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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on establishing the Ukraine Facility

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

On 24 February 2022, Russia launched a full-scale military invasion of Ukraine, with devastating consequences for Ukraine and its people. More than fifteen months of intense fighting, heavy artillery shelling and airstrikes have resulted in high numbers of civilian casualties and immense human suffering. Russia's war of aggression has caused extensive damage to infrastructure and services across Ukraine and the wholesale destruction of cities and towns in some parts of the country. The resulting humanitarian crisis has displaced millions of Ukrainians from their homes and left many in desperate need of food, shelter and medical assistance. To this day, Russian aerial strikes continue to attack targets throughout the country. It will take years, if not decades, to heal the trauma of this senseless war.

The European Union, together with its Member States, has demonstrated unprecedented unity in condemning Russia's actions and in providing support to Ukraine. The EU, its Member States and European Financial Institutions have together provided wide-ranging support to Ukraine and its people, amounting to EUR 70 billion by May 2023. This includes EUR 38 billion in financial, budget support and humanitarian assistance[1], EUR 15 billion in military support, including through the European Peace Facility, and EUR 17 billion made available by the EU and its Member States to help cater for needs of people fleeing the war. In addition, the EU Solidarity Lanes established in May 2022 had by end May 2023 already provided EUR 31 billion in export revenue to Ukraine. EU Member States have also provided temporary protection for around 4 million people fleeing the country since the start of the war. This reflects the steadfast resolve of the Union to help Ukraine for as long as it takes.

Since the start of the war, the Union has also imposed unprecedented sanctions against Russia, adding to those imposed by the EU following the illegal annexation of Crimea in March 2014. Work is ongoing on the possible use of frozen assets to support Ukraine's recovery and reconstruction.

In March 2023, the World Bank together with the Ukrainian Government, the European Commission and the United Nations presented the updated assessment of damages covering a full year of the unprovoked Russian aggression against Ukraine[2]. The assessment found that the estimated overall reconstruction needs of Ukraine over the next 10 years amounts to EUR 384 billion, and to EUR 142 billion for the period 2023-2027. For 2023 alone, the immediate fast recovery needs stood at EUR 13 billion for priorities identified by the Government of Ukraine, taking into account the country's absorption capacity. These priorities include restoration and repair of energy and other critical and social infrastructure, housing, humanitarian demining, and support to the private sector.

In March 2023, the International Monetary Fund (IMF) Board approved a new extended arrangement covering the period 2023-2027 under the Extended Fund Facility of about EUR 14.5 billion. The IMF programme aims to anchor policies that sustain fiscal, external, price

[1] This figure includes around EUR 7.8 billion of the assistance provided by Member States (excluding military support) according to the last update at the end of January 2023.

[2] Rapid Damage and Needs Assessment (RDNA 2).

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 to EU accession.

The Union has committed to play a major role in Ukraine's reconstruction, and to support investments needed for rebuilding the country and reforms that will foster Ukraine's EU accession path[3]. These reforms will gradually align Ukraine's legislation with the Union *acquis* and foster its integration into the Single Market. They will in turn help attract investments in Ukraine by providing regulatory certainty and an improved business environment. The European Council invited[4] the Commission to make proposals on this basis[5].

Investment in Ukraine's recovery and reconstruction cannot wait until the end of the war. Active combat has remained largely contained to the south and east of the country, where the greatest extent of damages has also been sustained. However, the broader economic and social impact of the war is extensive, affecting all of Ukraine. Supporting the recovery of the Ukrainian economy requires concerted efforts to help ensure that economic activity is sustained, and basic infrastructure is repaired and maintained. This in turn will ensure that conditions are in place for the economy to recover, generating revenues for the State budget, and thereby progressively lowering the volume of the international assistance needed. Supporting Ukraine's reconstruction now also means maintaining or creating employment opportunities for Ukrainians, including the internally displaced and creating conditions for refugees to return to Ukraine.

The EU has already provided significant financial support to help Ukraine meet its short-term budgetary needs, and for Ukraine's fast recovery, through highly concessional loans channelled respectively through the Emergency Macro-Financial Assistance (EUR 1.2 billion in 2022), the Exceptional Macro-Financial Assistance (EUR 6 billion in 2022), and the Macro-Financial Assistance Plus (MFA+) programme (EUR 18 billion in 2023) and a EUR 1 billion package that combines funds under the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI) and loans from the European Investment Bank backed by the EU budget.

The EU has eliminated custom tariffs under the Deep and Comprehensive Free Trade Area (DCFTA) and has included Ukraine in the EU's Single Market Programme to support its small and medium-sized enterprises. A revised priority action plan for enhanced implementation of the EU-Ukraine DCFTA in 2023-2024 has been adopted to accelerate Ukraine's integration in the Single Market.

The EU has opened the possibility for Ukraine to submit joint projects with EU Member States for the development of border-crossing points under the Connecting Europe Facility (CEF). Measures were swiftly taken to facilitate the participation of Ukrainian displaced persons to the Erasmus for Young Entrepreneurs programme, leading to the highest number ever of beneficiaries from Ukraine in 2022.

However, given the scale and complexity of the challenge ahead, a longer-term solution is needed to ensure that funding is well coordinated and used efficiently, and ties recovery and

[3] COM(2022) 233 final
[4] EUCO 21/22
[5] EUCO 24/22

reconstruction to Ukraine's accession track. To this end, **the Commission proposes to create a new instrument, the Ukraine Facility (the 'Facility')**, that can cater both for short-term recovery needs and medium-term reconstruction and modernisation of Ukraine. The Facility is designed as a flexible instrument, adapted to the unprecedented challenges of supporting a country at war, while ensuring predictability, transparency, and accountability of the funds. This proposal reflects the risk of a prolonged conflict, and the need for continued macro-financial assistance.

