility, it should also provide a reference for the support to be provided under the second and third pillars of the Facility. The measures financed under the second and third pillar should support the objectives and the implementation of the Plan.

(68) The Ukraine Plan should include reform and investment measures, along with the qualitative and quantitative steps that warrant satisfactory fulfilment of those measures, and an indicative timetable for the implementation of those measures. Measures started from 1 January 2023 onwards should be **exceptionally** eligible.

(69) The Plan should set out conditions reflecting progress expected to be made in the implementation of the measures it contains. Those conditions should take the form of qualitative or quantitative steps. Those steps should be planned for no later than 31 December 2027, although the overall completion of the measures to which such steps refer may extend beyond 2027. Given the need to ensure the macro-financial stability of Ukraine while supporting its recovery, reconstruction and modernisation efforts in view of the accession to the Union, the Plan should, in particular, include conditions linked to (i) essential requirements, such as macro-financial stability, budget oversight, and public financial management, which may be defined so as to reflect satisfactory progress towards fulfilment; and (ii) sectoral and structural reforms and investments set out in the Plan. Payments should be structured accordingly around such categories of conditions, reflecting the objectives of the Facility.

(70) The preparation and implementation by Ukraine of the Plan should take particular account of the situation in Ukraine's regions and municipalities, having regard to their specific needs for recovery and reconstruction, reform, modernisation and decentralisation, and should be done in consultation with regional, local, urban and other public authorities, in accordance with the multi-level governance principle and taking into account a bottom-up approach. **When available, local recovery plans should be taken into account.** In this context, the Plan should in particular enhance the economic, social, environmental and territorial development of Ukraine's regions and municipalities, support the decentralisation reform across Ukraine and convergence towards the Union's standards; it should also ensure the involvement of sub-national authorities, in particular municipalities, in decision-making on the use of support in the reconstruction process at local level, and that the reconstruction projects selected and implemented by such sub-national authorities constitute an adequately substantial share of the support.

(71) The Plan should **ensure the protection of the financial interests of the Union. It should** ~~also~~ include an explanation of Ukraine's system to effectively prevent, detect and correct irregularities, corruption, fraud and conflicts of interests, **including the effective investigation and prosecution of criminal offences affecting** ~~when using~~ the funds provided under the Facility, and the arrangements that aim to avoid double funding from the Facility and other Union programmes as well as other donors. Measures under the Plan should, where appropriate, contribute to ensuring an efficient **and transparent** management and control system. Such measures should be implemented by Ukraine by an indicative date which could be set, as appropriate depending on each measure, over the course of the lifetime of the Facility.

(72) The Commission should assess the Ukraine Plan based on the list of criteria set out in this Regulation. ~~In view of the importance of the financial effects of the support to Ukraine Plan, implementing powers should be conferred on the Council.~~ In case of a positive assessment of the Plan, the Commission should submit a proposal for the approval of the Plan by ~~the~~ **a** Council **implementing decision**.

(73) Given the uncertainties and the need for flexibility in the implementation of the Facility, it should be possible for Ukraine to make a reasoned request to the Commission to make a proposal to amend the Council implementing decision, where the Ukraine Plan, including relevant qualitative and quantitative steps, is no longer achievable by Ukraine, either partially or totally, because of objective circumstances. The Commission may, in agreement with Ukraine, also make a proposal to amend the Council implementing decision, in particular to take into account **changes in the circumstances allowing for an increase in ambition or** a change of the amounts available. Ukraine should also be able to make a reasoned request to amend the Plan, including by proposing addenda where relevant, to take into account additional funding available from other donors or from other sources~~, such as revenue generated on frozen and immobilised Russian assets~~.

(74) Financial support for the Ukraine Plan should be possible in the form of a loan. In the context of Ukraine's urgent financing needs, it is appropriate to organise the financial assistance under the diversified funding strategy provided for in Article 220a of Regulation (EU, Euratom) 2018/1046 and established as a single funding method therein, which is expected to enhance the liquidity of Union bonds and the attractiveness and cost-effectiveness of Union issuance.

(75) Given the situation of Ukraine caused by Russia's war of aggression and to support Ukraine on its long-term stability path, it is appropriate to provide loans to Ukraine on highly concessional terms with a maximum duration of 35 years and to not start the repayment of the principal before 2034. It is also appropriate to derogate from Article 220(5), point (e), of Regulation (EU, Euratom) 2018/1046 and to allow the Union the possibility to cover, for the period from 1 January 2024 to 31 December 2027, the interest rate costs (cost of funding and cost of liquidity management) and to waive the administrative costs (cost of service for administrative overheads) that would otherwise be borne by Ukraine. The borrowing costs subsidy should be granted as an instrument deemed appropriate to ensure the effectiveness of the support under the Facility within the meaning of Article 220(1) of Regulation (EU, Euratom) 2018/1046.

(76) It should be possible for Ukraine to request the interest rate subsidy and the waiver of administrative costs each year.

(77) The financial liability from loans under this Regulation should not be supported by the External Action Guarantee, by derogation from Article 31(3), second sentence, of Regulation (EU) 2021/947. Loans type of support under the Facility should constitute financial assistance within the meaning of Article 220(1) of Regulation (EU, Euratom) 2018/1046. In considering the financial risks and the budgetary coverage, no provisioning should be constituted for the financial assistance in the form of loans under the Facility, as proposed to be guaranteed over and above the ceilings, and, by derogation from Article 211(1) of Regulation (EU, Euratom) 2018/1046, no provisioning rate should be set.

(78) It is important to guarantee both flexibility and programmability as well as stability in providing Union support to Ukraine. For that purpose, payments under the Facility should occur according to a fixed quarterly schedule, subject to availability of funding, based on a payment request submitted by Ukraine and following **the assessment** ~~verification~~ by the Commission of the satisfactory fulfilment of the relevant conditions. **In case of a positive assessment, the Commission should submit without undue delay a proposal for a Council implementing decision establishing the satisfactory fulfilment of the conditions for payments. On the basis of the Council implementing decision, the Commission should adopt a decision authorising the disbursement.** In case a condition is not fulfilled in accordance with the indicative timeline set in the decision approving the Plan, the Commission should deduct from the payment an amount corresponding to those conditions. The disbursement of the corresponding withheld funds could take place during the next payment window and up to twelve months after the original deadline set out in the indicative timeline, provided the conditions have been fulfilled.

(79) In order to ensure that Ukraine has access to sufficient financing to cater for its macro-financial stability needs and initiate the recovery, reconstruction and modernisation of the country, Ukraine should have access to up to 7% of the ~~non-repayable financial support and~~ loan **support** in the form of a pre-financing, subject to availability of funding and to the respect of the precondition for the support to Ukraine under the Facility.

(80) By way of derogation from Article 116(2) and (5) of Regulation (EU, Euratom) 2018/1046, it is appropriate to set the payment deadline starting from the date of the communication of the decision authorising the disbursement to Ukraine and to exclude the payment of default interest by the Commission to Ukraine.

(81) Transparency in the implementation of the Facility is an important requirement of Union support. Ukraine should publish twice a year data on persons, ~~and~~ entities receiving amounts of funding **cumulatively** exceeding the equivalent of EUR ~~5~~ **1**00 000 for the implementation of reforms and investments specified in the Ukraine Plan. The information should not be published where disclosure risks threatening the rights and freedoms of the persons**,** ~~or~~ entities concerned or seriously harming the commercial interests of the recipients. The framework agreement should include precise rules and a timeframe on the collection of data by Ukraine and the access for the Commission and **the European Anti-Fraud Office** (OLAF), **the European Court of Auditors and, where applicable the European Public Prosecutor's Office (EPPO)** including as regards the format of the information.

(82) Under pillar II of the Facility, an investment framework should be set up, aiming to support recovery and reconstruction investments undertaken by **the Ukranian authorities**, private sector companies, municipalities, state-owned enterprises or other actors. The Ukraine Investment Framework should address priorities identified in the Ukraine Plan, and support its objectives and its implementation. The Ukraine Investment Framework should involve Ukrainian authorities in its governance **as appropriate**.

(83) The investment framework should constitute an integrated financial package supplying financing capacity in the form of financial instruments, budgetary guarantees and blending operations in Ukraine. Support under the Ukraine Investment Framework should be implemented in indirect management, notably drawing on the financial and technical capacities of international financial institutions**,** ~~and~~ European development finance institutions**, bilateral European finance institutions and export credit agencies**, including their participation to the risk linked to investments with their own resources. Given the scale of recovery and reconstruction investments in Ukraine that will require risk-sharing, it is necessary for the Union to establish a dedicated guarantee capacity, the Ukraine Guarantee. Operations covered by the Ukraine Guarantee will be implemented in accordance with Article 208(4) of Regulation (EU, Euratom) 2018/1046. Export credit agencies and other financial institutions providing trade facilitation support may act as financial intermediaries. In implementing and managing the Ukraine Guarantee, the Commission should ensure close coordination with support implemented in the framework of the European Fund for Sustainable Development Plus established under Regulation (EU) 2021/947. **The Ukraine Guarantee should benefit sovereign, sub-sovereign, non-commercial and commercial entities and the private sector.**

(83a) **Given its role under the Treaties and its experience over the last decades in supporting Union policies and in particular its experience in supporting operations in Ukraine, the EIB should play a prominent role for the implementation of operations under the Ukraine Guarantee. For this reason, the EIB Group should be entrusted until 31 July 2026 with the implementation of a 25% dedicated indicative minimum amount of the Ukraine Guarantee for operations with sovereign counterparts and non-commercial sub-sovereign counterparts. In order to ensure the full use of the Ukraine Guarantee, after that date the unused part of the dedicated amounts should become available to all eligible counterparts for all types of operations.**

(84) The flexibility of the support under the Facility should be enhanced by providing for flexible implementation of the Ukraine Guarantee, which might be granted gradually. It is appropriate to derogate from Article 211(2), second sentence, of the second subparagraph of Regulation (EU, Euratom) 2018/1046 to allow the constitution of provisioning until 31 December 2027 to be equal to the amount of provisioning corresponding to the guarantee granted instead of the amount of global provisioning. As part of the derogation, it should also be possible to constitute the provisioning gradually to reflect the progress in selection and implementation of the financing and investment operations supporting the objectives of the Facility, instead of reflecting the financial statement referred to in Article 211(2), second sentence, of the second subparagraph of Regulation (EU, Euratom) 2018/1046.

(85) In order to efficiently use the funds under this pillar, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the provisioning rate for the Ukraine guarantee. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(86) Under pillar III of the Facility, support should mainly aim at progressively aligning to Union rules, standards, policies and practices ('*acquis*') with a view to future Union membership, thereby contributing to the implementation of the Ukraine Plan. Relevant recommendations of international bodies, such as the Council of Europe and the Venice Commission should also be taken into account in this process. Support should also aim at strengthening stakeholders, including social partners, civil society organisations and local authorities' capacities.

(86a) The resources from Pillar III should also be used to finance the borrowing costs of the Facility as well as identified borrowing costs and provisioning of budgetary guarantees deriving from previous support programmes for Ukraine.

