Official Journal
of the European Union

EN
C series

C/2024/2662

29.4.2024

P9_TA(2023)0363

# Establishing the Ukraine Facility

**Amendments adopted by the European Parliament on 17 October 2023 on the proposal for a regulation of the European Parliament and of the Council on establishing the Ukraine Facility (COM(2023)0338 – C9-0210/2023 – 2023/0200(COD))** [1]

**(Ordinary legislative procedure: first reading)**

(C/2024/2662)

## Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT [2]

to the Commission proposal

---

[1] The matter was referred back for interinstitutional negotiations to the committee responsible, pursuant to Rule 59(4), fourth subparagraph (A9-0286/2023).

[2] Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ▌.

**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 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 Council 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***,*** loans by the European Investment Bank. ***In addition, continuous support is being provided by the authorities, communities, NGOs and volunteers' groups within the Member States.***

(6) In addition, in its Decision (CFSP) 2021/509, 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 of the European Parliament and of the Council, as amended by Regulation (EU) 2021/836 of the European Parliament and the Council , 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 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 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 ***as long as Russia's war of aggression against Ukraine lasts, tax revenues collected by the Ukrainian government will continue to be largely allocated to the war effort, and that*** a residual gap remains in Ukraine's financing needs for at least until 2027, ***significant and*** flexible support ***has to be provided quickly*** to the Ukrainian government to maintain its functions***, provide public services,*** as well as to support the recovery, reconstruction and modernisation of the country ▌.

(11) Given the damage ***caused by*** Russia's war of aggression to the Ukrainian economy, society and infrastructure, ***Ukraine will require significant support and institutional management capacity*** to maintain its functions, as well as short-***term*** relief ***and assistance for*** fast recovery, reconstruction and modernisation of ***the country***. ***Ukraine*** will require comprehensive support to ***"build back better" through a people-centred recovery that focuses on sustainable development, improves inclusiveness and cohesion, reduces inequality, and creates*** the foundations ***for*** a free and prosperous country ***with a strong market economy***, anchored in European values, well integrated into the European and global economy, and progressing ***fast towards*** 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 of 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 ***following consultation with representatives of civil society organisations, approved by the Verkhovna Rada and endorsed by the Union***, providing a structured and predictable framework for the recovery, reconstruction and modernisation of Ukraine ***with Union budgetary, reform and investment support and*** 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***, insofar as the latter will be progressively replaced by the Facility and be complementary with the funding provided under the IPA regulations, in case Ukraine becomes eligible***. 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 ***humanely, adequately, consistently and in a timely manner*** provided outside the Facility ***and constructively coordinated with other donors***. 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. ***Such support should be provided based on concrete reforms and investments, including reconstruction projects proposed by Ukraine, with milestones and timetables.*** The assistance should support macro-financial stability in Ukraine, and ease Ukraine's external financing constraints. ***In the interest of ensuring Ukraine's debt sustainability, preference should be given, to the extent possible, to grants. Loans should not undermine the long-term debt sustainability. A reappraisal of the dynamics of the Ukrainian public debt and the need to reduce it as a percentage of Ukraine's GDP should take place in 2026, ahead of adoption of the next Multiannual Financial Framework and the necessary financing arrangements.***

(18) Under the new Facility, investment in Ukraine's ***sustainable*** recovery, reconstruction and modernisation should start as a matter of urgency to provide decent living conditions for the Ukrainian population ***and reconstruct critical infrastructure***, to ensure generation of employment and revenues and progressively lower the volume of international assistance needed***, while also ensuring the mitigation of pressing environmental damage, to the extent possible in a war-torn country, and supporting Ukraine in the dual green and digital transition***.

(19) The Facility should tie the recovery, reconstruction and modernisation closely to the Union ***accession requirements and process***, 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 ***building back better, while encouraging and leading*** Ukraine to channel investments and reforms towards the transition to a green, ***sustainable,*** digital and inclusive economy, and help mobilise like-minded donors***, including from the private sector,*** for multiannual contributions to support Ukraine. ***Investments should be aligned, to the extent possible, with the Union climate and environmental acquis, and should contribute to the implementation of the Ukrainian National Climate and Energy Plan.***

(21) The recovery, reconstruction and modernisation effort should build on Ukraine's ownership, close cooperation and coordination with supporting countries and organisations, and Ukraine's path towards accession to the Union. Regional and local administrations ***as well as Ukrainian civil society organisations and experts*** are also expected to play an important role ***in this process by fully participating in its design and scrutiny***. Peer-to-peer cooperation and programmes embedded in partnerships between cities and regions in the Union and those in Ukraine ***have already facilitated the delivery of humanitarian aid to Ukraine and thus provide a basis to*** enrich and accelerate the recovery, reconstruction and modernisation process.

(22) The Union should also ***ensure the involvement in policy shaping,*** close consultation and association of local ***and regional*** 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 ***close consultation and participation of Ukrainian civil society organisations and experts. The Union should ensure*** their ***meaningful*** participation in the recovery, reconstruction and modernisation of Ukraine, based on sustainable development and through the implementation of the Sustainable Development Goals at local ***and regional*** level. The Union should recognise ***and support*** the multiple roles played by the local ***and regional*** authorities ***and civil society actors*** as promoters of a territorial ***and inclusive*** approach to local ***and regional*** development, including decentralisation processes, participation and accountability, ***which should be developed with the introduction of a public legal entity for municipalities,*** and further enhance its support for local ***and regional*** authorities' capacity building***, as well as the provision of expertise necessary for the implementation of projects under the Facility***.

(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 ***delegated act***, 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 ***inclusiveness,*** 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.

***(28a) Ukraine has successfully addressed the reform of two key judicial governance bodies, the High Council of Justice and High Qualification Commission of Judges. Regarding the Constitutional Court Reform, the Union has certified 'good progress'. It is of utmost importance that the internationally nominated members will have a decisive role as proposed by the government and in line with the Venice Commission recommendations. Regarding 'anti-corruption' and 'de-oligarchisation', Ukraine has made 'some progress', having appointed new heads of the Specialised Anti-Corruption Prosecutor Office and the National Anti-Corruption Bureau of Ukraine as well as having presented an action plan to reduce the influence of oligarchs.***

(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. ***Granting EU*** candidate ***status to Ukraine*** 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 ***fostering economic integration with the Union and promoting socio-economic development, assistance for cross-border cooperation,*** integration into the Single Market and in accelerating its sustainable green and digital transitions, in line with Union policies. The Facility should ***therefore*** promote reconstruction ***as well as nature and environmental reconstruction and rehabilitation*** in a way that modernises and improves Ukraine's economy and ***benefits the whole*** society. ***The Facility should be consistent with Ukraine's national recovery plan adopted by the National Recovery Council in June 2022 and promote*** the recovery, reconstruction and modernisation of ***Ukraine, with a priority given to*** critical infrastructure, productive capacity and human capital in a resilient way***, taking into account the growing cybersecurity risks and an overall complex threat landscape. Moreover, the Facility should build on Union rules and standards, and invest in the transition of Ukraine towards a green, sustainable, digital and inclusive economy with the goal to transform Ukraine into a modern European welfare state and market economy. Such reconstruction should aim to address to the maximum extent possible the needs of vulnerable groups***.