The Facility is organised around three pillars:

1. **Pillar I covers financial support in the form of both non-repayable support and loan support to Ukraine**. For this support to be disbursed, the Government of Ukraine will prepare a Plan in close consultation with the Commission, which will be endorsed by the EU. This Plan will encompass Ukraine's vision for the recovery, reconstruction and modernisation of the country and for the reforms it intends to undertake as part of its EU accession process. Funds will be provided based on the implementation of the Plan, which will be underpinned by a set of conditionalities and a timeline for disbursements. Significant emphasis will be placed on public administration reform, good governance, the rule of law, and sound financial management, including fostering efficient and effective management and control systems and a strong focus on anti-corruption and anti-fraud, but also other reforms and approximation to the Union *acquis* that would underpin the accession process and modernisation of the economy. Funds will be disbursed based on the fulfilment of these conditionalities.

2. **Pillar II is a *Ukraine Investment Framework***, designed to attract private and public investments in Ukraine's recovery and reconstruction, supporting the implementation of the Plan. It will complement all existing financial instruments for Ukraine (blending and guarantees), with the possibility of scaling them up, when conditions allow for it.

3. **Pillar III provides technical assistance and other supporting measures***,* including mobilisation of expertise on reforms, grants to municipalities, and other forms of bilateral support normally available for pre-accession countries under the Instrument for Pre-Accession (IPA) supporting the objectives of the Plan. It may also support other measures aimed at addressing the consequences of the war, for example relating to war damages. Pillar III will also cover the interest rate subsidies for the loans provided to Ukraine under Pillar I.

The proposed instrument aims to equip the EU with a legal basis that would allow it to match its political ambition with its financial leverage, in line with its long-term commitment. With a Plan proposed by and agreed with Ukraine serving as the overarching framework for reforms and investments, the proposed instrument goes beyond what can be offered by existing instruments, such as macro-financial assistance and NDICI.

The Plan will include conditions linked to:

- essential requirements (macro-financial stability, budget oversight, public financial management, etc.). Conditions may be defined so as to reflect satisfactory progress towards the fulfilment of these requirements; and

- sectoral and structural reforms, and investments. The conditions will be broken down into intermediate steps with a timeline for completion.

Payments will occur according to a fixed quarterly schedule, based on payment requests submitted by Ukraine and following verification by the Commission of the fulfilment of the relevant conditionalities. In case a conditionality is not fulfilled, the Commission will deduct a corresponding amount from the payment. The disbursement of the corresponding withheld funds may take place during the next payment windows and up to one year after the original deadline set out in the Plan, provided the conditionalities have been fulfilled. The quarterly frequency of payment windows will ensure both predictability of support to Ukraine and a constant policy dialogue between the Commission and Ukraine.

Recovery and reconstruction is not only about rebuilding what was destroyed. It is about building a modern and vibrant Ukraine, ensuring that the recovery, reconstruction and modernisation is sustainable, resilient and future-proof, based on the 'do no harm' and 'leave no one behind' principles. It is about investing in the transition of Ukraine towards a green, digital and inclusive economy that is progressively aligning with EU rules and standards. Ukraine should rebuild its cities in a high-quality, sustainable and inclusive way, inspired by the New European Bauhaus.

Recovery and reconstruction is also about reconstructing and modernising the country, and integrating it into the EU's Single Market, while ensuring that sub-national authorities, in particular municipalities, are closely associated and consulted in this process, and that the decentralisation reform is at the heart of it. The peer-to-peer cooperation between the EU and Ukrainian cities and regions and continued access to the cross-border cooperation programmes will also constitute a vital part of Ukraine's recovery, reconstruction and modernisation. Involvement of private actors, notably businesses and investors, will be an essential component of the recovery and reconstruction.

The proposal is equipped with a strong system of audit and controls set out in a multilayer mechanism: first, the reform of the audit and control systems of the State will be needed as part of the reforms under the Plan; second, the Commission will be able to carry out checks of the implementation of the funds spent in relation with the Plan at any moment of the project cycle; third, an independent Audit Board will report to the Commission on possible mismanagement of funds under the whole Facility. Although this multilayer mechanism will apply to the overall Facility, control mechanisms related to the Ukraine Investment Framework and to technical assistance will be based on the systems, rules and procedures of the International Finance Institutions and implementing partners involved in the implementation.

Finally, donor coordination will be essential to ensure that available resources are spent in the most effective and targeted way to match the needs of Ukraine and its people. To this end, full use should be made of the G7 **Multi-agency Donor Coordination Platform** for Ukraine launched in January 2023. The Plan to be developed by the Government of Ukraine for the purpose of this Facility could also serve to guide other donors' assistance programming to Ukraine.

- **Consistency with existing policy provisions in the policy area**

The support under this Facility will be consistent with and complementary to other forms of bilateral support for Ukraine provided through other EU instruments, including humanitarian aid[6], and regional and cross-border, thematic, and crisis response funding under the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI)[7]. The Facility will not cover humanitarian aid, defence or support to people fleeing the war, which will continue to be funded via existing instruments. The Facility will replace existing bilateral support provided to Ukraine (MFA+, NDICI bilateral allocation). It will also replace support that Ukraine would have received under the Instrument for Pre-accession Assistance.

- **Consistency with other Union policies**

The implementation of the Regulation will be consistent with other areas of external action (e.g. humanitarian assistance, development cooperation). The integrated approach of the Ukraine Plan allows to cover the needs as regards recovery, reconstruction and modernisation of Ukraine and to tie them with Union accession requirements, to ensure consistency with all relevant EU policies.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This proposal is based on Article 212 and Article 322 of the Treaty on the Functioning of the European Union. It is presented by the Commission in accordance with the procedure laid down in Article 294 of the Treaty on the Functioning of the European Union.

- **Subsidiarity (for non-exclusive competence)**

The size of damages caused to Ukraine by Russia's war of aggression is such that Ukraine will require extensive and sustained support that no Member State could provide alone. The EU is in a unique position to deliver external assistance to Ukraine over the long term in a timely, coordinated and predictable manner. The EU can leverage its borrowing capacity to lend to Ukraine on advantageous terms and cover the costs of interest rates, as well as to provide grants and guarantees in a multi-annual perspective.