(87) In accordance with Regulation (EU, Euratom) 2018/1046, Regulation (EU, Euratom) 883/2013 of the European Parliament and of the Council and Council Regulations (EC, Euratom) No 2988/95, (Euratom, EC) No 2185/96 and (EU) 2017/1939, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, fraud, corruption, conflict of interest, double funding, to the recovery of funds lost, wrongly paid or incorrectly used.

(88) In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) should be in a position to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.

(89) In accordance with Regulation (EU, Euratom) 2018/1046, the necessary rights and access should be granted to the Commission OLAF, the European Court of Auditors and, where applicable the European Public Prosecutor's Office (EPPO) where relevant, including from third parties involved in the implementation of Union funds. Ukraine should also report irregularities in relation to the use of the funds to the Commission.

(90) The reinforcement of internal control systems, the fight against corruption, the promotion of transparency, **robust, accountable and transparent**~~good~~ administration, and efficient public financial management are important reform priorities for Ukraine and should be supported by the Facility.

(91) The Commission should ensure that the financial interests of the Union are effectively protected under the Facility. To this end, an independent Audit Board should be set up to **assist**~~provide~~ the Commission **in fighting** ~~with information on~~ **a** possible mismanagement of funds **by, among other, providing information to the Commission**. Such information should be made available to OLAF and where appropriate to the relevant Ukrainian authorities. The Commission, with the assistance of the Union delegation, should be entitled to perform checks on how Ukraine implements funds along the whole project life cycle. The Audit Board should ensure regular dialogue and cooperation with the European Court of Auditors.

(92) While it is primarily the responsibility of Ukraine to ensure that the Facility is implemented in compliance with applicable standards, taking into account the principle of proportionality and the specific conditions under which the Facility will operate, the Commission should be able to receive sufficient assurance from Ukraine in that regard. To that end, Ukraine should commit in the Plan to improve its current management and control system and to recovering amounts misused. Ukraine should establish a monitoring system feeding into an annual progress report. Ukraine should collect data and information allowing the prevention, detection and correction of irregularities, fraud, corruption and conflicts of interests, in relation to the measures supported by the Facility. The framework agreement and the financing and loan agreements should provide for the obligations of Ukraine to ensure the collection of, and access to, adequate data on persons and entities receiving funding for the implementation of measures of the Ukraine Plan.

(93) The Union financial interests should also be protected when the funds are implemented in direct management through grants and procurement and indirect management with pillar assessed entities, in particular under the second and third pillar of the Facility.

(94) **Assistance under the Facility should be implemented by w**ork programmes **referred to in Article 110 of Regulation (EU, Euratom) 2018/1046** ~~should be adopted to implement the assistance under the Facility~~.

(95) The communication capacities of Ukraine should be enhanced in order to ensure ~~existence of strong and free pluralistic media~~ and public support for and understanding of Union values and the benefits and obligations of potential Union membership, while addressing disinformation **and safeguarding strong and free pluralistic media**. Visibility of the Union funding should also be ensured.

(96) The Commission should ensure clear monitoring and evaluation mechanisms are in place in order to provide effective accountability and transparency in implementing the Union budget, and to ensure effective assessment of progress towards the achievement of this Regulation's objectives.

(97) The Commission should assess each year the implementation of support under the Ukraine Facility. It should allow the Committee established by this Regulation to have adequate information to assist the Commission. For the effective monitoring of implementation, Ukraine should report once a year in an annual progress report on the implementation. Such reports prepared by the government should be appropriately reflected in the Ukraine Plan. Proportionate reporting requirements should be imposed on recipients of Union funding implemented under the second and third pillars of the Facility.

(98) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[13].

(98a) In view of the importance of the financial effects of the support to Ukraine under the Facility and of the consequences of certain decisions to be taken for the implementation of the Facility in light of the specific situation of Ukraine, implementing powers should be conferred on the Council in the cases identified by this Regulation.

(99) The Commission ~~will~~ **should** duly take into account Council decision 2010/427/EU and the role of the EEAS where appropriate, and in particular when monitoring the fulfilment of the precondition for Union support, in its assessment of the Ukraine plan and while gathering advice on the Ukraine investment framework.

(100) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.

(101) In order to ensure continuity in providing support in the relevant policy area, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the Official Journal of the European Union,

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[13] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

CHAPTER I

General provisions

Article 1
Subject matter

1. This Regulation establishes the Ukraine Facility (the 'Facility') **for the period 2024 to 2027**.

It lays down the objectives of the Facility, its financing, the budget for the period 2024-2027, the forms of Union funding under it and the rules for providing such funding.

2. The Facility shall provide assistance to Ukraine under the following three pillars:

Pillar I: financial support to be provided to Ukraine for the delivery of reforms and investments to implement the Ukraine Plan as well as to maintain macro-financial stability of the country, as set out in Chapter III;

Pillar II: a specific Ukraine Investment Framework to support investments and provide access to finance as set out in Chapter IV;

Pillar III: technical assistance and related support to Ukraine to design and implement EU accession-related reforms and to foster Ukraine's administrative capacity, **borrowing cost subsidies and provisioning,** as well as other relevant activities, as set out in Chapter V.

Article 2
Definitions

For the purposes of this Regulation, the following definitions apply:

~~1. 'Framework agreement' means an arrangement concluded between the Commission and Ukraine laying down the principles of the financial cooperation between Ukraine and the Commission under this Regulation.~~

2. 'Measures' means reforms and investments under the Ukraine Plan set out in Chapter III.

3. 'Conditions' means qualitative or quantitative steps relating to ensuring the maintenance of economic and financial stability or relating to the implementation of the reforms and investments set out in the Ukraine Plan set out in Chapter III.

4. 'Blending operation' means an operation supported by the Union budget that combines non-repayable forms of support or repayable forms of support or both, from the Union budget with repayable forms of support from development or other public **or commercial** finance institutions**, including export credit agencies**, or from ~~commercial finance institutions and~~ investors.

Article 3
Objectives of the Ukraine Facility

1. The general objectives of the Facility shall be to support Ukraine to:

   (a) address the social, economic and environmental consequences of the war, thereby contributing to the **peaceful** recovery, reconstruction and modernisation of the country;

   (b) foster social **cohesion**, economic and environmental resilience and progressive integration into the Union and global economy and markets;

   (c) progressively align with Union rules, standards, policies and practices ('*acquis*') with a view to future Union membership, thereby contributing to mutual stability, security, peace, prosperity and sustainability.

2. The specific objectives of the Facility shall include:

   (a) help maintain**ing** the macro-financial stability of the country and ease Ukraine's external and internal financing constraints;

   (b) rebuild and modernise infrastructure damaged by the war, such as energy infrastructure, water systems, internal and cross-border transport networks including rail, roads and bridges and border crossing points, and foster modern, improved and resilient infrastructures; restore food production capacities; help address social challenges stemming from the war, including for specific groups such as war veterans, Internally Displaced Persons, single parents, **children and youth,** ~~disabled people~~ **persons with disabilities**, **older people,** minorities and other ~~vulnerable~~ persons **in vulnerable situations**; contribute to the demining **and other mine action** effort**s**;

   (**c**~~d~~) further strengthen the rule of law, democracy, the respect of human rights and fundamental freedoms, including through promoting an independent judiciary, reinforced security **including security against hybrid threats such as cyber threats**, the fight against fraud, corruption, organised crime and money laundering, tax evasion and tax fraud, **and illicit trafficking of cultural property**; compliance with international law; strengthen freedom of media, **artistic** and academic freedom and an enabling environment for civil society; foster social dialogue; promote non-discrimination and tolerance, to ensure and strengthen respect for the rights of persons belonging to minorities and the promotion of gender equality **and the empowerment of women**; reinforce the effectiveness of public administration and support transparency, structural reforms and good governance at all levels, including in the areas of public financial management and public procurement**, competition** and State aid; support initiatives and bodies involved in supporting and enforcing international justice in Ukraine;

(**d**~~c~~) foster the transition to a sustainable and inclusive economy and a stable investment environment; support the integration of Ukraine into the Single Market; repair, rebuild**, safeguard** and improve social infrastructure, such as housing, healthcare facilities, schools and higher education institutions, and research **and cultural** infrastructure; strengthen economic and social development **and cohesion, address poverty,** with particular attention to women and youth, including through quality education, training, reskilling and upskilling, and employment policies, including for researchers; **promote science and research**; **support the creative sector and independent media;** support culture and cultural heritage; strengthen strategic economic sectors and support investment and private sector development, with a focus on small and medium-sized enterprises (SMEs) and innovation, **inter alia, by promoting equal opportunities of access to funding regardless of the size of companies. Support** ~~as well as on~~ agriculture and rural development, aquaculture and fisheries**, including the alignment with EU standards and control systems concerning food safety, animal and plant health, as well as animal welfare**; **reform** ~~restructure~~ Ukraine's financial markets, including banking sector and capital markets; increase domestic revenue mobilisation; strengthen Ukraine's ability to trade;

(e) develop and strengthen **environmental protection,** a sustainable **and just** green transition in all economic sectors, including the transition towards the decarbonisation of its economy; promote the digital transformation as an enabler for sustainable development and inclusive growth;

(f) support decentralisation and local development.

Article 4
General principles

1. Cooperation under the Facility shall be based on and shall promote the development effectiveness principles, where applicable, across all modalities, namely ownership of development priorities by Ukraine, a focus on results, inclusive development partnerships, transparency and mutual accountability. The cooperation shall be based on effective and efficient resources allocation and use.

2. Support from the Facility shall be additional to the support provided under other Union programmes and instruments. Activities eligible for funding under this Regulation may receive support from other Union programmes and instruments provided that such support does not cover the same cost.

3. In order to promote the complementarity**, coherence** and efficiency of their action and initiative, the Commission and the Member States shall cooperate and shall strive to avoid duplication between assistance under this Regulation and other assistance provided by the Union, the Member States, third countries, multilateral and regional organisations and entities, such as international organisations and the relevant International Financial Institutions, agencies and non-Union donors, in line with the established principles for strengthening operational coordination in the field of external assistance, including through enhanced coordination with Member States at local level and through the harmonisation of policies and procedures, in particular the international principles on development effectiveness. **In order to avoid duplication, increasing ownership from the Ukrainian authorities and simplifying administrative work, support under the Facility shall, as far as possible, be integrated into the overall financial architecture for the recovery of Ukraine and be coordinated with relevant donors and international financial institutions.**

4. Activities under the Facility shall mainstream climate change mitigation and adaptation, environmental protection, human rights, democracy, gender equality and **non-discrimination**, where relevant, disaster risk reduction, and shall support progress towards the Sustainable Development Goals, promoting integrated actions that can create co-benefits and meet multiple objectives in a coherent way**, contributing to poverty reduction and promoting peaceful and inclusive societies**. They **shall** ~~should~~ **strive to** avoid stranded assets, and shall be guided by the principles of 'do no harm' and of 'leaving no one behind', as well as by the sustainability mainstreaming approach underpinning the European Green Deal.