(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. ***The Facility should also contribute to alleviating and repairing enormous environmental damage caused by Russian aggressors, including the floods caused by blowing up the Kakhovka hydroelectric dam and bombing and mining of a large territory of Ukraine. To that end, the measures supported by the Ukraine Plan under the Facility should, to the extent possible, contribute to climate change mitigation and adaptation, environmental protection, to the green transition, including biodiversity, or to addressing the challenges resulting therefrom, and should aim to account for an amount that represents at least 20 % of the Ukraine Plan's total allocation based on the methodology for climate tracking set out in an annex to this Regulation.***

(33) In this context, measures funded under the Facility should***, to the best possible extent in a war-torn country, be compatible with the climate and environmental standards of the EU and*** the principles of 'do no ***significant*** harm'***, within the meaning of Article 17 of Regulation (EU) 2020/852*** and 'leaving no one behind'. ***The Facility should be based on a needs-based, efficient and effective resource allocation and use, and should avoid undue or excessive sectoral or geographical concentration, so that funding needs of all regions, sectors and company-sizes are fairly assessed on the basis of their needs-based merit.***

(34) The implementation of this Regulation should be guided by the principles of equality***, inclusivity*** and non-discrimination, as elaborated in the Union of Equality strategies. It should ***ensure women's meaningful participation in decision-making processes,*** promote ***and advance*** gender equality and ***mainstreaming,*** the empowerment of women and girls, and ▌protect and promote ***their*** rights in line with the EU Gender Action Plans and relevant Council conclusions and international conventions. ***The Facility should respond to the healthcare needs of Ukraine and support the recovery of Ukraine's immensely traumatised society through proactive and targeted mental health and trauma care as a necessity for a healthy post-war society, with a particular focus on children.*** The implementation of the Facility should be in line with the United Nations Convention on the Rights of Persons with Disabilities and ensure ***relevant stakeholder involvement in decision-making processes as well as*** accessibility in its investments and technical assistance. ***The Facility should also support and promote reforms of the childcare system.***

(35) ***There remain key challenges that are essential for Ukraine to come closer to the Union and to prepare to fully assume the obligations of Union membership. These include:*** strengthening the rule of law, including the independence of the judiciary; the fight against corruption ***and in particular high-level corruption, oligarchic structures, as well as any kind of favouritism***, money laundering***, tax avoidance, tax evasion, tax fraud*** and organised crime***; strengthening*** transparency***, including public access to information;*** good governance at all levels ***through guaranteeing the legal personality of municipalities, and the participation of civil society organisations and experts, as well as by ensuring a safe and enabling operating space for human rights defenders;*** safeguarding the free and pluralistic media and fighting disinformation ***foreign information manipulation and interference;*** strengthening public administration reform, including in the fields of public procurement, competition and State aid ▌. 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 ***and for the purpose of checks and balances***, the Union should encourage the strengthening of parliamentary capacities, parliamentary oversight, democratic procedures and fair representation in Ukraine ***as well as meaningful participation of regions and municipalities, as well as of civil society at all stages of the democratic process allowing for enhanced democratic scrutiny***. ***The Ukraine Plan should demonstrate how meaningful participation of stakeholders was planned and conducted via consultations, with sufficient timeframes and transparency, and clear follow-up procedures to input given. The Verkhovna Rada of Ukraine should be informed and consulted at all the stages of the Facility life cycle.***

(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, ***payment by the aggressor for the damages caused*** and guarantees of non-recurrence as well as collection of evidence of crimes committed during the war ***for the purpose of the prosecution of the crimes committed by Russia, its allies and proxies, during the full-scale war in Ukraine***.

(39) The support under the Facility should be made available under the precondition that Ukraine continues to respect ***parliamentary democracy,*** effective democratic mechanisms and institutions, including ***appropriate checks and balances,*** a multi-party parliamentary system, ***good governance at all levels, free and fair elections in line with Ukraine's constitution,*** the rule of law ***including an independent judiciary and public prosecutor, continued advances in fighting corruption. Ukraine should also continue*** to guarantee respect for human rights, including the rights of persons belonging to minorities***, and work towards increased women's participation in decision-making***.

(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 ***inter alia*** to assist Ukraine in addressing the social, economic***, psychological*** and environmental consequences of the war, contributing to the reconstruction, including recovery, ***restoration*** and modernisation of the country***,*** fostering ***democratic*** social, economic***,*** environmental ***and territorial cohesion and*** resilience***,*** and ***a*** progressive integration into the Union and global economy and markets ***as well as an upward economic, social and environmental convergence towards Union standards,*** preparing Ukraine for future membership of the Union by supporting its accession process. Such objectives should be pursued in a mutually reinforcing manner ***and with a regular monitoring of the evolving social and economic circumstances in Ukraine. Ukraine should guarantee public access to the information on funding opportunities under this Facility, as well as free and fair competition during tendering process and grant allocation under the Facility***.

***(41a) The Facility should ensure the establishment and coordination of decentralised implementation frameworks and know-how for resource allocation and use, with a particular emphasis on supporting SMEs and civil society actors.***

(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 ***and inclusive*** growth, ensuring equality of, and access to, opportunities and social protection, protecting vulnerable groups***, in particular women, youth, orphans, persons with disabilities and war veterans,*** and improving living standards. ***The Facility should support reforms of the childcare system.*** The Facility should also contribute to fighting poverty ***and homelessness*** 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 ***support*** 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 ***timely*** 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. ***The mobilisation of private investment via the Facility should contribute to the long-term competitiveness and the innovative capacity of Ukraine.***

***(46a) Russia and its allies must pay for the damage caused to Ukraine. The Union and its Member States should, in close cooperation, with other institutions and countries, establish a legal basis for the confiscation of Russian public assets for the purpose of financing Ukraine's reconstruction and compensating the victims of Russia's aggression, which is permitted under customary international law either as a collective countermeasure in response to Russia's violation of the fundamental rule prohibiting wars of aggression or as an act of collective self-defense under Article 51 of the UN Charter.***

***(46b) In view of the conclusions adopted by the European Council at its meeting of 29 and 30 June 2023 calling for further work on this matter, it is appropriate to already provide in this Regulation for a legal mechanism for adding amounts as external assigned revenue, within the meaning of Regulation (EU, Euratom) 2018/1046, that might later be received either from any confiscated assets of the Russian Federation or other states, entities or individuals directly in connection with the Russian war of aggression pursuant to Union restrictive measures, or from any proceeds obtained from managing those assets or accrued interest rates, under any relevant Union legal act to be adopted in the future, in accordance with applicable rules of customary international law. Any such revenues should come in addition to the resources already available under the Facility and be used in the form of grants.***

(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. ***As all bilateral assistance to Ukraine will be provided under the Ukraine Facility, additional funds are needed in the form of external assigned revenue on top of the financial envelope as defined in Article 6 to provide additional grants to further support Ukraine.***

(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 , 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 16 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 .

(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. ***In order to effectively allow the budgetary authority oversight and freedom of action, the Ukraine Reserve should be composed of at least three additional budgetary lines, corresponding to each of the pillars in which the proposal is structured.***

(52) For the part of the Ukraine Facility support provided in the form of loans, it is appropriate to extend the Union budget guarantee to cover the financial assistance which is made available to Ukraine, authorised in accordance with Article 220(1) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council . As a consequence, the amendment to Council Regulation (EU, Euratom) 2020/2093 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 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***, in consultation with the European Parliament,*** and the Member States should ensure the compliance, ***transparency,*** 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 ***with all relevant stakeholders***, including at local ***and regional*** 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 ***an agreement on common standards and*** regular consultations. In this regard, the Multi-Agency Donor Coordination Platform should be used as an already established forum for such exchange. ***The European Parliament, together with the Verkhovna Rada of Ukraine and the US Congress, as the parliaments of the three co-chairing entities of the Platform, should be granted observer status in its Steering Committee in order to ensure full parliamentary scrutiny, democratic oversight, transparency and accountability. The Platform should also make a provision for a territorial component, in which the European Alliance of Cities and Regions for the Reconstruction of Ukraine would play a coordinating role.***

(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.