With its presence on the ground in Ukraine through its Delegation, the EU can ensure comprehensive access to information on developments affecting the country. The EU is also a party to most of the multilateral processes aiming at addressing challenges that Ukraine is facing. This allows the EU to be constantly aware of new needs and circumstances and, therefore, to adapt support according to evolving needs, coordinating closely with other national or international donors.

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[6] Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid

[7] 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 of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (Text with EEA relevance)

The objective of preparing candidate countries and potential candidates for Union membership can also be best addressed at Union level.

- **Proportionality**

The proposal complies with the proportionality principle in that it does not go beyond the minimum required to achieve the stated objectives at the European level and which is necessary for that purpose.

The Facility is proposed as a targeted response to the specific circumstances of Ukraine due to the Russian war of aggression. Its structure is based on either the continuation of existing support (e.g. NDICI bilateral support), or along the same model (e.g. guarantees and financial instruments), or based on existing, but simplified instruments (performance-based instruments), brought together under a single instrument to enhance coherence, effectiveness, efficiency and EU added-value.

- **Choice of the instrument**

In accordance with Article 212 of the Treaty on the Functioning of the European Union, which sets out the ordinary legislative procedure to be used to adopt measures for implementing cooperation with third countries, the proposal takes the form of a Regulation, ensuring its uniform application, binding nature in its entirety, and direct applicability.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

A formal stakeholder consultation could not be carried out due to the urgency of preparing the proposal so that it can be adopted in a timely manner by the co-legislators to render it operational as of beginning of 2024, when new needs will have to be met relating to the war and related damages, as well as for recovery and reconstruction.

The EU will ensure appropriate communication and visibility around the objectives and the actions delivered within the scope of this Facility, in Ukraine, within the Union, and beyond.

- **Impact assessment**

Due to the urgent nature of the proposal, which is designed to provide assistance to a country at war as of beginning of 2024, no impact assessment could be carried out. The ex ante assessment of needs proposed to be covered by the Ukraine Facility draw upon recent data from the International Monetary Fund and from the updated Ukraine Rapid Damage and Needs Assessment[8], which was prepared by the World Bank together with the Commission, the UN and the Ukrainian Government. An analytical document in the form of a staff working document presenting the evidence behind the proposal and cost estimates will be prepared within three months of the initiative's adoption.

[8] Ukraine Rapid Damage and Needs Assessment: February 2022 - February 2023 (English). Washington, D.C.: World Bank Group. http://documents.worldbank.org/curated/en/099184503212328877/P1801740d1177f03c0ab180057556615497

- **Fundamental rights**

A pre-condition for granting support under the instrument is that Ukraine continues to respect effective democratic mechanisms and its institutions, including a multi-party parliamentary system, the rule of law, and to guarantee respect for human rights, including the rights of persons belonging to minorities. The commitment to reforms and the strong political will expressed by the Ukrainian authorities are positive signs, in particular as evidenced by the European Council granting candidate status to Ukraine in June 2022 and by the renewed successful completion of the structural policy conditionality attached to the recent macro-financial assistance (MFA) operations to Ukraine. Since the Russian aggression, the Ukrainian authorities have shown an impressive degree of resilience and have remained committed to pursue these reforms in a transparent manner, while working towards EU standards and in line with the country's path towards EU integration.

4. BUDGETARY IMPLICATIONS

The maximum resources for the implementation of the Facility shall be EUR 50 billion (in current prices) for 2024-2027 for all types of support. The Facility will be funded by:

(a) loans guaranteed over and above the multiannual financial framework (MFF) ceilings;

(b) a new special instrument, over and above the ceilings of the MFF, the Ukraine Reserve, as part of the amendment to Council Regulation (EU, Euratom) 2020/2093. Such Reserve may support all expenditure other than in the form of loans, including non-repayable support, grants and provisioning for guarantees.

The amendment to the MFF Regulation[9] also establishes that the Ukraine Reserve shall aim at providing at least EUR 2.5 billion in current prices as an annual indicative amount.

The Ukraine Reserve may be mobilised by the European Parliament and the Council in the framework of the budgetary procedure, provided for in Article 314 TFEU.

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 will be added to the resources for the Facility.

[9] COM(2023) 337 final

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Regulation sets out detailed provisions relating to monitoring and reporting.

The Commission will continuously monitor the implementation of the Facility. Specifically, a monitoring system should be put in place by Ukraine and Ukraine will be expected to report to the Commission annually on its implementation of the part of the Ukraine Plan covered by the Facility. This will include reporting on Ukraine's internal control system and on any amounts unduly paid or misused, and eventually recovered by the EU. Proportionate reporting requirements will be required of recipients of Union funding implemented under the second and third pillars of the Facility.

The Commission will provide the European Parliament, the Council and the Committee referred to in Article 39 of the Regulation with an annual assessment of the implementation of funds provided under the Facility.

The Commission will also carry out an ex-post evaluation of the Regulation.

- **Detailed explanation of the specific provisions of the proposal**

This Regulation establishes the Ukraine Facility.

Chapter I (General provisions) covers the subject matter and structure of the Facility in three pillars (Article 1), the definitions (Article 2), the general and specific objectives of the Facility (Article 3), the general principles (Article 4) and the precondition for support (Article 5).

Chapter II (Financing and implementation) sets the financial envelope of the Facility in non-repayable financial support and loans (Article 6), and lays down the procedures for potential additional contributions from Member States, third countries or other sources (Article 7). Article 8 details the forms of implementation for the pillars of the Facility, i.e. direct and indirect management in accordance with the Financial Regulation. Articles 9 and 10 respectively cover the Framework agreement to be signed between the Commission and Ukraine laying down in particular the audit and control provisions, and the financing agreements to be signed under the first and third pillar, including obligations and conditions for the disbursement of payments. Rules on eligibility of recipients and provisions for carry-overs, annual instalments, commitment appropriations, surpluses from the budgetary guarantee, repayments and revenue generated by financial instruments are covered in Articles 11 and 12, respectively. Article 13 foresees the possibility of providing support to maintain the macro-financial stability of Ukraine under exceptional circumstances, especially related to the war, and subject to the fulfilment of the precondition under Article 5. This exceptional financing would cease as soon as the fulfilment of conditions becomes possible again.