5. The Facility shall not support activities or measures which are incompatible with Ukraine's National Energy and Climate Plan, if available, with Ukraine's Nationally Determined Contribution under the Paris Agreement, or that promote investments in fossil fuels, or that cause significant adverse effects on the environment or the climate, unless such activities or measures are strictly necessary to achieve the objectives of the Facility, taking into account the need to rebuild and modernise infrastructure damaged by the war in a resilient way, and they are accompanied, where relevant, by appropriate measures to avoid, prevent or reduce and, if possible, offset these effects.

6. In line with the principle of inclusive partnership, where appropriate, the Commission shall strive to ensure that relevant stakeholders, including local and regional authorities, social partners and civil society organisations, are duly consulted and have timely access to relevant information to allow them to play a meaningful role during the design and implementation of activities eligible for funding under this Facility, and in the related monitoring processes. The Commission shall in particular promote the involvement of regional, local, urban and other public authorities, in accordance with the multi-level governance principle and taking into account a bottom-up approach. The Commission shall encourage coordination among the relevant stakeholders **and contribute to strengthening the capacity of civil society organisations**.

7. The Commission, in **close** cooperation with the Member States and Ukraine, shall contribute to the implementation of Union commitments to increased transparency and accountability in the delivery of assistance, including by promoting the implementation and reinforcement of internal control systems and anti-fraud policies, and by making information on the volume and allocation of assistance available through web-based databases, and shall ensure that data is comparable and can be easily accessed, shared and published.

Article 5
Precondition for Union support

1. A precondition for the support to Ukraine under the Facility shall be that Ukraine continues to uphold and respect effective democratic mechanisms, including a multi-party parliamentary system, and the rule of law, and to guarantee respect for human rights, including the rights of persons belonging to minorities.

2. The Commission shall monitor the fulfilment of the precondition set out in paragraph 1 before disbursements to Ukraine under the Facility are made and throughout the period of the support provided under the Facility taking duly into account the Commission's regular enlargement report. **The Commission shall inform the Council of the fulfilment of the precondition set out in paragraph 1 before disbursements to Ukraine. Where the Commission finds that the precondition is not met or no longer met, it shall submit to the Council a proposal for an implementing decision** ~~The Commission may adopt a decision concluding that this precondition is not met, and in particular,~~ suspend**ing** the payments referred to in Article 25, irrespective of the fulfilment of conditions referred to in Article 15(2). In its assessment, the Commission shall also take into account the context in Ukraine, and the consequences of the application there of martial law. **Where, at the request of Ukraine or on its own initiative, the Commission considers that the precondition is met again, it shall submit to the Council a proposal for an implementing decision lifting the suspension. In the cases foreseen by this paragraph the Council shall act, as a rule, within one month of receiving the Commission's proposal**.

CHAPTER II

Financing and implementation

Article 6
Budget

1. The resources for the implementation of the Ukraine Facility shall be available in accordance with Article 10b of Council Regulation (EU, Euratom) 2020/2093, with the following indicative distribution:

   (a) ~~78~~ **32** % in the form of non-repayable financial support pursuant to Chapter III of this Regulation;

   (b) ~~16~~ **42** % for expenditure pursuant to Chapter IV;

   (c) ~~5~~ **24** % for expenditure pursuant to Chapter V;

(d) up to ~~1~~ **2** % for expenditure pursuant to paragraph 5 of this Article.

The total non-repayable financial support referred to in paragraph 1 shall be available for an amount of up to EUR [17 billion]. The non-repayable financial support available in a given year shall not exceed EUR 5 billion.

2. The financial support pursuant to Chapter III in the form of a loan, shall be available for an amount of up to EUR **[**~~50~~ **33** 000 000 000**]** for the period from 1 January 2024 to 31 December 2027.

~~The overall amount of disbursements of the loans shall take into account the amounts made available pursuant to paragraph 1 and the amount referred to in paragraph 3.~~

3. The sum of the resources made available pursuant to paragraphs 1 and 2 shall not exceed EUR **[**50 000 000 000**]** for the period 2024 to 2027.

4. Additional contributions for financing the support referred to in paragraph 1 may be provided in accordance with Article 7.

5. The resources referred to in ~~point~~ paragraphs 1(d) and 4 may be used for technical and administrative assistance for the implementation of the Facility, such as preparatory actions, monitoring, control, audit and evaluation activities, which are required for the management of the Facility and the achievement of its objectives, in particular studies, meetings of experts, consultations with the Ukrainian authorities, conferences, consultation of stakeholders, information and communication actions, including inclusive outreach actions, and corporate communication of the political priorities of the Union, insofar as they are related to the objectives of this Regulation, expenses linked to IT networks focusing on information processing and exchange, corporate information technology tools, and all other technical and administrative assistance expenses incurred by the Commission for the management and costs of the Facility at headquarters and in Union delegations. Expenses may also cover the costs of other supporting activities such as quality control and monitoring of projects on the ground and the costs of peer counselling and experts for the assessment and implementation of reforms and investments.

Article 7
Additional financial resources for the Facility

1. Member States, third countries, international organisations, international financial institutions or other sources may provide additional financial contributions to the Facility. Such contributions shall constitute external assigned revenue within the meaning of Article 21(2), points (a)(ii), (d), and (e) of Regulation (EU, Euratom) 2018/1046.

Additional amounts received as external assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 2018/1046 under the relevant Union legal acts ~~in relation to restrictive measures in view of Russia's actions destabilising the situation in Ukraine~~ shall be added to the resources referred to in Article 6.

2. The contributions referred to in paragraph 1 shall be implemented in accordance with the same rules and conditions as the amount referred to in Article 6(1).

3. The contributions to the Ukraine Guarantee and to the financial instruments under Chapter IV shall be made in accordance with Article 28.

Article 8
Implementation and forms of Union funding

1. The Facility shall be implemented in accordance with Regulation (EU, Euratom) 2018/1046, either in direct management or in indirect management with any of the entities referred to in Article 62, first subparagraph, point (c) of Regulation (EU, Euratom) 2018/1046.

2. Union funding may be provided in any of the forms laid down in Regulation (EU, Euratom) 2018/1046, in particular grants, prizes, procurement, budget support, financial instruments, budgetary guarantees, blending operations and financial assistance.

3. Financial instruments, budgetary guarantees and blending operations combining support from financial instruments or budgetary guarantees under the Facility shall be implemented in accordance with the principles laid down in Title X, and in particular Articles 208 and 209(1), (2) and (4), of Regulation (EU, Euratom) 2018/1046. Depending on the required operational and financial capacity, the counterpart of the budgetary guarantee, or the entrusted entity implementing financial instruments, may be the European Investment Bank **group** ~~or the European Investment Fund~~, a multilateral European finance institution, such as the European Bank for Reconstruction and Development, or a bilateral European finance institution, such as development banks **or the World Bank Group**. Whenever possible, **non-European multilateral finance institutions may participate in the Facility through joint operations with European finance institutions. T**he implementation of financial instruments, budgetary guarantees and blending operations under the Facility ~~shall~~ **may** be complemented by additional forms of financial support, from either Member States or third parties.

Article 9
Framework agreement

1. The Commission**, acting in accordance with the examination procedure referred to in Article 39,** shall conclude a framework agreement with Ukraine for the implementation of the Facility setting out specific arrangements for the management, control, supervision, monitoring, evaluation, reporting and audit of funds under the Facility, **including avoiding double funding,** as well as to prevent, investigate and correct irregularities, fraud, corruption**, or any other illegal activity affecting the Union´s financial interests** and conflicts of interest**, including the effective investigation and prosecution of criminal offences affecting the funds provided under the Facility**.The framework agreement shall be complemented by financing agreements in accordance with Article 10 and loan agreements in accordance with Article 21, setting out specific provisions for the management and implementation of funding under the Facility.

2. With the exception of bridge financing referred to in Article 24, funding shall only be granted to Ukraine after the framework agreement and the applicable financing and loan agreements, have entered into force.

3. The framework agreement, the financing agreements and the loan agreement concluded with Ukraine, taken as a whole, and contracts and agreements signed with person or entities receiving Union funds, shall ensure that the obligations set out in Article 129 of Regulation (EU, Euratom) 2018/1046 can be fulfilled.

4. The framework agreement shall **ensure the commitment of Ukraine to achieve a high level of protection of the financial interests of the Union and shall** lay down, in particular, detailed provisions concerning, in particular:

(a) the commitment of Ukraine to **make decisive** progress towards **a robust legal framework to fight fraud, and establish** more efficient and effective control systems, **including appropriate mechanisms for the protection of whistle blowers and measures to effectively prevent, detect and correct irregularities, fraud, corruption and conflicts of interest as well as** to strengthen the fight against money laundering, **organised crime,** terrorism financing, tax avoidance, tax fraud or tax evasion, **and other illegal activities affecting the funds provided under the Facility.** ;

(b) the activities related to control, supervision, monitoring, evaluation, reporting and audit of Union funding under the Facility, as well as **detections,** investigations, **prosecutions,** anti-fraud measures and cooperation**, including mutual legal assistance in criminal matters and extradition**;

(c) control requirements for release of funding to Ukraine;

(d) rules on taxes, duties and charges in accordance with Article 27(9) and (10) of Regulation (EU) 2021/947;

(e) the recognition of the responsibilities of the Audit Board referred to in Article 34, and the modalities of Ukraine's cooperation with it;

(f) the obligation for persons or entities implementing Union funds under the Facility to notify the Audit Board, the Commission ~~and~~ OLAF**, and the EPPO,** without delay of suspected or actual cases of irregularities, fraud, corruption and conflict of interests **and other illegal activities affecting the funds provided under the Facility** and their follow-up;

(g) the right of the Commission to monitor activities under the Facility carried out by the Ukrainian authorities, along the whole project cycle, including inter alia projects selection and award procedures including for public procurement, to take part in these as observer, as appropriate, and to make recommendations for the improvement of such activities and commitment from the Ukrainian authorities to do their best efforts to implement such recommendations of the Commission and to report on this implementation;

(h) the obligations referred to in Article 33(2), including precise rules and timeframe on collection of data by Ukraine and access for the Commission**,** ~~and~~ OLAF, **the European Court of Auditors and the EPPO where applicable;**

(i) the obligation for Ukraine to transmit electronically to the Commission the data referred to in Article 26;

~~(j) a procedure to ensure that disbursement requests for the loan support fall within the available loan amount, taking into consideration Article 6(2).~~

(k) the obligations referred to in Article 40(2) on communication activities and visibility of the Union funding.

Article 10
Financing agreements

1. Financing agreements shall be concluded for Chapters III and V. They shall set out the responsibilities and obligations of Ukraine in the implementation of Union funds, including the obligations set out in Article 129 of Regulation (EU, Euratom) 2018/1046. They shall also set out the conditions for payment of the non-repayable financial support, including in relation to the internal control systems as referred to in Article 9(4), points (a) and (c). The financing agreements shall also set out the Union's rights and obligations.

2. The financing agreements shall include rules on reporting to the Commission on how activities are carried out, and on whether the conditions mentioned in Article 15(2) are fulfilled.