***(62a) The recipients of Union funding should 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".***

(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***, sustainable development*** and its progress towards accession to the Union***, in line with the Facility's objectives and requirements***. 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 ***meaningful and non-discriminatory*** consultation with regional, local, urban and other public authorities ***and civil society organisations and experts***, 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, ***which should be complemented by explicit recognition of a public legal personality for territorial entities. The Plan should*** 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, ***and subnational civil society organisations,*** 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. ***A chapter of the Plan should outline how the relevant stakeholders have been consulted without bias and in sufficient time, where their inputs have been reflected in the Plan and where they have been disregarded, and an annex should detail their inputs.***

(71) The Plan should also include ***a detailed*** explanation of Ukraine's system ***and planned measures*** to effectively prevent, detect and correct irregularities, corruption ***and in particular high-level corruption***, fraud and conflicts of interests, ***and to effectively investigate and prosecute criminal offences affecting*** 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 ***ensure*** an efficient management and control system. Such measures should be implemented by Ukraine by an indicative date which ***should*** be set, as appropriate depending on each measure, over the course of the lifetime of the Facility. ***Compliance with this plan will be instrumental to both preserve the financial interests of the Union and integrate the acquis communautaire into Ukraine's internal legal order, bringing Ukraine closer to Union membership.***

(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, ***the Commission*** should be ***empowered to adopt a delegated act***.

(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 amend the ***delegated act***, where the Ukraine Plan, including relevant qualitative and quantitative steps, is no longer achievable by Ukraine, either partially or totally, because of objective circumstances ***related to the war***. The Commission may, in agreement with Ukraine, also amend the ***delegated act***, 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 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***, including all relevant milestones and targets***. 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 ***following a pre-set methodology for partial fulfilment***. The disbursement of the corresponding withheld funds could take place during ***a subsequent*** 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 ***all phases of*** the implementation of the Facility is an ***ongoing prerequisite to*** Union support. Ukraine should publish ***up to date*** data on persons***,*** entities ***and final beneficiaries*** receiving amounts of funding exceeding the equivalent of EUR ***100 000*** for the implementation of reforms and investments specified in the Ukraine Plan. ***The disclosure of a legal entities' beneficial owner should be a mandatory precondition for the reception of funding. In addition, a list of the 2 000 largest final beneficiaries should be kept up-to-date and published by Ukraine.*** The information should not be published***, if duly justified,*** 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**,**OLAF ***and where applicable, the European Public Prosecutor's Office (EPPO),*** including as regards the format of the information ***and access to information rights for the European and Ukrainian public, as well as the Verkhovna Rada and the European Parliament***.

(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.

***(82a) In view of the need to coordinate international support to the recovery, reconstruction and modernisation of Ukraine, international organisations, international financial institutions, in particular EIB and the EBRD as key financial institutions, as well as, Member States, national development banks, third countries, or other donors can play a major role in financing or as implementing partners of measures or projects supported by the Facility. National and local private and state-controlled financial institutions in Ukraine can be involved in the implementation of the instruments.***

(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.

***(85a) To facilitate the private investment and the development of small and medium businesses, it is necessary to dedicate a portion of the funds backed by the Ukraine Guarantee to start-ups, Small and Medium-sized Enterprises (SMEs), as defined in Article 2 of the Annex to Recommendation 2003/361/EC, and to report and track the allocation of such portion of funds.***

(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 ***and regional alliances***, 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 ***democratic institutions, courts,*** social partners, civil society organisations and local authorities' capacities ***as well as the capacity building of civil society actors including in their public scrutiny role***.

(87) In accordance with Regulation (EU, Euratom) 2018/1046, Regulation (EU, Euratom) No 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 ***and Directive (EU) 2017/1371 of the European Parliament and of the Council***, the financial interests of the Union are to be protected by means of ***effective*** 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***, and measures to effectively investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the funds provided under the Facility***. ***The Commission services should be provided with sufficient administrative capacities and personnel to ensure these objectives.***

***(87a) Whereas, in accordance with Regulation (EU) 2017/1939, the EPPO is competent in respect of the criminal offences affecting the financial interests of the Union, even if the main criminal conduct takes place outside the Union, subject to extraterritorial jurisdiction of a participating EPPO Member State over an offence affecting the financial interests of the Union, it is essential, in accordance with Article 24(1) of that Regulation, that the Commission, the Audit Board and OLAF report to the EPPO, without undue delay, any criminal conduct affecting the funds awarded under this Regulation, with a view to EPPO assessing its competence and, if appropriate, initiating an investigation. It is furthermore essential that Ukrainian competent authorities treat, without delay, mutual legal assistance requests and extradition requests issued by EPPO and Member States' competent authorities in relation to these funds, in accordance with the relevant instruments concerning international cooperation in criminal matters.***

(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 ***detecting and*** establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union ***and to reporting any criminal conduct to the EPPO, in accordance with Article 24(1) of Regulation (EU) 2017/1939***.

(89) In accordance with Regulation (EU, Euratom) 2018/1046, the necessary rights and access should be granted to the Commission***, the European Parliament,*** 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 ***use the Early Detection and Exclusion System and*** report irregularities in relation to the use of the funds to the Commission.

(90) The reinforcement of internal control systems, ***including ex-ante controls,*** the fight against ***any forms of*** corruption, ***nepotism, favouritism or fraud,*** the promotion of transparency, good administration, and efficient public financial management***, and verification by an independent external auditor,*** are important reform priorities for Ukraine ***and increase the legitimacy of support 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 ***and guarantee that a declaration of assurance is obtained through an independent external audit***. ***The Audit Board should be subject to the reporting obligations to EPPO, in accordance with Article 24(1) of Regulation (EU) 2017/1939.*** Such information should be made available to OLAF***, EPPO*** and where appropriate to the relevant Ukrainian authorities***, in particular the Accounting Chamber of the Verkhovna Rada***. The Commission, with the assistance of the Union delegation, should be entitled to perform ***regular*** checks on how Ukraine implements funds along the whole project life cycle. ***The Commission should be provided with sufficient funding and human resources to perform the audit and checks.*** 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 also commit in the Plan to improve detection, investigation and prosecution of criminal offences affecting the funds provided under the Facility. In that regard, Ukraine should commit to ensure that the competent Ukrainian authorities would treat, without delay, mutual legal assistance requests and extradition requests issued by the EPPO and Member States' competent authorities.*** 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, ***and allowing to effectively investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the funds provided under*** 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 ***and information*** on persons and entities receiving funding for the implementation of measures of the Ukraine Plan. ***The framework agreement, the financing agreement and the loan agreement should be made available to the European Parliament, the Council and the Verkhovna Rada.***

(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 ***to promote*** understanding of Union values and the benefits and obligations of potential Union membership, while addressing disinformation***, foreign information manipulation and interference***. Visibility of the Union funding ▌ also ***needs to*** 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. ***This information should also be made available to the European Parliament and the Council.*** 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 .