Chapter III (Ukraine Plan) details the functioning of the first pillar of the Facility, beginning with the role of the Ukraine Plan (Article 14) as the overarching framework for the three pillars and to achieve the objectives of the Facility and the general principles for financing, including the types of conditions for disbursements (Article 15). Articles 16 and 17 present the Ukraine Plan to be submitted by Ukraine, the procedure for doing so, and the elements that the Plan should contain, including reforms and investments to be financed by the Facility, the involvement of the sub-national authorities, and the systems to prevent and correct irregularities, fraud, corruption and conflicts of interests, when using the funds provided under

the Facility. The Commission will proceed to assess the Plan according to the criteria laid out in Article 18, and make a proposal for the Council implementing decision as described in Article 19, which will lay down, among others, the indicative non-repayable financial support and indicative amount of the loan support to be disbursed against the satisfactory fulfilment of the conditions, the time limit for such fulfilment, and the pre-financing for which Ukraine will be eligible. Article 20 provides for the possibility for the Commission or Ukraine to make a proposal to amend the Ukraine Plan. Article 21 covers the loan agreement to be signed between the Commission and Ukraine, and the rules governing the borrowing by the Commission on the markets. Article 22 provides for the possibility for Ukraine to request the Commission to bear the borrowing costs subsidy, which will be covered under the third pillar of the Facility. The rules for the payment of pre-financing to Ukraine, subject to the respect of the precondition described in Article 5, are laid out in Article 23. Article 24 provides the conditions and procedure for the disbursement to Ukraine of exceptional bridge financing. Article 25 details the procedure for the disbursements under the first pillar, upon fulfilment of the conditions set out in the Plan. Payments will take place on a quarterly basis, following the submission by Ukraine of a payment request demonstrating the satisfactory fulfilment of the relevant conditions. In case of a negative assessment by the Commission, a part of the amount corresponding to the conditions not fulfilled will be withheld. The payment withheld would only be disbursed once Ukraine has duly justified, as part of a subsequent payment request, that it has taken the necessary measures to ensure satisfactory fulfilment of the relevant conditions. Article 26 provides for the obligation by Ukraine to publish the data on persons and entities receiving amounts of funding exceeding the equivalent of EUR 500,000 for the implementation of reforms and investments specified in the Ukraine Plan, and the categories of data to be published.

Chapter IV (Ukraine Investment Framework) describes the second pillar of the Facility, which aims to support investments and provide access to finance conducive to the implementation of the Ukraine Plan. The scope and structure of the Framework are defined in Article 27. Article 28 provides for the possibility of additional contributions from Member States, third countries and third parties. The Chapter also details the Ukraine Guarantee (Articles 29 and 30) and sets its provisioning rate and the procedure for its review (Article 31).

Chapter V (EU accession assistance and support measures) covers the implementation of the third pillar of the Facility, which will support Ukraine's progressive alignment to the Union *acquis* and progressive integration into the Single Market with a view to future Union membership, as well as strengthen the capacities of stakeholders and local authorities and provide funding for initiatives and bodies involved in supporting and enforcing international justice in Ukraine (Article 32).

Chapter VI (Protection of the financial interests of the Union) lays out the provisions to be followed by the Commission and Ukraine to ensure effective controls over the implementation of the Facility. Article 33 details the obligations to be reflected in the Framework, Financing and Loan agreements, which will include appropriate measures to prevent, detect and correct fraud, corruption, conflicts of interests and irregularities affecting the financial interests of the Union, to avoid double funding and to take legal action to recover funds that have been misappropriated, the collection of adequate data on the recipients of funds under the Facility and the rights to be granted to the Commission, the European Anti-Fraud Office (OLAF), and the European Public Prosecutor's Office (EPPO) where applicable. Article 34 establishes an Audit Board to be composed of independent members appointed by the Commission, which will assist the Commission in protecting the financial interests of the

Union and in ensuring the sound management by Ukraine of Union funding under the Facility.

Chapter VII (Work programmes, monitoring, reporting and evaluation) covers the work programmes through which assistance under the Facility will be implemented (Article 35), the provisions for setting out the indicators and results frameworks used in the monitoring and evaluation (Article 36), and the ex-post evaluation of the Facility (Article 37).

Chapter VIII (Final provisions) lays down the exercise of the delegation of powers with respect to the provisioning rate (Article 38), the comitology procedure (Article 39), the provisions on information, communication and publicity (Article 40) and on entry into force (Article 41).

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[10] 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.

(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

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

Council[11] 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[12] and loans by the European Investment Bank.

(6) In addition, in its Decision (CFSP) 2021/509[13], 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 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[14] of the European Parliament and of the Council, as amended by Regulation (EU) 2021/836 of the European Parliament and the Council[15], 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[16] 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.

(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

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11 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).

12 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).

13 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).

14 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).

15 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).

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

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 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 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'), 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) The Ukraine Facility 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, 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) 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 forms of support under NDICI, including 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 Ukrainian refugees fleeing the war should be provided outside the Facility. In addition, Ukraine may continue to benefit from relevant existing Union programmes.

(17) The Facility should contribute to closing the funding gap of Ukraine until 2027, by providing grants and highly concessional financial relief 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 provide decent living conditions for the Ukrainian population, to ensure generation of employment and revenues and progressively 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 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 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 territorial approach to local development, including decentralisation processes, participation 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, the European Bank for Reconstruction and Development, the World Bank, the Organisation for Economic Co-operation and Development, and the International Monetary Fund.

(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 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.

(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 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 economy and in the recovery, reconstruction and modernisation of its critical infrastructure, productive capacity and human capital in a resilient way.

(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 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 protect and promote women's and girls' rights in line with 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.

(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, 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.

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

(38) Actions under the Ukraine Facility should also support, where appropriate, confidence-building measures and processes that promote justice, truth-seeking, reparations and guarantees of non-recurrence as well as collection of evidence of crimes committed during the war.

(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.

(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 recovery, and modernisation of the country; in fostering social, 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 and social protection, protecting vulnerable groups 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.