Article 11
Rules on eligibility of persons and entities, origin of supply and materials and restriction under the Facility

1. Participation in procurement, grant and prize award procedures for activities financed under the Facility shall be open to international and regional organisations and to all natural persons who are nationals of, and to legal persons which are effectively established in:

   (a) Member States, Ukraine, **Western Balkan partners, Georgia and Moldova and** contracting parties to the Agreement on the European Economic Area ~~and countries covered by Annex I to Regulation (EU) 2021/947 and Annex I to Regulation (EU) 2021/1529 of the European Parliament and of the Council~~[14];

   (b) countries **which provide a level of support to Ukraine comparable to the one provided by the European Union taking into account the size of their economy and** for which reciprocal access to external assistance in Ukraine is established by the Commission.

2. The reciprocal access referred to in paragraph 1, point (b), may be granted for a limited period of at least one year, whenever a country grants eligibility on equal terms to entities from the Union and from countries eligible under the Facility.

   The Commission shall decide on the reciprocal access **in accordance with the examination procedure referred to in Article 39** after consulting Ukraine.

~~[14] Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III) (OJ L 330, 20.9.2021, p. 1).~~

3. All supplies and materials financed and procured under this Facility shall originate from any country referred to paragraph 1(a) and (b), unless if the supplies and materials cannot be sourced at reasonable conditions in any of those countries. In addition, the rules on restrictions in paragraph 7 apply. **The Commission shall include in the annual report referred to in Article 36(4), information on the implementation of this paragraph.**

4. The eligibility rules under this Article shall not apply to, and shall not create nationality restrictions for, natural persons employed or otherwise legally contracted by an eligible contractor or, where applicable, subcontractor except where the nationality restrictions are based on the rules provided for in paragraph 7.

5. For actions jointly co-financed by an entity or implemented in direct or indirect management with entities as referred to in Article 62(1), point (c), of Regulation (EU, Euratom) 2018/1046 or for actions implemented by Ukrainian entities under Chapter III of this Regulation, the eligibility rules of those entities or Ukraine shall also apply in addition to the rules established under this Article, including, where applicable, the restrictions provided for under paragraph 7 of this Article and duly reflected in the financing agreements and contractual documents signed with those entities.

6. Where additional contributions are provided in accordance with Article 7 through external assigned revenues, the eligibility rules in the agreement with the person providing the additional contribution shall apply with the rules on restrictions provided for under paragraph 7 of this Article.

7. The eligibility rules and origin of supplies and materials in paragraphs 1 and 3 and the nationality of the natural persons referred to in paragraph 4 may be restricted with regard to the nationality, geographical location or nature of the legal entities participating to procurement procedures as well as with regard to the geographical origin of supplies and materials, in the following cases:

   (a) where such restrictions are required on account of the specific nature and/or objectives of the activity or specific award procedure and/or where these restrictions are necessary for the action's effective implementation;

   (b) where the action or specific award procedures affect security or public order, in particular concerning strategic assets and interests of the Union, its Member States, or Ukraine, including the protection of the integrity of digital infrastructure, communication and information systems, and related supply chains.

8. Tender applicants and candidates from non-eligible countries may be accepted as eligible in the case of urgency or where services are unavailable in the markets of the countries or territories concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of an action impossible or exceedingly difficult.

Article 12

Carry-overs, annual instalments, commitment appropriations, surpluses from the budgetary guarantee, repayments and revenue generated by financial instruments

1. By derogation to Article 12(4) of Regulation (EU, Euratom) 2018/1046, unused commitment and payment appropriations under the Facility shall be automatically carried over and may be committed and used, respectively, up to 31 December of the following financial year. The amount carried over shall be used first in the following financial year.

2. The Commission shall inform the European Parliament and the Council of commitment appropriations carried over in accordance with Article 12(6) of Regulation (EU, Euratom) 2018/1046.

3. By derogation to Article 15 of Regulation (EU, Euratom) 2018/1046 on making appropriations available again, commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non-implementation of an action under the Facility shall be made available again to the benefit of the budget line of origin.

4. By way of derogation from the first, second and fourth subparagraphs of Article 209(3) of Regulation (EU, Euratom) 2018/1046, any revenues and repayments from financial instruments established under this Regulation shall constitute internal assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 2018/1046, to the Facility or its successor programme.

5. By way of derogation from Article 213(4), point (a), of Regulation (EU, Euratom) 2018/1046, any surplus of the provisions for the Ukraine Guarantee shall constitute internal assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 2018/1046 to the Facility or its successor programme.

6. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments, in accordance with Article 112(2) of Regulation (EU, Euratom) 2018/1046.

The third subparagraph of Article 114(2) of Regulation (EU, Euratom) 2018/1046 shall not apply to the actions referred to in the first subparagraph of this paragraph.

Article 13

Exceptional financing

1. In duly justified exceptional circumstances, in particular where a significant deterioration of the war makes it impossible for Ukraine to fulfil the conditions attached to the forms of support under this Regulation, the Facility may provide exceptional financing to Ukraine in order to maintain its macro-financial stability and to foster the achievement of the objectives referred to in Article 3. Such exceptional financing shall **be granted for individual periods of up to three months and** cease as soon as the fulfilment of the conditions becomes possible again. **Financing under this Article may be granted in addition to and during the same period of exceptional bridge financing granted under article 24** .

2. For the purpose of paragraph 1, where the Commission finds that it is impossible for Ukraine to fulfil the conditions attached to the forms of support under this Regulation due to such duly justified exceptional circumstances, it may submit to the Council a proposal for an implementing decision providing exceptional financing to Ukraine under the Facility. **The Council shall act, as a rule, within one month of receiving the Commission's proposal.**

3. The exceptional financing shall in any case be subject to the precondition referred to in Article 5 and shall be financed within the resources referred to in Article 6(1), point (a), and 6(2).

4. **The implementing decision of paragraph 2 shall set out the audit, control, monitoring and reporting rules, as well as the conditions and modalities for the exceptional financing.**

CHAPTER III

Pillar I: Ukraine Plan

Article 14
Relation of the Ukraine Plan to the Pillars of the Facility

1. The Ukraine Plan (the "Plan") shall provide for an overarching framework to achieve the objectives set out in Article 3.

2. The Ukraine Plan shall constitute the basis for the support provided under Pillar I of the Facility as set out in Article 1(2)(a) and as referred to in this Chapter. ~~It shall also serve as a reference to guide the support to be provided under Pillars II and III of the Facility referred to in Chapters IV and V.~~ **The support to be provided under Pillar II and III of the Facility referred to in Chapters IV and V shall be coherent and avoid overlaps with the Ukranian Plan, and in particular be~~y~~ guided by the principles set out in Article 15.**

Article 15
Principles for financing under the Ukraine Plan

1. The Ukraine Plan shall set out the reform and investment agenda of Ukraine, integrated in an economic and fiscal policy framework, towards the achievement of the general and specific objectives mentioned in Article 3. The Plan shall comprise measures for the implementation of reforms and public investment through a comprehensive and coherent package, which may also include public schemes that aim to incentivise private investments.

2. The Facility shall provide financing under this Chapter upon satisfactory fulfilment of **the precondition set out in Article 5 and** conditions stemming from the Plan, taking the form of qualitative or quantitative steps. Such conditions shall reflect the different objectives of the Facility, as defined in Article 3, and shall include conditions related to essential requirements, such as the maintenance of economic and financial stability, budget oversight and public financial management, and conditions related to the implementation of the reforms and investments set out in the Plan.

3. The conditions mentioned in paragraph 2 shall reflect the amounts referred to in Article 6(1)(a) and (2) and relevant contributions under paragraph 4 of that Article.

4. Measures started from 1 January 2023 onwards shall be **exceptionally** eligible provided that they comply with the requirements set out in this Regulation. **These measures should be duly justified and properly documented.**

5. The Ukraine Plan shall be consistent with reform priorities identified in the context of Ukraine's accession path, as outlined in the Commission Opinion and the Analytical Report, **the Commission's regular enlargement report and subsequent Council conclusions**, and the Association Agreement including a Deep and Comprehensive Free Trade Agreement. It shall also be consistent with Ukraine's Nationally Determined Contribution under the Paris Agreement**, Ukraine's commitments under the United Nations Convention on Biological Diversity** and, if available, the National Energy and Climate Plan.

6. The Ukraine Plan shall respect the general principles set out in Article 4.

Article 16
Content of the Ukraine Plan

1. In order to receive support under the Facility, Ukraine shall submit to the Commission a Ukraine Plan.

2. The Ukraine Plan shall in particular set out the following elements, which shall be duly reasoned and substantiated:

   (a) measures constituting a coherent, comprehensive and adequately balanced response to the objectives set out in Article 3, including structural reforms and measures to promote the convergence with the Union, **to strenghten the rule of law, democracy, the respect of human rights and fundamental freedoms** as well as measures referred to in article 15(2), so that the Plan as a whole raises the growth rate of the Ukrainian economy;

   (b) an explanation of how the Plan is consistent with the principles, plans and programmes referred to in Article 15(5);

   (c) for the reforms and investments, an indicative timetable, and the envisaged qualitative and quantitative steps to be implemented by 31 December 2027;

   (d) the arrangements for the effective monitoring, reporting and evaluation of the Ukraine Plan by Ukraine, including the proposed qualitative and quantitative steps, and the related indicators;

(e) an explanation of how the Plan corresponds to the recovery, reconstruction and modernisation needs stemming from the war in Ukraine's regions and municipalities, and thereby enhances their **inclusive and sustainable** economic, social, environmental and territorial development**, reinforces social cohesion**, supports the decentralisation reform across Ukraine and convergence towards the Union's standards; an explanation of the methodology and processes used for the selection and implementation of projects, and the mechanisms to involve sub-national authorities, in particular municipalities, in decision-making on the use of support in the reconstruction process at local level; the methodology used to track related expenditure; and an explanation of how the Plan ensures that the reconstruction projects selected and implemented by such sub-national authorities constitute an adequately substantial share of the support;

(f) for the preparation and, where available, for the implementation of the Ukraine Plan, a summary of the consultation process, conducted in accordance with the national legal framework, of relevant stakeholders, including local and regional authorities, social partners and civil society organisations, and how the input of the stakeholders is reflected in the Ukraine Plan;

(g) an explanation of the extent to which the measures under the Plan are expected to contribute to climate and environmental objectives, **including biodiversity conservation.**

(h) a~~n~~ **detailed** explanation of Ukraine's system **and planned measures** to effectively prevent, detect and correct irregularities, fraud, corruption**, or any other illegal activity affecting the Union´s financial interests** and conflicts of interests, **including the effective investigation and prosecution of criminal offences affecting** the funds provided under the Facility, and of the arrangements that aim to avoid double funding from the Facility and other Union programmes or donors, **as well as to ensure swift judicial cooperation with competent authorities of the Union and its Member States**;

(ha) an explanation of how the Plan ensures that other donors are able to contribute to supporting the measures of the Plan;

(i) any other relevant information.

3. The Ukraine Plan shall be results **and impact**-based and include indicators for assessing progress towards the achievement of the general and specific objectives referred to in Article 3.

Article 17
Preparation and submission of the Ukraine Plan

1. The Ukraine Plan shall be prepared by Ukraine. Ukraine shall strive to submit the Plan to the Commission by two months after entry into force of this Regulation. Ukraine may submit a draft Plan to the Commission.