(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,

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 ***and psychological*** consequences of ***Russia's*** war ***of aggression***, thereby contributing to the recovery, reconstruction, ***restoration*** and modernisation of the country ***and to the post-war recovery of Ukrainian society***;

   (b) foster ***democratic,*** social, economic and environmental ***and territorial cohesion and*** resilience and progressive integration into the Union and global economy and markets ***and upward economic, social and environmental convergence towards EU standards***;

***(ba) improve access to capital, including through advancing the institutional banking and insurance framework, to strengthen entrepreneurial activity and advanced research and development;***

(c) ***provide additional support for Ukraine in adopting and implementing the political, institutional, legal, administrative, social and economic reforms required, to*** progressively align ***to*** Union rules, ***values,*** 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***, in particular by providing temporary payment support, including for recurring expenses, as part of macro-economic assistance to ensure fiscal stability and the continued functioning of the Ukrainian State***;

(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, ***educational and cultural infrastructure,*** and foster modern, improved and resilient infrastructures; restore food production capacities; help address social ***and health*** challenges ***and, improve and strengthen the social care systems and their accessibility***, ***including with regard to psychological and psychosocial rehabilitation, in particular*** for specific groups ***affected by the war,*** such as veterans, Internally Displaced Persons, single parents, ***war widows and widowers, orphans, children, especially those without parental care, including children in or from institutions, persons with disabilities***, ***people with long-term health conditions inflicted by the war,*** minorities, ***young and elderly people,*** and other persons ***at-risk***;

***(ba) strengthen cyber security and defence as well as resilience against disinformation, foreign information manipulation and interference; contribute to the demining and decontamination effort as enablers of recovery and reconstruction work;***

(c) foster the transition to a sustainable ***, climate neutral*** and inclusive economy and a stable investment environment; support the integration of Ukraine into the ***Union's*** Single Market; repair, rebuild and improve social infrastructure, such as housing, ***social, sports, youth and*** healthcare facilities, ***with a specific emphasis on trauma care,*** schools and higher education institutions ***considering local security requirements*** and research infrastructure; strengthen economic and social development ***and inclusion***, with particular attention to women and ***girls, as well as*** youth, including through quality education, training, reskilling and upskilling, ***exchange programmes for students, researchers and public servants***, and employment policies, including for researchers;

***(ca) support culture and cultural heritage; strengthen strategic economic sectors; foster an institutional framework for investment and competition to enable private citizens, micro-businesses, start-ups, and small and medium-sized business to develop modern and competitive products and services, increasing Ukraine's capacity to sustainably process its natural resources and market value-add products; support for sustainable agriculture and rural development, aquaculture and fisheries; restructure Ukraine's financial markets, including banking sector and capital markets, improving the access to loans and insurance coverage; increase domestic revenue mobilisation; strengthen Ukraine's ability to trade; take steps into reorienting the economy of Ukraine from a resource-centric model to a competitive framework akin to Member States' model, diversifying and transitioning away from a heavy reliance on natural resources;***

(d) further strengthen the rule of law, democracy, the respect of human rights and fundamental freedoms, including through ***strengthening democratic institutions, in particular the Verkhovna Rada, as well as regional and municipal representative bodies, and their powers of oversight and inquiry over the distribution of and access to public funds; promote*** an independent judiciary, reinforced security ***and strengthen*** the fight against fraud, corruption, ***and high level corruption,*** organised crime, ***favouritism, oligarchic structures*** and money laundering, ***aggressive tax planning***, tax ***avoidance, tax*** evasion and tax fraud, ***and illicit firearms trafficking; fully abide by the principles of a free market economy characterized by free and undistorted competition that bars all anti-competitive practices; strengthen*** compliance with international law; strengthen freedom ***and independence*** of media and academic freedom ***as well as*** an enabling environment for civil society; foster social dialogue ***and civil society involvement***; promote non-discrimination and tolerance, to ensure and strengthen respect for the rights of persons belonging to ***all*** minorities ***such as ethnic, religious, LGBTI,*** and the promotion of gender equality, ***gender mainstreaming and the overall empowerment of women and girls, as well as, the rights of children and persons with disabilities***; reinforce the effectiveness of public administration, ***ensure access to information and the participation of civil society and youth in decision making processes and public scrutiny,*** 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 ***and organisations*** involved in supporting and enforcing ***democracy,*** international justice ***and anti-corruption efforts*** in Ukraine;

***(da) create the conditions for Ukrainian Internally Displaced Persons and persons under temporary protection to come back home and get reintegration into the social and economic life of the country; create conditions for the reintegration of children and youth, including through the educational programmes supported by the Union so as to fill where necessary the educational gap resulting from the war circumstances; address the needs of young war veterans by providing opportunities for social integration and tackling war-caused traumas;***

(e) develop and strengthen a sustainable green transition in all economic sectors, including ***Ukraine's*** transition towards ***climate neutrality, in accordance with the Paris Agreement; improve the awareness of and fight against environmental crime through the full implementation of the Kyiv Protocol on Pollutant Release and Transfer Registers and ensuring compliance with nature protection laws***; promote the digital transformation as an enabler for sustainable development and inclusive growth; ***ensure ecological rehabilitation following the environmental damages inflicted by military operations and contribute to decontamination, the demining effort and clearance of other explosive remnants of war as well as oil or chemical pollution caused by military activity; contribute to the efforts to document, map and measure the damage and related consequences;***

(f) support ***political and administrative*** decentralisation and local development***, especially by ensuring meaningful consultation and a level playing field for all levels of government when accessing funds via open, fair, neutral, and transparent procedures;***

***(fa) support cross-border cooperation with the Member States bordering with Ukraine in the areas such as trade, environment protection and fight against international crime.***

*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 ***needs-based and*** based on ***the*** effective and efficient ***allocation of*** resources and use ***of those resources***. ***The Facility shall avoid the excessive sectoral or geographical concentration of resource allocation and use of resources and ensure an appropriate geographical balance of projects.***

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 ***comply, to the extent possible in a war-torn country, with the climate and environmental standards of the Union. Those activities shall*** mainstream climate change mitigation and adaptation, environmental protection, ***and conservation,*** human rights, democracy, gender equality and, where relevant, disaster risk reduction ***and energy infrastructure safety***, 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 ***shall*** avoid stranded assets, ***be compatible with*** the principles of 'do no harm', ***to the extent possible***, as well as ***with*** the sustainability mainstreaming approach underpinning the European Green Deal ***and shall be also guided by the 'leaving no one behind" principle. The Commission shall be empowered to adopt a delegated act to develop a guidance for each of those principles and a methodology for supporting Ukraine in the preparation of the Ukraine Plan***.

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 ***or biodiversity***, taking into account the need to rebuild and modernise infrastructure ***and rehabilitate nature*** 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 ***EU partnership Principle and EU Code of Conduct,*** the Commission shall ***guarantee*** that relevant stakeholders, including ***the Verkhovna Rada,*** local and regional authorities, social partners and civil society organisations, are duly ***and fairly*** consulted and have timely access to relevant information to allow them to ***meaningfully participate in shaping*** the design, implementation of activities eligible for funding under this Facility, and in the related monitoring, ***scrutiny and evaluation*** processes. ***Such involvement shall seek to represent the pluralism of the Ukrainian society and business community and ensure the inclusiveness of different communities in Ukraine.***

***The Commission shall give specific attention to the participation of women in consultations, as well as the inclusion of vulnerable groups, such as war veterans and persons with disabilities, in such consultations***. The Commission shall in particular promote the involvement of ***the Verkhovna Rada, as well as*** regional ***or*** local ***representative bodies and*** public authorities, in accordance with the multi-level governance principle and taking into account a bottom-up approach. The Commission shall ***ensure that the Verkhovna Rada is meaningfully consulted on the entirety of the Ukraine Plan before its submission to the Commission and is able to fully fulfil sufficient inquiry and monitoring duties during and after the duration of the Facility***.