(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[17], up to EUR 50 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.

(49) The mobilisation of the Ukraine Reserve should aim at providing at least an annual indicative amount for support, other than in the form of loans, in accordance with Article 10b of the proposed amendment to Council Regulation (EU, Euratom) 2020/2093[18].

(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

[17] COM(2023)337 final.
[18] Ibidem.

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[19]. As a consequence, the amendment to Council Regulation (EU, Euratom) 2020/2093[20] proposes to mobilise 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.

(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, 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 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.

(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.

(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

[19] 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).

[20] COM(2023) 337 final

constitute external assigned revenue within the meaning of Article 21(2)(a)(ii), (d), and (e) of Regulation (EU, Euratom) 2018/1046.

(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. 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. 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. 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.

(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 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. 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 also include an explanation of Ukraine's system to effectively prevent, detect and correct irregularities, corruption, fraud and conflicts of interests, 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 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 Council.

(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 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 verification by the Commission of the satisfactory fulfilment of the relevant conditions. 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 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 exceeding the equivalent of EUR 500 000 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 OLAF, 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 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.

(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, 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.

(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.

(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, 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 provide the Commission with information on possible mismanagement of funds. 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) Work programmes 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. 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[21].

(99) The Commission will 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,

[21] 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).

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1
Subject matter

1. This Regulation establishes the Ukraine Facility (the 'Facility').

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:

(a) 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;

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

(c) Pillar III: technical assistance and related support to Ukraine to design and implement EU accession-related reforms and to foster Ukraine's administrative capacity, 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 finance institutions, 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 recovery, reconstruction and modernisation of the country;

   (b) foster social, 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 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, disabled people, minorities and other vulnerable persons; contribute to the demining effort;

   (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 and improve social infrastructure, such as housing, healthcare facilities, schools and higher education institutions, and research infrastructure; strengthen economic and social development, with particular attention to women and youth, including through quality education, training, reskilling and upskilling, and employment policies, including for researchers; 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, as well as on agriculture and rural development, aquaculture and fisheries; restructure Ukraine's financial markets, including banking sector and capital markets; increase domestic revenue mobilisation; strengthen Ukraine's ability to trade;

   (d) further strengthen the rule of law, democracy, the respect of human rights and fundamental freedoms, including through promoting an independent judiciary,

reinforced security, the fight against fraud, corruption, organised crime and money laundering, tax evasion and tax fraud; compliance with international law; strengthen freedom of media 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; 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 and State aid; support initiatives and bodies involved in supporting and enforcing international justice in Ukraine;

(e) develop and strengthen a sustainable 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 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.

4. Activities under the Facility shall mainstream climate change mitigation and adaptation, environmental protection, human rights, democracy, gender equality and, 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. They should 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.

7. The Commission, in 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 may adopt a decision concluding that this precondition is not met, and in particular, suspend 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.

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 % in the form of non-repayable financial support pursuant to Chapter III of this Regulation;

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

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

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

2. The financial support pursuant to Chapter III in the form of a loan, shall be available for an amount of up to EUR 50 000 000 000 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 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. Whenever possible, the implementation of financial instruments, budgetary guarantees and blending operations under the Facility shall be complemented by additional forms of financial support, from either Member States or third parties.

Article 9
Framework agreement

1. The Commission 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, as well as to prevent, investigate and correct irregularities, fraud, corruption and conflicts of interest. 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 lay down, in particular, detailed provisions concerning, in particular:

   (a) the commitment of Ukraine to progress towards more efficient and effective control systems, and to strengthen the fight against money laundering, terrorism financing, tax avoidance, tax fraud or tax evasion;

   (b) the activities related to control, supervision, monitoring, evaluation, reporting and audit of Union funding under the Facility, as well as investigations, anti-fraud measures and cooperation;

   (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 without delay of suspected or actual cases of irregularities, fraud, corruption and conflict of interests 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;

(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).

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, 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[22];

(b) countries 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 after consulting Ukraine.

[22] 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.

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 cease as soon as the fulfilment of the conditions becomes possible again.

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.

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).

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.

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 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 eligible provided that they comply with the requirements set out in this Regulation.

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, 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 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 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 economic, social, environmental and territorial development, 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;

(h) an explanation of Ukraine's system to effectively prevent, detect and correct irregularities, fraud, corruption and conflicts of interests, when using 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;

(i) any other relevant information.

3. The Ukraine Plan shall be results-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, 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 may make observations or seek additional information.

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, 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, 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 economic, social, environmental and territorial development, 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; 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 prevent, detect and correct irregularities, fraud, corruption and conflicts of interests, when using the funds provided under the Facility, and are expected to allow avoiding double funding from the Facility and other Union programmes as well as other donors.

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).

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 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 non-repayable financial support and indicative 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;

(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 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.

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 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).

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.

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. Ukraine may request 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 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, the 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, 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, the Commission may decide to provide limited, exceptional support to Ukraine for a period of up to three months 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 between the Commission and Ukraine, to the respect of the precondition mentioned in Article 5, to compliance with Article 6 and to available funding.

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 for payment of the non-repayable financial support and of the loan, and the Commission shall pay the relevant non-repayable financial support and loan, on the basis of the assessment described in paragraph 3.

3. The Commission shall assess without undue delay whether Ukraine 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 adopt without undue delay 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, 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 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 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 reduce the amount of the non-repayable financial support and of the loan proportionately to the part corresponding to the relevant qualitative and quantitative steps. Ukraine may present its observations within two months from the communication of the Commission's conclusions.

7. The Commission may reduce the amount of the non-repayable financial support, including by offsetting in line with Article 102 of Regulation (EU, Euratom) 2018/1046, or of the loan to be disbursed to Ukraine as referred to in paragraph 4, 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, 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 exceeding the equivalent of EUR 500 000 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, 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.

2. The Commission shall be supported by an operational board in the implementation of the Ukraine Investment Framework. The Commission shall propose the rules of procedure for the operational board.

3. The operational board of the Ukraine Investment Framework shall comprise representatives of the Commission, of each Member State, and representatives of Ukraine. 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 board.