2. When preparing the Plan in accordance with Article 16, Ukraine shall take particular account of the situation in Ukraine's regional, local and urban areas, having regard to their specific needs for recovery and reconstruction, reform, modernisation and decentralisation.

3. The preparation and implementation of the Ukraine Plan shall be done in consultation with regional, local, urban and other public authorities, **as well as with social partners and civil society organisations**, in accordance with the multi-level governance principle, and taking into account a bottom-up approach.

Article 18
Commission assessment of the Ukraine Plan

1. The Commission shall assess the relevance, comprehensiveness and appropriateness of the Ukraine Plan or, where applicable, the amendment to that Plan referred to in Article 20, without undue delay, and make a proposal for a Council implementing decision in accordance with Article 19(1). When carrying out that assessment, the Commission shall act in close cooperation with Ukraine, and **the international partners contributing to its implementation**. **The Commission** may make observations**,** ~~or~~ seek additional information **or request that Ukraine modifies the draft Plan**.

2. When assessing the Ukraine Plan, and in the determination of the amount to be allocated to Ukraine, the Commission shall take into account relevant available analytical information on Ukraine **including its macroeconomic situation and debt sustainability**, the justification and the elements provided by Ukraine as referred to in Article 16(2), as well as any other relevant information such as, in particular, the information listed in Article 15(5).

3. In its assessment, the Commission shall take into account the following criteria:

   (a) whether the Plan represents a coherent, comprehensive and adequately balanced response to the objectives set out in Article 3 including structural reforms and measures to promote the convergence with the Union, **to strenghten the rule of law, democracy, the respect of human rights and fundamental freedoms** so that the Plan as a whole raises the growth rate of the Ukrainian economy;

   (b) whether the Plan corresponds to the recovery, reconstruction and modernisation needs stemming from the war in Ukraine's regions and municipalities, and thereby enhances their **inclusive and sustainable**, economic, social, environmental and territorial development, **reinforces social cohesion**, supports the decentralisation reform across Ukraine and convergence towards the Union's standards; whether the methodology and processes used for the selection and implementation of projects, and the mechanisms to involve sub-national authorities, in particular municipalities, in decision-making on the use of support in the reconstruction process at local level are appropriate**, as well as civil society groups**; whether the methodology used to track related expenditure for the reconstruction projects selected and implemented by such sub-national authorities is appropriate and whether such projects constitute an adequately substantial share of the support;

(c) whether the arrangements proposed by Ukraine are expected to ensure an effective monitoring, reporting and implementation of the Ukraine Plan, including the envisaged timetable, qualitative and quantitative steps, and the related indicators;

(d) whether the arrangements proposed by Ukraine are expected to effectively **ensure an adequate level of protection of the financial interests of the Union, in particular by** prevent**ing**, detect**ing** and correct**ing** irregularities, fraud, corruption**, or any other illegal activity affecting the Union´s financial interests** and conflicts of interests, **and ensuring effective investigation and prosecution of criminal offences** ~~when using~~ **affecting** the funds provided under the Facility, **as well as ensuring swift judicial cooperation with competent authorities of the Union and its Member States**; **the Commission shall also take into account whether the arrangements proposed by Ukraine** ~~and~~ are expected to allow avoiding double funding from the Facility and other Union programmes as well as other donors.

(e) **whether the Plan ensures that other donors are able to support the objectives of the Plan.**

4. For the purpose of the assessment of the Ukraine Plan submitted by Ukraine, the Commission may be assisted by experts.

Article 19
Council implementing decision

1. In case of a positive assessment, on a proposal from the Commission, the Council shall approve by means of an implementing decision the assessment of the Ukraine Plan submitted by Ukraine in accordance with Article 17(1) or, where applicable, of its amendment submitted in accordance with Article 20(1) or (2). **The Council shall act, as a rule, within one month of receiving the Commission's proposal. The Council, acting by qualified majority, may amend the Commission's proposal and adopt the amended text by means of an implementing decision.**

2. The Commission proposal for a Council implementing decision shall set out, for the part to be funded by the Facility, the reforms and investments to be implemented by Ukraine, the conditions stemming from the Plan as described in Article 15(2), including the indicative timetable, and the **annual and total** amounts referred to in Article 6(1) point (a) and (2) and relevant contributions under paragraph 4 of that Article.

3. The Commission proposal referred to in paragraph 2 shall also lay down:

(a) the ~~indicative~~ total non-repayable financial support and ~~indicative~~ total amount of the loan support to be paid in instalments, structured in accordance with Article 15(2), once Ukraine has achieved satisfactory fulfilment of the relevant qualitative and quantitative steps identified in relation to the implementation of the Ukraine Plan

(ab) **the envisaged timetable for disbursement of the support and its payment schedule**;

(b) ~~the non-repayable financial support and~~ the amount of the loan support to be paid in the form of a pre-financing in accordance with Article 23;

(c) the time limit, which **shall** ~~should~~ be no later than 31 December 2027, by which the final qualitative and quantitative steps for both investment projects and reforms must be completed;

(d) the arrangements and timetable for monitoring and implementation of the Ukraine Plan including, where relevant, measures necessary for complying with Article 33;

(e) the indicators for assessing progress towards the achievement of the general and specific objectives mentioned in Article 3;

(f) the arrangements for providing full access by the Commission to the underlying relevant data.

(g) information on the actual and planned contributions from other donors and an explanation on the coordination measures in the development and implementation of the Plan which would ensure the achievement of its objectives.

(h) an analysis of the impact of the plan on the macroeconomic situation and debt sustainability of Ukraine.

Article 20
Amendments to the Ukraine Plan

1. Where the Ukraine Plan, including relevant qualitative and quantitative steps, is no longer achievable by Ukraine, either partially or totally, because of objective circumstances, Ukraine may propose an amended Ukraine Plan. In that case, Ukraine may make a reasoned request to the Commission to make a proposal to amend all or part of the Council implementing decision referred to in Article 19(1).

2. The Commission may, in agreement with Ukraine, make a proposal to amend the Council implementing decision referred to in Article 19(1), in particular to take into account **changes in the circumstances allowing for an increase in ambition or** a change of the amounts available, notably due to additional contributions by the Member States or from other sources as referred to in Article 6(4). **The Council may request to the Commission to assess whether the conditions set out in this paragraph are met and submit, where appropriate, the relevant proposal.**

3. Where the Commission considers that the reasons put forward by Ukraine justify an amendment to the Ukraine Plan, the Commission shall assess the amended Ukraine Plan in accordance with Article 18 and shall make a proposal for an amendment of the Council implementing decision referred to in Article 19(1) without undue delay. **The Council shall act, as a rule, within one month of receiving the Commission's proposal. The Council, acting by qualified majority, may amend the Commission's proposal and adopt the amended text by means of an implementing decision.**

Article 21
Loan agreement, borrowing and lending operations

1. In order to finance the support under the Facility in the form of loans, the Commission shall be empowered, on behalf of the Union, to borrow the necessary funds on the capital markets or from financial institutions in accordance with Article 220a of Regulation (EU, Euratom) 2018/1046.

2. Upon adoption of the Council implementing decision referred to in Article 19(1), the Commission shall enter into a loan agreement with Ukraine in respect of the amount referred to in Article 6(2). The loan agreement shall lay down the availability period and the detailed terms of the support under the Facility in the form of loans, including in relation to the internal control systems as referred to in Article 9(4), points (a) and (c). The loans shall have maximum duration of 35 years. In addition to the elements laid down in Article 220(5) of Regulation (EU, Euratom) 2018/1046, the loan agreement shall contain the amount of pre-financing and rules on clearing of pre-financing.

3. By way of derogation from Article 31(3), second sentence, of Regulation (EU) 2021/947, the financial assistance provided to Ukraine in the form of loans under the Facility shall not be supported by the External Action Guarantee.

4. No provisioning for the loans under this Regulation shall be constituted and, by way of derogation from Article 211(1) of Regulation (EU, Euratom) 2018/1046, no provisioning rate as a percentage of the amount referred to in Article 6(2) of this Regulation shall be set.

Article 22
Borrowing costs subsidy

1. By way of derogation from Article 220(5) of Regulation (EU, Euratom) 2018/1046, the Union may bear the cost of funding, cost of liquidity management, and cost of service for administrative overheads related to the borrowing and lending ("borrowing costs subsidy"), except for costs related to early repayment of the loan. For the period from 1 January 2024 to 31 December 2027, the borrowing costs subsidy shall be covered under Chapter V.

2. Ukraine may request each year the borrowing costs subsidy referred to in paragraph 1. The Commission may award the borrowing costs subsidy for an amount not exceeding the limits of the appropriations made available in the annual budget.

Article 23
Pre-financing

1. **Subject to the adoption by the Council of the implementing decision referred to in article 19(1),** Ukraine may request**, as part of the Ukraine Plan,** ~~together with the submission of the Ukraine Plan~~ a pre-financing payment of an amount of up to 7% of the ~~non-repayable financial support and~~ loan **support** to be provided under Chapter III.

2. ~~In respect of the non-repayable financial support, the Commission may make the payment of pre-financing after the adoption of the Plan referred to in Article 19 and the entry into force of the financing agreement referred to in Article 10, subject to the available funding and to the respect of the precondition referred to in Article 5.~~

3. ~~In respect of the loan support,~~ **T**he Commission may make the payment of pre-financing after the approval of the Plan referred to in Article 19 and the entry into force of the loan agreement referred to in Article 21. The payments shall be made subject to the available funding on capital markets referred to in Article 21(1) and to the respect of the precondition set out in Article 5.

4. The Commission shall decide on the timeframe for the disbursement of the pre-financing, which may be disbursed in one or more tranches.

Article 24
Exceptional bridge financing

1. Without prejudice to Article 23, **while** ~~if~~ the Framework Agreement referred to in Article 9 is not signed or the Ukraine Plan referred to in Chapter III is not adopted ~~by 31 December 2023~~, **upon a request from Ukraine,** the **Council**~~Commission~~ may**, based on a Commission proposal,** decide to provide limited, exceptional support to Ukraine **in the form of loans** for a period of up to **six**~~three~~ months **starting from**~~after either the entry into force of this Regulation, or~~ 1 January 2024~~, whichever is later,~~ subject to having made satisfactory progress on the preparation of the Ukraine Plan, in order to support the macro-financial stability of the country, subject to conditions to be agreed in a Memorandum of Understanding **(MoU)** between the Commission and Ukraine, to the respect of the precondition mentioned in Article 5, to compliance with Article 6 and to available funding. **The Council shall act, as a rule, within one month of receiving the Commission's proposal.**

2. **The MoU shall in particular establish policy conditions, indicative financial planning and the reporting requirements, proportionate to the duration of the financing. The policy conditions shall include commitment to the principles of sound financial management with focus on anti-corruption, fight against organised crime, anti-fraud and avoidance of conflict of interests and the establishment of a transparent and accountable framework for the management of rehabilitation and, where appropriate, reconstruction.**

The MoU shall be adopted and amended in accordance with the examination procedure referred to in Article 39.