***The Commission shall continuously assess the degree to which the involvement of stakeholders is fair and representative of the pluralism of interests in Ukrainian society and business communities, in particular by assessing whether stakeholders of different sizes and with differing or opposing interests have been appropriately consulted. The Commission shall*** encourage coordination among the relevant stakeholders. ***The Commission shall ensure that civil society in Ukraine is able to directly report any irregularities they may detect to the Commission via appropriate standing channels and platforms.***

7. The Commission, in cooperation with the Member States and Ukraine, shall ***ensure*** the implementation of Union commitments to increased transparency and accountability in the delivery of assistance, including by promoting the ***full implementation of the Aarhus Convention and the*** implementation and reinforcement of internal control systems and anti-fraud policies. ***The Commission shall make*** information on the volume and allocation of assistance ***publicly*** available through ***a single webportal***, and shall ensure that data ***are up-to-date, easily accessible, available in machine-readable format and*** comparable. ***The names or legal identities of the 2 000 largest final beneficiaries and all final beneficiaries that received cumulative amounts higher than EUR 100 000 shall be published.***

***Article 4a***

***Relations with other Union funding instruments***

***1. The Facility shall progressively replace, as soon as possible, the bilateral allocation provided to Ukraine under the Neighbourhood, Development and International Cooperation Instrument (NDICI-GE) and the support provided in the form of macro-financial assistance.***

***2. Ukraine shall remain eligible for support under NDICI regional, cross-border, thematic, and crisis response programmes as well as other Union instruments. Support provided under the Facility shall not preclude Ukraine from becoming eligible for funding under the IPA Regulations in the future. The Commission shall ensure coherence between the assistance provided under the Facility and the enlargement policy framework.***

***3. Actions falling within the scope of Regulation (EC) No 1257/96 as well as within the scope of the European Peace Facility shall not be funded under the Facility.***

***4. The Commission shall ensure complementarities and synergies between the Facility and other Union programmes, with a view to avoiding double funding.***

*Article 5*

**Precondition for Union support**

1. A precondition for the support to Ukraine under the Facility shall be that Ukraine continues to uphold***, develop*** and respect effective democratic mechanisms, including a multi-party parliamentary system ***at all levels of government***, ***which safeguards the rights and prerogatives of a democratic opposition, appropriate checks and balances, such as media freedom, transparent and institutional budget allocation, mechanisms and institutions ensuring the prevention, detection and punishment of fraud, corruption and conflicts of interests,*** the rule of law, ***as well as free and fair elections in line with Ukraine's constitution. Moreover, Ukraine shall continue*** to guarantee respect for human rights, including the rights of persons belonging to minorities, ***work towards increased women's participation in decision-making.***

2. The Commission shall monitor the fulfilment of the precondition set out in paragraph 1 before disbursements to Ukraine under the Facility are made and throughout the period of the support provided under the Facility taking duly into account the Commission's regular enlargement report. ***The Commission shall take into account the relevant recommendations of international bodies, such as the Council of Europe and its Venice Commission in this process***. 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. ***The Commission's assessment shall be transmitted simultaneously to the European Parliament and the Council.***

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) ***75*** % in the form of non-repayable financial support pursuant to Chapter III of this Regulation, ***of which at least 15% to the recovery, reconstruction and modernisation needs of Ukraine`s sub-national authorities such as regions, cities and local communities;***

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

   (c) ***8*** % 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. ***The amounts shall be mobilised annually from the Ukraine Reserve in the Union budget over and above the ceilings of the Multiannual Financial Framework by the budgetary authority. The nomenclature of the Ukraine Reserve shall be composed of additional budgetary lines, corresponding to each of the pillars in which this Regulation is structured.***

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, ***including local and regional authorities and civil society organisations,*** information and communication actions, including inclusive outreach actions, and corporate communication of the political priorities of the Union, insofar as they are ***strictly*** 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 ***independent*** 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 ***one or more of the pillars referred to in Article 1(2) without being bound by the indicative distribution referred to in Article 6(1).*** 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 ***or under any other Union legal acts concerning Russia's responsibility for the damage caused to Ukraine,*** shall be added to the resources referred to in Article 6. ***In particular, and subject to respect for applicable rules of customary international law, any assets, together with the proceeds thereof, confiscated from the Russian Federation or other states, entities or individuals directly in connection with Russia's war of aggression or any proceeds obtained from managing those assets of the Russian Federation frozen pursuant to EU restrictive measures, may also be received as additional amounts as external assigned revenue within the meaning of Regulation (EU, Euratom) 2018/1046, under any relevant Union legal act to be adopted in future, and shall be used in the form of grants.***

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, ***detect***, 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. ***That framework agreement, including any related documentation, shall be transmitted to the European Parliament and the Council simultaneously and without delay and shall be made public.***

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 detailed provisions concerning, in particular:

(a) the commitment of Ukraine to ***make decisive*** progress towards ***a robust legal framework to fight fraud, and establish*** more efficient and effective control systems, ***including appropriate mechanisms and measures to effectively prevent, detect and correct irregularities, fraud, corruption and conflicts of interest as well as*** to strengthen the fight against money laundering, ***organised crime, oligarchic structures, undue regional or sectoral concentration of resource allocation or use, misuse of public funds,*** terrorism financing, tax avoidance, tax fraud***, aggressive tax planning*** or tax evasion, ***and other illegal activities affecting the funds provided under the Facility***;

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

***(ba) the establishment of monitoring committees inspired by the European Code of Conduct on Partnership following the best practices for the preparation of calls for proposals, progress reports, monitoring and evaluation of projects, measures and activities;***

(c) control requirements for release of ***the*** 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***,*** OLAF ***and, where applicable, the EPPO,*** without delay***,*** of suspected or actual cases of irregularities, fraud, corruption and conflict of interests ***and other illegal activities affecting the funds provided under the Facility*** and their follow-up;

(g) the right of the Commission to monitor activities under the Facility carried out by the Ukrainian authorities, along the whole project cycle, including inter alia projects selection and award procedures including for public procurement, to take part in these as observer, as appropriate, and to make recommendations for the improvement of such activities and commitment from the Ukrainian authorities to 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***, in a machine-readable format and on a single webportal,*** 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, ***and set out measureable qualitative and quantitative steps linked to the disbursement of funds under this Regulation***. 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 implementation of the framework agreement mentioned in Article 9, including*** 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. ***They shall be transmitted to the European Parliament and the Council simultaneously.***

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;

   (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.

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***, especially where there is a risk of influence by governments of states classified as systemic rivals of the Union***.

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 ***submit to*** the European Parliament and the Council ***information on*** commitment appropriations carried over***, including the amounts involved*** 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, ***the Commission is empowered to adapt a delegated act in accordance with Article 38 to supplement this Regulation with provisions setting out*** 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. ***The Ukraine Plan shall identify the amount of financial support contributing to support for macro-financial stability as defined in Article 3(2), point (a), as well as the amount of financial support contributing to support for reforms and investments as defined in the other paragraphs of Article 3.***

2. The Facility shall provide financing under this Chapter upon satisfactory fulfilment of conditions stemming from the Plan, taking the form of ***measurable*** qualitative or quantitative steps***, agreed in the financing agreements***. Such conditions shall reflect the different objectives of the Facility, as defined in Article 3, ***and general principles, as set out in Article 4,*** 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 ***this Article*** shall ***apply*** 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 ***contribute to all or a significant subset of the*** 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 ***and shall be consistent with those priorities***. It shall also ***contribute to and*** be consistent with Ukraine's Nationally Determined Contribution under the Paris Agreement and, if available, the National Energy and Climate Plan.

▌.