4. The operational board shall provide advice to the Commission on 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.

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 fair 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 8 914 000 000 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:

   (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, taking into account the protection of confidential and commercially sensitive information.

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.

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 reporting of the risks covered by the Ukraine Guarantee, 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 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.

10. The European Fund for Sustainable Development Plus+ risk management framework referred to in Articles 33(7) and (8) of Regulation (EU) 2021/947 shall apply to the Ukraine Guarantee. 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.

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.

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, democracy, respect of human rights and fundamental freedoms, 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 confidence-building measures and processes that promote justice, truth-seeking, 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.

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, conflicts of interests and irregularities. 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.

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;

(b) to take appropriate measures to prevent, detect and correct fraud, corruption, conflicts of interests and irregularities 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;

(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, the Court of Auditors and, where applicable, EPPO to exert their rights as provided for in Article 129(1) of Regulation (EU, Euratom) 2018/1046, in application of the principle of proportionality.

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 affecting

financial interests of the Union without delay, to the Audit Board referred to in Article 34, the Commission and OLAF.

Article 34
Audit Board

1. The Commission shall establish an Audit Board 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.

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.

   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 may be shared with the relevant Ukrainian authorities, especially in case they need to take steps to prevent, detect and correct fraud, corruption, conflict of interests and irregularities.

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.

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 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 on progress towards the achievement of the objectives of this Regulation.

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. After 31 December 2027, but by 31 December 2031 at the latest, the Commission shall carry out an *ex-post* evaluation of the Regulation. That *ex-post* evaluation shall assess the Union contribution to the achievement of the objectives of this Regulation.

2. 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 month 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 month 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.

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’, 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*

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

1.2. Policy area(s) concerned

1.3. The proposal/initiative relates to:

1.4. Objective(s)

1.4.1. General objective(s)

1.4.2. Specific objective(s)

1.4.3. Expected result(s) and impact

1.4.4. Indicators of performance

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention, which is additional to the value that would have been otherwise created by Member States alone.

1.5.3. Lessons learned from similar experiences in the past

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

1.5.5. Assessment of the different available financing options, including scope for redeployment

1.6. Duration and financial impact of the proposal/initiative

1.7. Method(s) of budget implementation planned

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

3.2.2. Estimated output funded with operational appropriations

3.2.3. Summary of estimated impact on administrative appropriations

3.2.3.1. Estimated requirements of human resources

3.2.4. Compatibility with the current multiannual financial framework

3.2.5. Third-party contributions

3.3. Estimated impact on revenue

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council on establishing the Ukraine Facility

1.2. Policy area(s) concerned

EU relations with the rest of the world

1.3. The proposal/initiative relates to:

☒ **a new action**

☐ **a new action following a pilot project/preparatory action**[23]

☐ **the extension of an existing action**

☐ **a merger or redirection of one or more actions towards another/a new action**

1.4. Objective(s)

1.4.1. General objective(s)

The strategic objective of the Ukraine Facility is to provide an integrated, medium-term policy response to Ukraine's recovery, reconstruction and modernisation needs, also supporting Ukraine's accession path.

The Facility is designed as a flexible instrument, adapted to the uncertainty and unprecedented challenge of supporting a country at war, while ensuring predictability, transparency, and accountability of the funds.

1.4.2. Specific objective(s)

The Facility will support Ukraine's efforts to recover from the impacts of the war, rebuild and modernise the country whilst implementing key reforms on its EU accession path, with the aim to support Ukraine's transition towards a green, digital, and inclusive economy that is progressively aligned with Union rules and standards.

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

Support under the Facility is expected to enable Ukraine to implement reforms and investments needed for its recovery, reconstruction and modernisation, raise the growth rate of the Ukrainian economy and help the country emerge stronger after the war. It is also expected to promote Ukraine's convergence with the Union.

[23] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

1.4.4. Indicators of performance

Specify the indicators for monitoring progress and achievements.

Output indicators:

Adoption of the Ukraine Plan by the Council;

Overall financial contribution allocated to the plans;

Result indicators:

Implementation of the Ukraine Plan;

Impact indicators:

The objectives set out in Article 3, in particular as regards recovery, reconstruction and modernisation, as well as alignment of Ukraine with the Union *acquis*, and the objectives set in the Ukraine Plan, being achieved due, inter alia, to the financial support received.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

Russia's war of aggression has caused extensive damage to infrastructure and services across Ukraine. The resulting humanitarian crisis has displaced millions of Ukrainians from their homes and left many in desperate need of food, shelter and medical assistance.

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention, which is additional to the value that would have been otherwise created by Member States alone.

Action at Union level is necessary to achieve a fast and robust Ukraine reconstruction, and to support investments needed for rebuilding the country and reforms that will foster Ukraine's EU accession path. The size of damages caused to Ukraine by Russia's war of aggression is such that Ukraine will require extensive and sustained external support that no Member State, or single donor, could provide alone. The Union is in a unique position to deliver multi-annual external assistance to Ukraine in a timely, coordinated and predictable manner. The Union can leverage its borrowing capacity to lend to Ukraine on advantageous terms and cover the costs of interest rates, as well as providing grants and guarantees in a multi-annual perspective.

1.5.3. Lessons learned from similar experiences in the past

While the Facility is to a large extent an unprecedented instrument designed to respond to a specific situation faced by a country at war, which is a neighbouring

country of the Union as well as being a candidate for membership of the Union, the proposal Facility builds on the experience of past and current support provided to Ukraine and other third countries, as well as on the lessons learned from the Recovery and Resilience Facility, which was established in 2020, while accounting for the specific circumstances of Ukraine being a country at war.

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

The proposed Facility aims at equipping the Union with a legal instrument which will allow it to ensure an integrated and consistent approach to supporting Ukraine. This single, integrated instrument will encompass and thereby replace existing bilateral support provided to Ukraine through separate instruments (Macro-financial assistance+, NDICI) while providing support that Ukraine, as a candidate country, would normally receive under the Instrument for Pre-accession Assistance. This will enhance coherence, effectiveness, efficiency and EU added value of the Union's support to Ukraine. It will contribute to leveraging the use of Union funds and avoiding duplication.