3~~2~~. The amount of such support shall not exceed EUR 1 500 000 000 on a monthly basis. The Commission shall enter into a financing or loan agreement with Ukraine, which shall comply as appropriate with Articles 10 and 21, respectively.

Article 25
Rules on payments, withholding and reduction of non-repayable financial support and loans

1. Payments of the non-repayable financial support and of the loan to Ukraine under this Article shall be made in accordance with the budget appropriations and subject to the available funding. Payments shall be made in instalments. An instalment may be disbursed in one or more tranches.

2. Every quarter, Ukraine shall submit a duly justified request**s** for payment**s** of the non-repayable financial support and of the loan **support**~~, and~~ **with a view to** the Commission ~~shall~~ pay**ing out** the relevant non-repayable financial support and loan **support**, on the basis of the assessment described in paragraph 3.

3. The Commission shall assess without undue delay whether Ukraine has **met the precondition in line with Article 5 and has** achieved satisfactory fulfilment of the qualitative and quantitative steps set out in the Council implementing decision referred to in Article 19(1). The satisfactory fulfilment of qualitative and quantitative steps shall presuppose that measures related to the steps for which Ukraine had achieved satisfactory fulfilment have not been reversed by Ukraine. The Commission may be assisted by experts.

4. Where the Commission makes a positive assessment of the satisfactory fulfilment of qualitative and quantitative steps, it shall **submit to the Council** ~~adopt~~ without undue delay a **proposal for a Council implementing** decision **establishing the satisfatory fulfilment of the conditions for payments referred to in paragraph 3. The Council shall act, as a rule, within three weeks of receiving the Commission's proposal. The Council, acting by qualified majority, may amend the Commission's proposal and adopt the amended text by means of an implementing decision. On the basis of the Council implementing decision, the Commission shall adopt a decision** authorising the disbursement of the part of the non-repayable financial support and of the loan corresponding to such steps.

5. Where the Commission makes a negative assessment of the fulfilment of qualitative and quantitative steps as per the indicative timetable, **it shall inform the Council without undue delay and** the payment of the non-repayable financial support and of the loan corresponding to such steps shall be withheld. The payment withheld shall only be disbursed**, in accordance with paragraph 4,** when Ukraine has duly justified, as part of a subsequent payment request, that it has taken the necessary measures to ensure satisfactory fulfilment of the qualitative and quantitative steps.

6. Where the Commission **considers**~~concludes~~ that Ukraine has not taken the necessary measures within a period of twelve months from the initial negative assessment referred to in paragraph 5, the Commission shall **notify Ukraine thereof.** Ukraine may present its observations within two months from the communication of the Commission's **notification**~~conclusions~~. **Where the Commission concludes that Ukraine has not taken the necessary measures, it shall submit a proposal for a Council impementing decision reducing** the amount of the non-repayable financial support and of the loan proportionately to the part corresponding to the relevant qualitative and quantitative steps. **The Council shall act, as a rule, within one month of receiving the Commission's proposal. The Council, acting by qualified majority, may amend the Commission's proposal and adopt the amended text by means of an implementing decision.**

7. The Commission may reduce the amount of the non-repayable financial support, **and recover any amount due to the Union budget,** including by offsetting in line with Article 102 of Regulation (EU, Euratom) 2018/1046, or **reduce the amount** of the loan to be disbursed to Ukraine as referred to in paragraph 4, **or ask for early repayment of the loan,** in the event of identified cases of, or serious concerns in relation to, irregularities, fraud, corruption and conflicts of interests affecting the financial interests of the Union that have not been corrected by Ukraine, or a serious breach of an obligation resulting from ~~such~~ agreements **referred to in Articles 9, 10 and 21**, including on the basis of the reports of the Audit Board referred to in Article 34 or information provided by OLAF.

8. By way of derogation from Article 116(2) of Regulation (EU, Euratom) 2018/1046, the payment deadline as referred to in point (a) of paragraph 1 of Article 116, of Regulation (EU, Euratom) 2018/1046 shall start running from the date of the communication of the decision authorising the disbursement to Ukraine pursuant to paragraph 4 of this Article.

9. Article 116(5) of Regulation (EU, Euratom) 2018/1046 shall not apply to payments made pursuant to this Article and to Article 23 of this Regulation.

Article 26

Transparency with regard to persons and entities receiving funding for the implementation of the Plan

1. Ukraine shall publish data on persons and entities receiving amounts of funding **cumulatively** exceeding the equivalent of EUR ~~5~~ **100** 000 for the implementation of reforms and investments specified in the Ukraine Plan referred to in this Chapter. Ukraine shall update those data twice a year, in June and December.

2. For persons and entities referred to in paragraph 1, the following information shall be published **in machine-readable format on a webpage, ranked by total funds received**, having due regard for the requirements of confidentiality and security, in particular the protection of personal data:

   (a) in the case of a legal person, the recipient's full legal name and VAT identification number or tax identification number, where available, or another unique identifier established at the national level;

   (b) in the case of a natural person, the first and last name(s) of the recipient;

   (c) the amount received by the recipient, as well as reforms and investments under the Ukraine Plan this amount contributes to implement.

3. The information referred to in paragraph 2 shall not be published where disclosure risks threatening the rights and freedoms of the persons or entities concerned or seriously harming the commercial interests of the recipients.

4. Ukraine shall transmit electronically to the Commission at least once a year the data on the persons and entities referred to in paragraph 1 with the exception of the data referred to in paragraph 3, in a format to be defined in the Framework agreement referred to in Article 9(4), point (i).

CHAPTER IV

Pillar II: Ukraine Investment Framework

Article 27
Scope and structure

1. Under the Ukraine Investment Framework the Commission shall provide the Union support to Ukraine in the form of budgetary guarantee, financial instruments or blending operations**, including technical assistance linked to the implementation of Pillar II**.

2. The Commission shall be supported by an **steering** ~~operational~~ board in the implementation of the Ukraine Investment Framework. The **steering board will adopt its** ~~Commission shall propose the~~ rules of procedure ~~for the operational board.~~

3. The ~~operational~~ **steering** board of the Ukraine Investment Framework shall comprise representatives of the Commission~~,~~ **and** of each Member State~~, and r~~**. R**epresentatives of Ukraine **shall be invited to attend board meetings as appropriate**. Counterparts implementing the Ukraine Guarantee and financial instruments supported by the Ukraine Investment Framework may be given observer status. The Commission shall chair the ~~operational~~**steering** board.

4. The ~~operational~~ **steering** board shall provide **strategic and operational guidance** ~~advice~~ **and support** to the Commission on **different aspects including risk profiles,** the choice of support modalities, the design of financial products to be deployed, and on non-eligible sectors. It shall formulate opinions on the use of Union support through the Ukraine Guarantee, financial instruments and blending operations **including the concessionality levels, taking into account the relevant risk assessments. The steering board shall, when possible, adopt opinions by consensus**.

5. The Commission shall ensure that Union support provided under the Ukraine Investment Framework is consistent with the Ukraine Plan and contributes to its implementation, and complementary to Union support to Ukraine agreed under other Union programmes and instruments.

6. For the purpose of Article 209(2), points (d) and (h), of Regulation (EU, Euratom) 2018/1046, the requirement on ex ante evaluations of financial instruments and budgetary guarantees shall be met by the positive assessments of the Ukraine Plan by the Commission, referred to in Article 19(2) of this Regulation.

7. The support under the Ukraine Investment Framework shall in particular serve the implementation of the Ukraine Plan referred to in Chapter III., while complementing the financing sources established in this Regulation

8. The Commission shall report on the implementation of the support under the Ukraine Investment Framework in accordance with Articles 41(4) and (5) of Regulation (EU, Euratom) 2018/1046. For that purpose, each counterpart of the Ukraine Guarantee and each entrusted entity implementing financial instruments shall provide on an annual basis the information necessary to allow the Commission to comply with its reporting obligations.

Article 28

Additional contributions to the Ukraine Guarantee and to the financial instruments

1. Member States, third countries, and third parties may contribute to the Ukraine Guarantee, and to the financial instruments set up under the Ukraine Investment Framework. Contributions to the Ukraine guarantee shall be made in accordance with Article 218(2) of Regulation (EU, Euratom) 2018/1046.

2. The contributions to the Ukraine Guarantee shall increase the amount of the Ukraine Guarantee without leading to additional contingent liabilities for the Union.

3. For all contributions referred to in paragraph 1, a contribution agreement shall be concluded between the Commission, on behalf of the Union, and the contributor. It shall contain, in particular, provisions concerning the payment conditions.

Article 29

Implementation of the Ukraine Guarantee and the financial instruments

1. The Ukraine Guarantee and financial instruments supported under the Ukraine Investment Framework shall be implemented in indirect management pursuant to Article 62(1), first subparagraph, point (c), of Regulation (EU, Euratom) 2018/1046.

2. The eligible counterparts for the purposes of the Ukraine Guarantee and the eligible entrusted entities for the purpose of financial instruments shall be those identified in Article 208(4) of Regulation (EU, Euratom) 2018/1046, including those from third countries contributing to the Ukraine Guarantee in accordance with Article 28 of this Regulation. In addition, by way of derogation from Article 62(1), point (c), of Regulation (EU, Euratom) 2018/1046, bodies governed by private law of a Member State, or a third country which has contributed to the Ukraine Guarantee in accordance with Article 28 of this Regulation, and which provide adequate assurance of their financial and operational capacity shall be eligible for the purpose of the Ukraine Guarantee.

3. The Commission shall ensure the effective, efficient and fair use of available resources among eligible counterparts and, where relevant, eligible entrusted entities, in an inclusive approach, while promoting cooperation between them and taking due account of their capacities, added value, experience and risk-taking capacity.

4. The Commission shall ensure **a** fair **and transparent** treatment for all eligible counterparts and all eligible entrusted entities and shall ensure that conflicts of interest are avoided throughout the implementation period of the Ukraine Investment Framework. In order to ensure complementarity, the Commission may request any relevant information from eligible counterparts for the purpose of the Ukraine guarantee or from eligible entrusted entities for the purpose of financial instruments about their non-EU-supported operations.

Article 30
Ukraine Guarantee

1. The Ukraine Guarantee of EUR ~~8 914~~ **7 956** 000 000 in current prices shall be established to guarantee operations supporting the objectives of the Facility. The Ukraine Guarantee shall be independent and autonomous from the External Action Guarantee established by Regulation (EU) 2021/947 and shall be granted as an irrevocable, unconditional and on demand guarantee in accordance with Article 219(1) of Regulation (EU, Euratom) 2018/1046.

2. The Ukraine Guarantee shall be used to cover the risks for the following types of operations **aiming at supporting sovereign, sub-sovereign, non-commercial and commercial entities, and the private sector**:

   (a) loans, including local currency loans;

   (b) guarantees;

   (c) counter-guarantees;

   (d) capital market instruments;

   (e) any other form of funding or credit enhancement, insurance, and equity or quasi-equity participations.

3. On behalf of the Union, the Commission shall conclude with eligible counterparts Ukraine Guarantee agreements until 31 December 2027. The Ukraine guarantee may be granted gradually.