*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 ***needs-based,*** 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 ***the application of the conditions*** referred to in article 15(2), so that the ***Ukraine*** Plan as a whole raises the growth rate of the Ukrainian economy, ***reduces economic and social inequalities and ensures tangible progress of Ukraine towards the Union's social, economic, and environmental standards***;

***(aa) an explanation of how the Ukraine Plan contributes to effectively addressing all or a significant subset of challenges identified in the Commission Opinion on Ukraine's application for membership of the European Union, or challenges identified in other relevant documents officially adopted by the Commission in the context of the Ukraine's application for membership of the European Union;***

(b) an explanation of how the Plan ***and its measures are*** consistent with the ***general*** principles ***referred to in Article 4, as well as requirements***, plans and programmes referred to in Article 15;

(c) ▌an indicative timetable, and the ***measurable*** envisaged qualitative and quantitative steps to be implemented by 31 December 2027;

***(ca) measurable and achievable milestones and targets, an indicative ex-ante costing, as well as an explanation on how these measures are consistent with the requirements of Article 15, in particular paragraph 3 thereof;***

(d) the arrangements for the effective monitoring, reporting and evaluation of the Ukraine Plan by Ukraine, including the proposed ***measurable*** qualitative and quantitative steps, and the related indicators, ***as well as the proposed comprehensive and timely involvement of the Verkhovna Rada and the monitoring committees, referred to in Article 17a***;

(e) an explanation of how the Plan corresponds to the recovery, ***restoration*** reconstruction and modernisation needs stemming from ***Russia's war of aggression*** in Ukraine's regions and municipalities, and thereby enhances their ***inclusive*** economic, social, environmental and territorial development, supports the decentralisation reform across Ukraine and convergence towards the Union's standards; ***this explanation shall take into account the powers, tasks and responsibilities assigned to different levels of government;*** 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, ***as well as civil society organisations,*** in decision-making on the use of support in the reconstruction process at local level ***and in the democratic scrutiny process, in particular timely and equal access to information and funds for the relevant sub-national authorities***; 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; ***that explanation shall also cover twinning and partnerships between cities, as well as peer-to-peer cooperation and programmes embedded in partnerships between cities and regions in the Union and Ukraine;***

(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 ***the Verkhovna Rada,*** local and regional ***representative bodies and*** authorities, social partners and civil society organisations, and how the input of ***those*** stakeholders is reflected in the Ukraine Plan;

(g) an explanation of the extent to which the measures under the ***Ukraine*** Plan are expected to contribute:

— ***climate, biodiversity, and environmental objectives, in particular through the convergence towards the Union's climate and environmental standards as well as relevant legislative initiatives and reforms, and how compatibility, to the extent possible, with the principle of 'do no significant harm' is ensured;***

— ***the promotion of the rule of law;***

— ***social objectives, including the inclusion of vulnerable groups, such as persons with disabilities and older people and ensure the best interest of children;***

— ***gender equality and the empowerment of women and girls, including the protection and promotion of women's and girls' rights in line with EU Gender Action Plans and relevant Council conclusions and international conventions.***

(h) a ***detailed*** explanation of Ukraine's system ***and planned measures*** to effectively prevent, detect and correct irregularities, fraud, corruption***, high-level corruption*** and conflicts of interests, ***as well as to effectively investigate and prosecute criminal offences affecting*** the funds provided under the Facility, and of the arrangements that aim to avoid double funding from the Facility and other Union programmes or donors, ***as well as to ensure swift judicial cooperation with competent authorities of the Union and its Member States***;

***(ha) an explanation how Ukraine shall ensure an adequate level of protection of the financial interests of the Union by applying comparable standards as provided for in Regulation (EU, Euratom) 2018/1046 and other related Union law;***

(i) any other relevant information.

3. The Ukraine Plan shall be results-based and include ***measurable*** indicators ***such as key performance indicators, where applicable*** 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 ***the Ukrainian government and approved by the Verkhovna Rada, which shall be given due time to assess the draft bill***. Ukraine shall strive to submit the Plan to the Commission by ***three*** months after entry into force of this Regulation. Ukraine may submit a draft Plan to the Commission. ***The Commission shall share that draft Plan with the European Parliament and the Council***.

2. When preparing the Plan in accordance with Article 16, Ukraine shall take particular account of the ***relevant resolutions of the Verkhovna Rada and*** 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, ***including relevant line ministries, civil society and expert community*** in accordance with the multi-level governance principle and taking into account a bottom-up approach. ***In line with the EU Partnership Principle and the European Code of Conduct, Ukraine and the Commission shall ensure that civil society organisations are duly consulted and involved in the process and have timely access to relevant information to allow them to play a meaningful role in the design and implementation of the Ukraine Plan.***

*Article 17a*

***Involvement of the Verkhovna Rada and obligation of the Monitoring Committees in the implementation and evaluation of the Ukraine Plan***

***1. Following the submission of the Ukraine Plan, the Ukrainian government shall regularly provide the Verkhovna Rada and the public with summaries of all relevant information regarding the implementation of the Ukraine plan, in particular in the context of amendments to the Ukraine Plan, as referred to in Article 20, in a comprehensive and timely manner. The Ukrainian government shall report in person, on a quarterly basis, at Verkhovna Rada plenary meetings.***

***2. The Ukrainian government shall establish Monitoring Committees involving a diverse range of stakeholders, including non-governmental organisations, supported by a specific framework agreement for cooperation with those non-governmental organisations, in line with the EU Partnership Principle and the European Code of Conduct. The Monitoring Committees shall be updated regularly on the state of implementation of the Ukraine Plan and the evaluation of its measures. They shall be provided comprehensive, timely and relevant information for this purpose and be given appropriate time to process such information. Opinions of the Monitoring Committees shall be forwarded to the Commission, which shall make them available to the European Parliament and the European Council without delay.***

***3. Upon a well-reasoned request by the Monitoring Committees, the Ukrainian government or, where relevant, the Commission shall request audits or external evaluations of one or more measures in the Ukraine Plan, financed by funds available under Article 6(1) point (d).***

*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***, where appropriate, may adopt a delegated act*** in accordance with Article 19. 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 ***needs-based,*** coherent, comprehensive and adequately balanced response to the objectives set out in Article 3, including structural reforms and measures to promote the ***rule of law and*** convergence with the Union, ***as well as the application of the conditions referred to in Article 15(2)*** so that the Plan as a whole ***leads to sustainable*** growth of the Ukrainian economy, ***reduces economic and social inequalities and ensures the tangible progress of Ukraine towards the Union social, economic and environmental standards***;

***(aa) whether the Ukraine Plan contributes to effectively addressing all or a significant subset of challenges identified in the Commission Opinion on Ukraine's application for membership of the European Union, or challenges identified in other relevant documents officially adopted by the Commission in the context of Ukraine's application for membership of the European Union;***

***(ab) whether the Ukraine Plan and its measures are consistent with the general principles, referred to in Article 4, as well as the requirements referred to in Article 15;***

(b) whether the ***Ukraine*** Plan corresponds to the recovery, ***restoration,*** reconstruction and modernisation needs in Ukraine's regions and municipalities, ***stemming from Russia's war of aggression against Ukraine*** 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 ***and civil society organisations***, in decision-making on the use of support in the reconstruction process at local level ***and in the democratic scrutiny process, in particular timely and equal access to information and funds for the relevant sub-national authorities*** 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;

***(ba) whether the measures in the Ukraine Plan are expected to contribute to climate change mitigation and adaptation, environmental protection, to the green transition, including biodiversity, or to addressing the challenges resulting therefrom, and whether those measures aim to account for an amount that represents at least 20 % of the Plan's total allocation, based on the methodology for climate tracking set out in an annex to this Regulation;***

***(bb) whether the measures included in the Ukraine Plan are compatible with the principles of 'do no significant harm', to the extent possible, and of 'leaving no one behind' and that no measure included in the Plan is 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;***

***(bc) whether the Ukraine Plan is expected to promote gender equality and the empowerment of women and girls, and whether it seeks to protect and promote women's and girls' rights in line with the EU Gender Action Plans and relevant Council conclusions and international conventions;***

(c) whether the arrangements proposed by Ukraine are expected to ensure an effective monitoring, reporting and implementation of the Ukraine Plan ***and any updates thereof, in particular the comprehensive and timely involvement of the Verkhovna Rada and the Monitoring Committees, referred to in Article 17a***, including the envisaged timetable, ***measurable*** qualitative and quantitative steps, and the related indicators ***and ensure that the financial interests of the Union are protected***;

(d) whether the arrangements proposed by Ukraine are expected to effectively prevent, detect and correct irregularities, fraud, corruption ***oligarch structures*** and conflicts of interests, ***as well as, to effectively investigate and prosecute criminal offences affecting*** the funds provided under the Facility, and ***will ensure*** avoiding double funding from the Facility and other Union programmes as well as other donors;

***(da) whether the Ukraine Plan effectively reflects the inputs of the stakeholder consultation process, conducted in accordance with the national legal framework, of relevant stakeholders, including the Verkhovna Rada, local and regional representative bodies and authorities, social partners and civil society organisations.***

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

*Article 19*

**Delegated act on supplementary provisions**

1. In case of a positive assessment ▌ of the Ukraine Plan submitted by Ukraine ▌ or, where applicable, of its amendment submitted in accordance with Article 20(1) or (2), ***the Commission is empowered to adopt a delegated act in accordance with Article 38 to supplement this Regulation with provisions setting out the matters referred to in paragraphs 2 and 3 of this Article***.