This new legislative proposal for the Ukraine Facility is accompanied by a proposal for a Council Regulation COM(2023) 337, amending Regulation 2020/2093 laying down the multiannual financial framework (MFF) for the years 2021 to 2027 (see sections 1.5.5 and 3.2.4).

The overall amount of the Facility proposed in the context of the MFF mid-term review is to be provided through loans, non repayable support, and provisioning for budgetary guarantees. The amount other than in the form of loans is to be decided by the Council and the European Parliament as part of the annual budgetary procedure. The overall amount of disbursements of the loans will take into account the amounts made available for all other forms of support and the overall maximum amount of EUR 50 billion for 2024-2027.

1.5.5. Assessment of the different available financing options, including scope for redeployment

The Union budget provided tremendous support through flexibilities and re-prioritisations, but the 2021-2027 MFF was not designed to address the consequences of a war in Europe. Ukraine's liquidity needs for macro-financial stability remain high, and investment in Ukraine's fast recovery and reconstruction cannot wait until the war ends. The Union should be in a position to provide support for evolving needs, with the ability to adjust and scale up forms of support over time. Sustaining economic activity and rebuilding basic infrastructure would generate employment and revenues, give refugees a perspective to return home, raise revenues for the state budget, attract private sector investment and, ultimately, lower the volume of international assistance needed.

To cater for Ukraine's short-term recovery as well as long-term reconstruction, the Commission proposes to establish the Ukraine Facility. Support will be provided in the form of repayable (loans) and non-repayable support and provisioning for budgetary guarantees.

The Facility will be funded by loans guaranteed over and above the MFF ceilings as well as a new special instrument over and above the ceilings of the MFF, the Ukraine Reserve, as part of the amendment to Council Regulation (EU, Euratom) 2020/2093[24]. The Ukraine Reserve may support all expenditure other than in the form of loans, including non-repayable support, grants and provisioning for guarantees. The amendment to the MFF Regulation also establishes that the Ukraine Reserve shall aim at providing at least EUR 2.5 billion in current prices as an annual indicative amount.

Member States, third countries, international organisations, international financial institutions or other sources may provide additional financial contributions to the Facility, which will 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 will be added to the resources for the Facility.

[24] COM(2023) 337 final

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

– ☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY

– ☒ Financial impact from 2024 to 2027 for commitment appropriations and from 2024 for payment appropriations.

☒ **unlimited duration**

– Implementation with a start-up period from YYYY to YYYY,

– followed by full-scale operation.

1.7. Method(s) of budget implementation planned[25]

☒ **Direct management** by the Commission

– ☐ by its departments, including by its staff in the Union delegations;

– ☐ by the executive agencies

☐ **Shared management** with the Member States

☒ **Indirect management** by entrusting budget implementation tasks to:

– ☐ third countries or the bodies they have designated;

– ☐ international organisations and their agencies (to be specified);

– ☐ the EIB and the European Investment Fund;

– ☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;

– ☐ public law bodies;

– ☐ bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;

– ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;

– ☐ bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

– *If more than one management mode is indicated, please provide details in the 'Comments' section.*

[25] Details of budget implementation methods and references to the Financial Regulation may be found on the BUDGpedia site: https://myintracomm.ec.europa.eu/corp/budget/financial-rules/budget-implementation/Pages/implementation-methods.aspx

Comments

Article 8 details the forms of implementation for the pillars of the Facility, i.e. direct and indirect management in accordance with the Financial Regulation.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Specific indicators will be defined in the Ukraine Plan, so that the fulfilment of the conditions attached to the support under Pillar I can be monitored. Under Pillar I of the Facility, Ukraine will submit according to a fixed quarterly schedule a duly justified request for payment of the non-repayable financial support and of the loan, setting out how the satisfactory fulfilment of those conditions has been achieved, based on indicators identified in the Decision approving the Plan.

Under Pillar II of the Facility, the Commission will report on the implementation of the support provided 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 will provide, on an annual basis, the information necessary to allow the Commission to comply with its reporting obligations.

The Commission will report annually to the European Parliament, the Council, and the Committee referred to in Article 39 on the implementation of funds provided under the Facility.

The Commission will also carry out an ex-post evaluation of the Regulation.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The Facility will be implemented under direct and indirect management. While pillar II will mainly be implemented under indirect management (through guarantee agreements concluded with pillar assessed financial institutions), and pillar III through a mix of direct management (e.g. grant, including twinning and procurement) and indirect management (through cooperation with pillar assessed entities), the main management mode for pillar I will be direct management with direct transfer of funds to Ukraine State Budget.

The control strategy will be adapted to the implementation under each of these pillars with use of monitoring, evaluation and audits.

Special attention will be paid to implementation by Ukraine of the funds made available under Pillar I. Payments will occur according to a fixed quarterly schedule, based on payment requests submitted by Ukraine and following verification by the Commission of the fulfilment of the relevant conditionalities. The quarterly frequency of payment windows will ensure both predictability of support to Ukraine and a constant policy dialogue between the Commission and Ukraine.

The multilayer structure of the control mechanisms in place (see also section 2.3) provides an integrated framework to ensure that all the appropriate measures to protect the financial interests of the Union are in place. It will guarantee that the principle of proportionality is taken into account and the specific conditions under which the Facility will operate.

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

The main risk identified in relation to the financing relates to the non-achievement of conditions associated to the disbursement of funding.