   The Commission shall provide information on the signature of each Ukraine Guarantee agreement in the reports referred to in Article 27(8). Upon their request, those agreements shall be made available to the European Parliament and the Council **without undue delay**, taking into account the protection of confidential and commercially sensitive information.

   When concluding Ukraine Guarantee agreements, the Commission shall take due account of the advice and guidance of the steering board and of the technical risk assessment group as referred to in paragraph 11.

~~4.~~ The Ukraine Guarantee agreements shall contain, in particular:

   (a) detailed rules on the coverage, estimated annual investments, requirements, eligibility, and procedures;

   (b) detailed rules on the provision of the Ukraine Guarantee, including its arrangements on the coverage and its defined coverage of portfolios and of projects of specific types of instruments, as well as a risk analysis of projects and project portfolios, including at sectoral, regional, and national levels;

   (c) a reference to the objectives and purpose of the Facility, an assessment of the needs and an indication of the expected results;

(d) the remuneration of the Ukraine Guarantee, which shall be set on concessional terms reflecting the specific situation of war-damaged Ukraine, while taking into account the respective risk profiles of the investment programmes in order to ensure a level playing field;

(e) requirements for the use of the Ukraine Guarantee, including payment conditions, such as specific time frames, interest to be paid on due amounts, expenses and recovery costs and possibly necessary liquidity arrangements;

(f) claims procedures, including, but not limited to, triggering events and waiting periods, and procedures regarding the recovery of claims;

(g) monitoring, reporting, transparency and evaluation obligations;

(h) clear and accessible complaints procedures for third parties that could be affected by the implementation of projects supported by the Ukraine Guarantee.

4. The EIB Group shall implement operations in Ukraine, aiming at supporting Ukrainian sovereign entities and non-commercial sub-sovereign entities, covered with an indicative dedicated minimum amount of the Ukraine Guarantee of 25% of the amount referred to in paragraph 1 of this Article, which shall be allocated in accordance with the procedures laid down in this Regulation.

The dedicated amount of the Ukraine Guarantee referred to in the first subparagraph shall be available for supporting EIB Group operations which have been approved by the relevant EIB Group Board by 31 July 2026. After that date, the remaining dedicated amount of the Ukraine Guarantee shall be available for all types of operations referred to in the first subparagraph to all eligible counterparts subject to Article 30(3).

5. The Commission may use up to 30% of the amount referred in paragraph 1 of this Article to increase the amounts of the guarantee provided through External Action Guarantee agreements concluded pursuant to Article 38 of Regulation (EU) 2021/947 subject to the following:

(a) for the purpose of this paragraph, the Ukraine Guarantee shall be implemented by an amendment or an addendum to agreements concluded pursuant to Article 38 of Regulation (EU) 2021/947 with the eligible counterparts selected pursuant to Article 35 of Regulation (EU) 2021/947 increasing the guarantee amount under those agreements to be signed within four months from the entry into force of this Regulation.

(b) the eligible counterparts shall use the Ukraine Guarantee under this paragraph solely for the support of the implementation of the operations in Ukraine and only guarantee calls from operations in Ukraine are eligible for coverage by the Ukraine Guarantee under this paragraph;

(c) by way of derogation from the second subparagraph of Article 36(1) of Regulation (EU) 2021/947 the operations covered by the Ukraine Guarantee under this paragraph shall constitute a separate portfolio of Ukraine Guarantee and shall not be

taken into account for the purposes of calculating the 65% coverage referred to in Article 36(1) of Regulation (EU) 2021/947;

(d) the risk sharing in the separate portfolio of the Ukraine Guarantee shall ensure alignment of interest between the Commission and the eligible counterpart in accordance with Article 209(2)(e) of Regulation (EU, Euratom) 2018/1046 and the counterpart shall contribute with their own resources to this portfolio in accordance with Article 219(4) of Regulation (EU, Euratom) 2018/1046;

(e) the counterparts shall establish separate accounting and reporting for the implementation of the Ukraine Guarantee under this paragraph;

(f) Article 31 shall apply to the provisioning of the Ukraine Guarantee under this paragraph. The provisioning shall be exclusively used for coverage of losses under Ukraine Guarantee. The provisioning established under Article 31(5) of Regulation (EU) 2021/947 shall not be used for the coverage of the operations under the Ukraine Guarantee.

6. The eligible counterpart shall approve financing and investment operations in accordance with its own rules and procedures and in compliance with the Ukraine Guarantee agreement.

7. The maximum period allowed for eligible counterparts to sign contracts with financial intermediaries or final recipients shall be three years after the conclusion of the relevant Ukraine Guarantee agreement, with possible extensions when an additional amount of guarantee is granted and the guarantee agreement is amended.

8. The Ukraine Guarantee may cover:

(a) for debt instruments, the principal and all interests and amounts due to the selected eligible counterpart, but not received by it in accordance with the terms of the financing operations after an event of default has occurred;

(b) for equity investments, the amounts invested and their associated funding costs;

(c) for other financing and investment operations referred to in paragraph 2, the amounts used and their associated funding costs;

(d) all relevant expenses and recovery costs related to an event of default, unless deducted from recovery proceeds.

9. For the purposes of the Commission's accounting and its **annual** reporting of the risks covered by the Ukraine Guarantee **to the Council and the European Parliament**, and in accordance with Article 209(4) of Regulation (EU, Euratom) 2018/1046, eligible counterparts with which an Ukraine Guarantee agreement has been concluded shall provide the Commission and the Court of Auditors annually with the financial **statements** ~~reports on financing and investment operations~~ covered by this Regulation, audited by an independent external auditor, containing, among others, information on:

(a) the risk assessment of financing and investment operations of the eligible counterparts, including information on Union liabilities measured in compliance with

the accounting rules referred to in Article 80 of Regulation (EU, Euratom) 2018/1046 and International Public Sector Accounting Standards;

(b) the outstanding financial obligation for the Union arising from the Ukraine Guarantee provided to the eligible counterparts and their financing and investment operations, broken down by individual operation.

10. The condition set out in Article 219(4) of Regulation (EU, Euratom) 2018/1046 on contributions with own resources shall apply to each eligible counterpart allocated with a budgetary guarantee under the Ukraine Investment Framework on a portfolio basis.

11. The European Fund for Sustainable Development Plus+ **(EFSD+)** risk management framework referred to in Articles 33(7) and **the technical risk assessment group referred to in Article 33**(8) of Regulation (EU) 2021/947 shall apply to the Ukraine Guarantee **taking into account the objectives and principles of the Facility**. **The risk assessments for the Ukraine Guarantee shall be independent from the risk assessments of the EFSD+.** The overall risk profile of operations covered by the Ukraine Guarantee may be different from the overall risk profile of the External Action Guarantee. The Commission shall ensure that the risk entailed by the guaranteed operations does not exceed the capacity of the Union budget to bear those risks as determined by the available budgetary resources and the provisioning rate referred to in Article 31(1) of this Regulation. **In the framework of the reporting referred to in Article 27(8) of this Regulation, the Commission ~~It~~ shall report annually on measures taken in this regard to the European Parliament and the Council.**

Article 31
Provisioning

1. The provisioning rate for the Ukraine Guarantee shall initially be 70%.

By derogation from Article 211(2), second sentence of the second subparagraph of Regulation (EU, Euratom) 2018/1046, the provisioning shall be constituted until 31 December 2027 and be equal to the amount of provisioning corresponding to the Ukraine guarantee granted and may be constituted gradually to reflect the progress in selection and implementation of the financing and investment operations supporting the objectives of the Facility.

2. The provisioning rate shall be reviewed at least every year from the entry into force of this Regulation. **The Commission shall inform the European Parliament and the Council of the outcome of this review.**

3. The Commission is empowered to adopt a delegated act in accordance with Article 38 to amend the provisioning rate while applying the criteria set out in Article 211(2) of the Regulation (EU, Euratom) 2018/1046, and, where relevant, to increase or decrease the maximum amount of guarantee referred to in Article 30(1) of this Regulation by up to 30%. The Commission may only increase the maximum amount of the guarantee if the provisioning rate is decreased. Without prejudice to Article 30(3), the Commission may provide that the increased amount of the guarantee shall be available for signature of guarantee agreements gradually over three years.

4. By way of derogation from Article 213 of Regulation (EU, Euratom) 2018/1046, the effective provisioning rate shall not apply to the provisioning set aside in the common provisioning fund in respect of the Ukraine Guarantee.

CHAPTER V

Pillar III: Union accession assistance and support measures

Article 32
EU accession assistance and support measures

1. Assistance under this Chapter shall support Ukraine in attaining the objectives set out in Article 3. In particular, assistance provided under this Chapter shall aim to support Ukraine's progressive alignment to Union '*acquis*' with a view to future Union membership, thereby contributing to mutual stability, security, peace and prosperity. Such support shall include strengthening of the rule of law, **including the independence of judiciary,** democracy, respect of human rights and fundamental freedoms, **fight against corruption,** reinforcing of the effectiveness of public administration and supporting transparency, structural reforms, sectoral policies and good governance at all levels. Such support should also contribute to the implementation of the Plan.

2. Assistance under this Chapter shall also be provided to ensure that capacities of stakeholders, including social partners, civil society organisations and local authorities are strengthened.

3. Assistance under this Chapter shall also ~~support~~ **strengthen capacities for conflict prevention, peacebuilding and address pre- and post-crisis needs, including through** confidence-building measures and processes that promote justice, truth-seeking, **comprehensive post-conflict rehabilitation for an inclusive, peaceful society, and** reparations as well as collection of evidence of crimes committed during the war. Funding for initiatives and bodies involved in supporting and enforcing international justice in Ukraine may be provided under this Chapter.

4. Assistance under this Chapter shall support the creation and strengthening of Ukrainian authorities responsible for ensuring appropriate use of funds and effective fight against mismanagement of public funding, in particular fraud, corruption, conflict of interests and irregularities incurred in relation to any amount spent to achieve the objectives of the Facility.

5. The functioning of the Audit Board as referred to in Article 34 shall be funded under this Chapter.

6. The borrowing costs subsidy referred to in Article 22 shall be funded under this Chapter.

7. For the years 2024-2027, the Facility shall fund under this Chapter:

(a) the provisioning of the budgetary guarantees, which is not covered by the financial envelope referred to in Article 50 of Regulation (EU) 2021/947 in accordance with the rules set out in the third sentence of Article 31(8) of that Regulation, for the covered external lending mandate financial liabilities in

Ukraine under Article 12(1) of Decision (EU) 2022/1628 related to loan amounts disbursed after 15 July 2022 of up to EUR 1.586 billion;

(b) the interest rate subsidy for macro-financial assistance loans under

(i) Decision (EU) 2022/1201, by derogation from Article 1(3) thereof;

(ii) Decision (EU) 2022/1628 by derogation from Article 6(3) thereof;

(c) by way of derogation from Article 31(1) of Regulation (EU) 2021/947, the paid-in provisioning of 9% for financial assistance which has not yet been committed at the end of 2023, referred to in Article 11(1) of Decision (EU) 2022/1628.