2. The ***delegated act*** 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, ***the milestones and targets required for the disbursal of*** the amounts referred to in Article 6(1) point (a) and (2) and relevant contributions under paragraph 4 of that Article.

3. The ***delegated act*** 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, 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 ***and its purpose***;

   (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, ***in particular the involvement of the Verkhovna Rada and the Monitoring Committees, referred to in Article 17a, as well as***, 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.

***3a. Where the Commission gives a negative assessment to the Ukraine Plan, it shall communicate a duly justified assessment within two months of the submission of the proposal by Ukraine. Following an invitation from the European Parliament, the Commission shall appear in front of the competent committees to present explanations for the negative assessment of the Ukraine Plan. The Commission shall transmit relevant and substantial information to the European Parliament and the Council simultaneously and on equal terms at least five working days ahead of the meeting.***

*Article 20*

**Amendments to the Ukraine Plan**

1. ***The Ukrainian government, after consulting the Verkhovna Rada and the Monitoring Committees referred to in Article 17a***, may propose ***amendments to the*** 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 ***delegated act*** referred to in Article 19(1).

2. The Commission may, ***after informing the European Parliament and the Council***, in agreement with Ukraine, amend the ***delegate act*** 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 ***delegated act*** referred to in Article 19(1).

***Article 20a***

***Ukraine social, economic, and environmental scoreboard***

***1. The Commission shall establish a Ukraine Plan scoreboard (the 'Scoreboard'), which shall display the progress of the implementation of the Ukraine Plan in each of the objectives referred to in Article 3, the social, economic, and environmental situation in Ukraine and the progress of the convergence towards the Union's standards.***

***2. The Commission shall be empowered to adopt a delegated act in accordance with Article 38 to supplement this Regulation by establishing the detailed elements of the Scoreboard with a view to displaying the progress of the implementation of the Ukraine Plan as referred to in paragraph 1, the social, economic, and environmental situation in Ukraine and the progress of the convergence towards the Union's standards.***

***3. The Scoreboard shall be operational by July 2024 and shall be updated by the Commission twice a year. The Scoreboard shall be made publicly available online.***

*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 ***delegated act*** 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. ***The Commission shall transmit to the European Parliament and the Council, simultaneously, the following elements:***

   ***(a) the amount of the loan in EUR;***

   ***(b) the average maturity;***

   ***(c) the pricing formula, and the availability period of the loan;***

   ***(d) the maximum number of instalments and a clear and precise repayment schedule.***

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.

***4a. The loan agreement shall be transmitted simultaneously to the European Parliament and the Council, as well as to the Verkhovna Rada.***

*Article 22*

**Borrowing costs subsidy**

1. By way of derogation from Article 220(5) of Regulation (EU, Euratom) 2018/1046 ***and subject to available resources***, the ***Facility*** 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. ***The Facility may also bear the cost of the interest rate subsidies previously granted in Regulation (EU) 2022/2463, Decision (EU) 2022/1628, Decision (EU) 2022/1201 and Decision (EU) 2022/313, for the period 2024–2027.***

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 ***annual budgetary procedure*** 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 ***may*** 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. ***This request shall be transferred to the relevant committee of the European Parliament as well as the relevant Council formation.***

3. The Commission shall assess without undue delay whether Ukraine has achieved satisfactory fulfilment of the qualitative and quantitative steps set out in the ***delegated act*** 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***. The Commission's assessment shall be transmitted simultaneously to the European Parliament and the Council.***

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. ***The Commission shall publish a methodology for handling partial fulfilment of steps as guidance. The Commission's assessment shall be transmitted simultaneously to the European Parliament and the Council.***

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. ***Information about such decisions shall be transferred to the European Parliament and the Council.***

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 *final beneficiaries* receiving funding for the implementation of the Plan**

1. Ukraine shall publish ***up-to-date*** data on persons, entities ***and final beneficiaries*** receiving amounts of funding exceeding the equivalent of EUR 100 000 ***cumulative over the period of 4 years,*** for the implementation of reforms and investments specified in the Ukraine Plan referred to in this Chapter. ***The relevant rules laid down in Regulation (EU, Euratom) 2018/1046 shall apply***.

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

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

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

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

3. ***On an exceptional basis and where duly justified by the Ukrainian government,*** information referred to in paragraph 2 ***may*** not be published***,*** where disclosure risks ***unduly*** threatening the rights and freedoms of the persons or entities concerned. ***Such information shall be transferred to the European Commission and to the Audit Board, who may overturn the decision not to publish such information***.

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

***The Commission shall prepare, in close cooperation with the Ukrainian authorities, a register of companies under oligarchic influence identified as potentially hampering free and fair competition on the market. Entities identified on this register shall not be eligible to receive funds under the Facility, subject to the necessary provisions on legal safeguards. This register shall be established by...[ six months after the entry into force of this Regulation] and updated quarterly.***

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, ***the European Parliament*** and representatives of ***the Ukrainian government and the Verkhovna Rada***. 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, ***taking into account the promotion of corporate social responsibility and responsible business conduct, including in particular by the respect of internationally agreed guidelines, principles and conventions on investment***.

***5a. At least 35 % of the guarantees provided under Pillar II shall be used to provide support to Micro-, Small - and Medium-sized Enterprises, as defined in Article 2 of the Annex to Recommendation 2003/361/EC, including start-ups, including through financial tools which have as an objective to reduce the-risk involved in the lending operations of local Ukrainian banks.***

***5b. For the purposes of Pillar II, the Commission, supported by the operational board, shall develop a methodology and processes for the annual reporting of investment support outlining at least the following elements:***

***(a) the allocation of grants, and of loans, each broken down by:***

***(i) size of the final beneficiary;***

***(ii) region of the headquarter of the final beneficiary;***

***(iii) sector;***

***(b) use of financing instrument for SME support;***

***(c) percentage of investment support at a high likelihood of impairment;***

***(d) qualitative analysis of the principal successes and challenges of Pillar II.***

▌.

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 ***annually*** 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. ***The Commission shall inform the European Parliament and the Council simultaneously and without delay of the contributions approved.***

*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. ***Preference shall be given to those bodies that disclose information related to environment, social, tax and corporate governance criteria. For this purpose, the Commission shall create a webportal with adequate and user-friendly guidance on disclosure, comprising examples of such disclosure.***

3. The Commission shall ensure the effective, efficient***, needs-based*** 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.

***3a. The Commission shall require all eligible counterparts and eligible entrusted entities to take utmost care to avoid, report and counter any corrupt practices, favouritism or undue regional or sectoral concentration of resource allocation or use and require dedicated reporting and auditing on those aspects, where relevant.***

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.