The measures that will be put in place to mitigate this risk are the following:

- assessment by the Commission of the fulfilment of relevant conditions before the disbursement of funds, with possibility of withholding the funds;
- reduction of support provided, or recovery of any amount spent to achieve the objectives of the Facility, 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 the agreements concluded with Ukraine
- suspension of funding in the event that Ukraine fails to fulfil the precondition set out in Article 5.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

Financial contribution will be provided to Ukraine in the form of financing not linked to cost referred to in point (a) of Article 125(1) of the Financial Regulation.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The proposal contains specific provisions for the protection of the financial interests of the Union. The Facility will be equipped with a strong system of audit and controls set out in a multilayer mechanism: first, the reform of the audit and control systems of the Ukrainian State will be needed as part of the reforms under the Ukraine Plan; second, the Commission will be able to carry out checks of the implementation of the funds spent in relation with the Plan at any moment of the project cycle; third, an independent Audit Board will report to the Commission on possible mismanagement of funds under the whole Facility.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Multiannual financial framework- expenditure budget line(s) affected

- New budget lines requested

Over and above MFF ceilings	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.	from EFTA countries	from candidate countries and potential candidates	from other third countries	other assigned revenue
O	16.0106- Support expenditure for the Ukraine Facility	NDA	YES	p.m.	YES	YES
O	16.06- Ukraine Facility	DA	YES	p.m.	YES	YES

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

– ☐ The proposal/initiative does not require the use of operational appropriations

– ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

Ukraine Facility indicative financing over and above the ceilings* (EUR million)

Type of support	2024	2025	2026	2027	Total
Non repayable (grants)	4.250	4.250	4.250	4.250	17.000
of which Pillar I	*1.500*	*1.500*	*1.500*	*1.500*	*6.000*
of which Pillar II	*2.000*	*2.000*	*2.000*	*2.000*	*8.000*
of which Pillar III	*625*	*625*	*625*	*625*	*2.500*
of which administrative support (max amount)	*125*	*125*	*125*	*125*	*500*
Loans for (pillar I only)	8.250	8.250	8.250	8.250	33.000
Total**	**12.500**	**12.500**	**12.500**	**12.500**	**50.000**

*Annual and overall distribution of the non repayable support and loans is purely indicative and for illustrative purposes only. The actual distribution will be subject to the annual decision making.

** Table assumes commitment appropriations equal payment appropriations. This is for pure illustrative purposes. Actual calibration of the two will be assessed on an annual needs basis.

Heading of multiannual financial framework	**7**	'Administrative expenditure'

EUR million (to three decimal places)

		Year 2024	Year 2025	Year 2026	Year 2027	TOTAL
DG: NEAR						
○ Human resources		2,453	2,453	2,453	2,453	9,811
○ Other administrative expenditure		0,238	0,238	0,238	0,238	0,952
TOTAL DG NEAR	Appropriations	**2,691**	**2,691**	**2,691**	**2,691**	**10,763**

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	**2,691**	**2,691**	**2,691**	**2,691**	**10,763**

3.2.3. Summary of estimated impact on administrative appropriations

– ☐ The proposal/initiative does not require the use of appropriations of an administrative nature

– ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year 2024 [26]	Year 2025	Year 2026	Year 2027	TOTAL
HEADING 7 of the multiannual financial framework					
Human resources	2,453	2,453	2,453	2,453	9,811
Other administrative expenditure	0,238	0,238	0,238	0,238	0,952
Subtotal HEADING 7 of the multiannual financial framework	**2,691**	**2,691**	**2,691**	**2,691**	**10,763**

Outside HEADINGS 17[27] of the multiannual financial framework					
Human resources	16,224	16,224	16,224	16,224	64,896
Other expenditure of an administrative nature	26,970	26,970	26,970	26,970	107,880
Subtotal outside HEADINGS 1-7 of the multiannual financial framework	**43,194**	**43,194**	**43,194**	**43,194**	**172,776**

TOTAL	**45,885**	**45,885**	**45,885**	**45,885**	**183,538**

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

[26] Year 2024 is the year in which implementation of the proposal/initiative starts.

[27] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.1. Estimated requirements of human resources

– ☐ The proposal/initiative does not require the use of human resources.

– ☒ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		Year 2024	Year 2025	Year 2026	Year 2027
O Establishment plan posts (officials and temporary staff)					
20 01 02 01 (Headquarters and Commission's Representation Offices)		11	11	11	11
20 01 02 03 (Delegations)		2	2	2	2
01 01 01 01 (Indirect research)					
01 01 01 11 (Direct research)					
Other budget lines (specify)					
O External staff (in Full Time Equivalent unit: FTE)[28]					
20 02 01 (AC, END, INT from the 'global envelope')					
20 02 03 (AC, AL, END, INT and JPD in the delegations)					
16.0106- Support expenditure for the Ukraine Facility[29]	- at Headquarters	68	68	68	68
	- in Delegations	54	54	54	54
Other budget lines (specify)					
TOTAL		**135**	**135**	**135**	**135**

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	The FTEs sought will work on the policy development, legal issues, with particular focus on procurement matters, financial management, contract management, audit and evaluation.
External staff	The FTEs sought will work on the policy development, legal issues, with particular focus on procurement matters, financial management, contract management, audit and evaluation.

[28] AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

[29] Sub-ceiling for external staff covered by operational appropriations of the Ukraine Facility (former 'BA' lines).

3.2.4. Compatibility with the current multiannual financial framework

The proposal/initiative:

– ☐ can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts. Please provide an excel table in the case of major reprogramming.

– ☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

Explain what is required, specifying the headings and budget lines concerned, the corresponding amounts, and the instruments proposed to be used.

– ☒ requires a revision of the MFF.

This new legislative proposal for the Ukraine Facility is accompanied by a proposal for a Council Regulation COM(2023) 337, amending Regulation 2020/2093 laying down the multiannual financial framework (MFF) for the years 2021 to 2027. The amendment of that Regulation is necessary to a) establish the Ukraine Reserve for 2024-2027 to provide financing to this Facility in support in forms other than loans as well as b) to provide a guarantee by the EU budget for the support in the form of loans. Both type of support are accounted for over and above the MFF expenditure ceilings.

3.2.5. Third-party contributions

The proposal/initiative:

– ☒does not provide for co-financing by third parties

– ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

3.3. Estimated impact on revenue

– ☐ The proposal/initiative has no financial impact on revenue.

– ☒The proposal/initiative has the following financial impact:

  – ☐ on own resources

  – ☒ on other revenue

  – please indicate, if the revenue is assigned to expenditure lines ☒

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[30]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article …….		p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

[30] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.