CHAPTER VI

Protection of the financial interests of the Union

Article 33
Protection of the financial interests of the Union

1. In implementing the Facility, the Commission and Ukraine shall take all the appropriate measures to protect the financial interests of the Union, taking into account the principle of proportionality and the specific conditions under which the Facility will operate, the precondition set out in Article 5(1) and conditions set out in the framework agreement and specific financing or loan agreements, in particular regarding the prevention, detection and correction of fraud, corruption, **or any other illegal activity affecting the Union´s financial interests,** conflicts of interests and irregularities **including the investigation and prosecution of criminal offences affecting the funds provided under the Facility**. Ukraine shall commit to progressing towards effective and efficient management and control systems and ensure that amounts wrongly paid or incorrectly used can be recovered. **Ukraine shall also commit to ensure that the competent Ukrainian authorities treat, without delay, mutual legal assistance requests and extradition requests by the EPPO and Member States' competent authorities, concerning criminal offences affecting the funds under the Facility.**

2. The agreements referred to in Articles 9, 10 and 21 shall provide for the obligations of Ukraine:

(a) to regularly check that the financing provided has been used in accordance with the applicable rules, in particular regarding the prevention, detection and correction of fraud, corruption, conflicts of interests and irregularities **or any other illegal activity affecting the Union's financial interests**;

(b) to take appropriate measures to prevent, detect and correct fraud, corruption, conflicts of interests and irregularities**, including the investigation and prosecution of criminal offences** affecting the financial interests of the Union, to avoid double funding and to take legal actions to recover funds that have been misappropriated, including in relation to any measure for the implementation of reforms and investment projects under the Ukraine Plan **and to take appropriate measures to treat mutual legal assistance requests and extradition requests by the EPPO and**

Member States' competent authorities, concerning criminal offences affecting the funds under the Facility, without delay;

(c) to accompany a request for payment as set out in Chapter III by a declaration that the funds were used in accordance with the principle of sound financial management and for their intended purpose and managed appropriately in particular in accordance with Ukrainian rules complemented by international standards, on prevention, detection and correction of irregularities, fraud, corruption and conflicts of interests;

(d) for the purpose of paragraph 1 of this Article, in particular for checks on the use of funds in relation to the implementation of reforms and investments of the Ukraine Plan, to ensure the collection of, and access to, adequate data on persons and entities receiving funding for the implementation of measures of the Ukraine Plan under chapter III of the Facility;

(e) to expressly authorise the Commission, OLAF **and** the Court of Auditors to exert their rights as provided for in Article 129(1) of Regulation (EU, Euratom) 2018/1046, in application of the principle of proportionality. **The competent Ukrainian authorities shall report to the EPPO any criminal conduct affecting the funds under the Facility that may fall within its competence.**

3. The Commission shall strive to make available to Ukraine an integrated and interoperable information and monitoring system including a single data-mining and risk-scoring tool to access and analyse the relevant data, including the data listed in paragraph 2(d). Where such a system is available, Ukraine shall use and feed the relevant data into the system, including with support referred to under Chapter V.

4. The agreements referred to in Articles 9, 10 and 21 shall also provide for the right of the Commission to reduce proportionately the support provided under the Facility and recover any amount spent to achieve the objectives of the Facility or to ask for early repayment of the loan, in cases of irregularities, fraud, corruption and conflicts of interests affecting the financial interests of the Union that have not been corrected by Ukraine, or of a serious breach of an obligation resulting from such agreements. When deciding on the amount of the recovery and reduction, or the amount to be repaid early, the Commission shall respect the principle of proportionality and shall take into account the seriousness of the irregularity, fraud, corruption or conflict of interests affecting the financial interests of the Union, or of a breach of an obligation. Ukraine shall be given the opportunity to present its observations before the reduction is made or early repayment is requested.

5. Persons and entities implementing funds under the Facility shall report any suspected or actual cases, of fraud, corruption, conflict of interests and irregularities **or any other illegal activities** affecting financial interests of the Union without delay, to the Audit Board referred to in Article 34, the Commission**,** OLAF**, and, where applicable, the EPPO in cases that may fall within its competence**.

Article 34
Audit Board

1. ~~The Commission shall establish an~~ **An** Audit Board **is hereby established. The Audit Board shall be set up** before the submission by Ukraine of the first payment request.

2. The Audit Board shall be composed of independent members appointed by the Commission. Representatives of Member States and other donors may be invited by the Commission to participate in the activities of the Audit Board. **Other donors contributing to the Facility may be invited by the Commission to appoint observers to the Audit Board.**

The Audit Board, on a proposal by the Commission, shall adopt its rules of procedure.

3. The Audit Board shall exercise its functions in complete objectivity and operate in compliance with best applicable international practices and standards. It shall act without prejudice to the powers of the Commission, OLAF, the Court of Auditors and~~, where applicable,~~ the EPPO.

4. The Audit Board shall ensure regular dialogue and cooperation with the European Court of Auditors.

5. In carrying out their duties, the Audit Board, its members and its staff shall neither seek nor take instructions from the Ukrainian government or any institution, body, office or agency. Strong guarantees of independence shall apply for the selection of its staff, management and budget.

6. The Audit Board shall assist the Commission in fighting mismanagement of Union funding under the Facility and, in particular fraud, corruption, conflict of interests and irregularities incurred in relation to any amount spent to achieve the objectives of the Facility.

7. For that purpose, the Audit Board shall regularly report to the Commission, and transmit to the Commission without delay any information it obtains or is made aware of, on any identified cases of, or serious concerns in relation to, mismanagement of public funding incurred in relation with any amount spent to achieve the objectives of the Facility.**The Commission shall keep the Council timely informed.**

In addition, the Audit Board shall adopt recommendations to Ukraine on all cases where in its views competent Ukrainian authorities have not taken the necessary steps to prevent, detect and correct fraud, corruption, conflict of interests and irregularities that have affected or seriously risk affecting the sound financial management of the expenditure financed under the Facility and in all cases where it identifies weaknesses affecting the design and functioning of the control system put in place by Ukrainian authorities. Ukraine shall implement such recommendations, or provide a justification on why it has not done so.

The reports of, and information from, the Audit Board shall also be sent to OLAF **and to the EPPO in cases that may fall within its competence** and may be shared with the relevant Ukrainian authorities, especially in case they need to take steps to prevent, detect and correct fraud, corruption, **or any other illegal activity affecting the Union´s financial interests,** conflict of interests and irregularities, **including the investigation and prosecution of criminal offences affecting the financial interests of the Union**.

8. The Audit Board shall have access to information, databases and registries required to carry out its tasks. The framework agreement referred to in Article 9 shall define rules and

details for the access to relevant information by the Audit Board and the provision of relevant information by Ukraine to the Audit Board.

9. ~~The Audit Board may assist the Commission in supporting Ukraine with capacity building activities in the field of fight against mismanagement of public funding.~~

~~10.~~ The functioning of the Audit Board shall be funded under Chapter V.

CHAPTER VII

Work programmes, monitoring, reporting and evaluation

Article 35
Work programmes

1. Assistance under the Facility shall be implemented by work programmes referred to in Article 110 of Regulation (EU, Euratom) 2018/1046. Implementing acts adopting work programmes shall be adopted in accordance with the examination procedure referred to in Article 39**, with the exception of acts of assistance provided on the basis of Articles 22(2) and 32(7)**.

2. Assistance under Chapter V of the Facility can also be implemented by specific work programmes when the implementation of this assistance does not require the conclusion of agreements referred to in Articles 9 and 10.

Article 36
Monitoring and reporting

1. The Commission shall monitor the implementation of the Facility and assess the achievement of the objectives set out in Article 3. The monitoring of implementation shall be targeted and proportionate to the activities carried out under the Facility.

2. The financing agreements and loan agreement referred to in Article 10 and 21 shall set out **r**ules and modalities for Ukraine to report to the Commission for the purpose of paragraph 1 of this Article.

3. The Union support provided under the Ukraine Investment Framework shall be reported in accordance with Article 27(8).

4. The Commission shall provide ~~an annual report~~ to the European Parliament and the Council **an annual report** on progress towards the achievement of the objectives of this Regulation**, complemented by quarterly presentations on the state of play of the implementation of the Facility**.

5. The Commission shall provide the report referred to in paragraph 4 to the Committee referred to in Article 39.

Article 37
Evaluation of the Facility

1. **By**~~After~~ 31 December **2026**~~7~~, ~~but by 31 December 2031 at the latest,~~ the Commission shall **provide the European Parliament and the Council with an independent interim** ~~carry out an *ex post*~~ evaluation **report on the implementation of the Facility, and by 31 December 2031 with an independent *ex post* evaluation report.**~~of the Regulation. That *ex-post* evaluation shall assess the Union contribution to the achievement of the objectives of this Regulation.~~

2. **The evaluation report shall, in particular, assess to which extent the objectives have been achieved, the efficiency of the use of the resources, the protection of the Union's financial interests and the European added value. It shall also consider the continued relevance of all objectives and actions.**

3. **Where appropriate, the Commission shall put forward proposals taking into account the results of the evaluation.**

4. **The *ex post* evaluation report shall consist of a global assessment of the Facility and shall include information on its impact in the long term.**

5. This *ex-post* evaluation shall make use of the good practice principles of the OECD Development Assistance Committee, seeking to ascertain whether the objectives have been met and to formulate recommendations with a view to improving future actions.

The Commission shall communicate the findings and conclusions of this *ex-post* evaluation accompanied by its observations and follow-up, to the European Parliament, the Council and the Member States. This *ex-post* evaluation may be discussed at the request of Member States. The results shall feed into the preparation of programmes and actions and resource allocation. These evaluations and follow-up shall be made publicly available.

The Commission shall, to an appropriate extent, associate all relevant stakeholders, including beneficiaries, social partners, civil society organisations and local authorities in the evaluation process of the Union's funding provided under this Regulation, and may, where appropriate, seek to undertake joint evaluations with the Member States and other partners with close involvement of Ukraine.

CHAPTER VIII

Final provisions

Article 38
Exercise of delegation

1. The power to adopt delegated acts shall be conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 31 shall be conferred on the Commission for an indeterminate period from seven days after the entry into force of this Regulation.

3. The delegations of power referred to in Article 31 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 31 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period **of** ~~one~~**two** month**s** of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by ~~one~~**two** month**s** at the initiative of the European Parliament or of the Council.

Article 39
Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. **Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.**

3. Where the opinion of the Ukraine Facility Committee is to be obtained by a written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Article 40
Information, communication and publicity

1. The Commission may engage in communication activities to ensure the visibility of the Union funding for the financial support envisaged in the Ukraine Plan, including through joint communication activities with Ukraine. The Commission may, as appropriate, ensure that support under the Facility is communicated and acknowledged through a funding statement.

2. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding, including, where applicable, by displaying the emblem of the Union and an appropriate funding statement that reads 'funded by the European Union – Ukraine Facility' **or** '**co-funded by the European Union – Ukraine Facility'**, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.

3. The Commission shall implement information and communication actions relating to the Facility, to actions taken pursuant to the Facility and to the results obtained. Financial resources allocated to the Facility shall also contribute to the corporate communication of the political priorities of the Union, insofar as they are related to the objectives referred to in Article 3.

Article 41
Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*