***1a. The Ukraine Guarantee shall support financing and investment operations which comply with the conditions set out in Article 209(2), points (a) to (e) of Regulation (EU, Euratom) 2018/1046.***

2. The Ukraine Guarantee shall be used to cover the risks for the following types of operations***, in line with the provisions of Article 27***:

(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). ***The European Parliament and the Council shall be notified simultaneously of the signature of all Guarantee agreements concluded under the Ukraine Guarantee. All Ukraine Guarantee*** agreements shall be ***transmitted simultaneously*** 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.

***9a. The eligible counterparts shall also, upon request, provide the Commission with any additional information necessary to fulfil the Commission's obligations pursuant to this Regulation, together with information regarding compliance with human rights, and social, labour and environment standards.***

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

11. The European Fund for Sustainable Development Plus+ 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%***, to be provisioned from the Union budget through a specific budget line***.

   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 ***once a*** year ***following*** 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 ▌. 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.

***Article 31a***

***Grievance and redress mechanism***

***In view of possible grievances of third parties, including communities and individuals affected by projects supported by the Ukraine Guarantee, the Commission and the European Union delegation in Ukraine shall publish on their websites direct references to the complaints mechanisms of the relevant counterparts that have concluded Guarantee agreements with the Commission. The Commission shall also provide the possibility of directly receiving complaints related to the treatment of grievances by eligible counterparts. The Commission shall take information received through any complaints into account in view of future cooperation with those counterparts.***

***Article 31b***

***The Commission shall publish on its webportal information on financing and investment operations and the essential elements of the Ukraine Guarantee agreements, including information on the legal identity of eligible counterparts, expected development benefits and complaints procedures, taking into account the protection of confidential and commercially sensitive information.***

***Article 31c***

***In accordance with their transparency policies and Union rules on data protection and on access to documents and information, eligible counterparts shall proactively and systematically make publicly available on their websites information relating to all financing and investment operations covered by the Ukraine Guarantee, in particular information relating to the manner in which those operations contribute to the achievement of the objectives and requirements of this Regulation. Where possible, such information shall be broken down at project level. Such information shall take into account the protection of confidential and commercially sensitive information. Eligible counterparts shall also publicise Union support in all information that they publish on financing and investment operations covered by the Ukraine Guarantee in accordance with this Regulation.***

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 ***institutional capacities, decentralisation, 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 ***and regional*** authorities are strengthened***, including through twinning and town twinning, as well as through promotion of peer-to-peer cooperation and programs embedded in partnerships between European and Ukrainian cities and regions***.

3. Assistance under this Chapter shall also support confidence-building measures and processes that promote justice, truth-seeking, ***payments by the Russian Federation for the damages caused*** as well as collection of evidence of crimes committed ***by Russia, its allies and proxies*** during the war ***for the purpose of the prosecution of the crimes committed by Russia during its war of aggression against Ukraine***. Funding for initiatives and bodies involved in supporting and enforcing international justice in Ukraine may be provided under this Chapter. ***The findings retrieved as a result of such measures shall be brought to the knowledge of the European Parliament, the Council and the Commission.***

4. Assistance under this Chapter shall support the creation and strengthening of Ukrainian authorities responsible for ensuring appropriate use of funds***, audit*** and effective fight against mismanagement of public funding, in particular fraud, corruption ***and high level corruption***, ***oligarchic structures,*** 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***, as well as the investigation and prosecution of criminal offences affecting the funds provided under the Facility***. Ukraine shall commit to progressing towards ***a robust legal framework to fight fraud by means of criminal law,*** effective and efficient management and control systems and ensure that amounts wrongly paid or incorrectly used can be recovered. ***Ukraine shall also commit to ensure that the competent Ukrainian authorities treat, without delay, mutual legal assistance requests and extradition requests by the EPPO and Member States' competent authorities concerning criminal offences affecting the funds under the Facility.***

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

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

***(aa) to protect whistleblowers;***

(b) to take appropriate measures to prevent, detect and correct fraud, corruption, conflicts of interests and irregularities***, as well as to investigate and prosecute criminal offences*** affecting the financial interests of the Union, to ***detect and*** avoid double funding and to take legal actions to recover funds that have been misappropriated, including in relation to any measure for the implementation of reforms and investment projects under the Ukraine Plan ***and to take appropriate measures to treat mutual legal assistance requests by the EPPO and Member States' competent authorities concerning criminal offences affecting the funds under the Facility, without delay; where applicable, the competent Ukrainian authorities shall report any criminal conduct affecting the funds under the Facility to the EPPO***;

(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 ***accompanied by a declaration of assurance by the Ukrainian authorities***;

***(ca) to use the Early Detection and Exclusion System;***

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

(e) to expressly authorise the Commission, OLAF ***and*** the Court of Auditors to exert their rights as provided for in Article 129(1) of Regulation (EU, Euratom) 2018/1046, in application of the principle of proportionality;

***(ea) to provide a similar level of access to information and authority to carry out on-the-spot controls as the Commission and the Court of Auditors to the independent external auditor appointed by the Audit Board.***

3. The Commission shall ▌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. ***Data shall allow the Commission and other audit authorities to fulfil their duties without undue delay. The system shall allow for downloads in a machine-readable format.***

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 serious deterioration of rule of law or*** in cases of irregularities, fraud, corruption and conflicts of interests affecting the financial interests of the Union that have not been corrected by Ukraine, or of a serious breach of an obligation resulting from such agreements. When deciding on the amount of the recovery and reduction, or the amount to be repaid early, the Commission shall respect the principle of proportionality and shall take into account the seriousness of the irregularity, fraud, corruption or conflict of interests affecting the financial interests of the Union, or of a breach of an obligation. Ukraine shall be given the opportunity to present its observations before the reduction is made or early repayment is requested.

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

***5a. Persons and entities implementing funds under the Facility, as well as persons knowledgeable about the implementation process, shall be able to report the cases of alleged corruption, fraud, irregularities and maladministration through a dedicated digital tool, with the relevant whistleblower protection provisions.***

***Article 33a***

***Physical and cyber protection of investments made with Union financial support***

***1. The agreements referred to in Articles 9, 10 and 21 shall provide for the obligation of Ukraine to identify physical and cyber protection measures for each of the investments made with Union financial support. An appropriate amount of the Union financial support may be set aside for physical and cyber protection purposes, and the necessary restrictions shall apply in accordance with Article 11(7) point (b).***

***2. Until the cessation of hostilities, physical protection may include measures to protect against munitions and missiles and their effects, including through means delivering kinetic effects. Such means shall be operated under the auspices of the state authorities of Ukraine and may not be used for the purpose of doing harm to persons.***

*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.

***2a. At least one-fifth of the Audit Board should be composed of Ukrainian nationals, given they have proven high professional competence and integrity and have no personal or professional affiliation to Ukrainian authorities or officials as well as demonstrably independent international experts with a proven track record of understanding of Ukraine's economy and political system.***

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 ▌the EPPO.

***3a. The Audit Board shall appoint an independent external auditor that provides an annual statement of assurance on the declarations by the Ukrainian authorities that accompany a request for payment. It shall also approve the annual work plan of the independent external auditor.***

***3b. The Audit Board shall decide on recommendations to the Commission and the Ukrainian authorities on amounts to be recovered following the findings of the independent external auditor, and inform the Commission and the Ukrainian authorities of those recommendations.***

4. The Audit Board shall ensure regular dialogue and cooperation with the European Court of Auditors***, as well as the Audit Chamber of Verkhovna Rada***.

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 the relevant committees of the European Parliament and the Council***, 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***, including its performance***.

***In accordance with Article 24(1) of Regulation (EU) 2017/1939, the Audit Board shall report to the EPPO any criminal conduct in respect of which the latter could exercise its competence.***

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. ***A summary of the recommendation shall be published by the Audit Board.*** Ukraine shall implement such recommendations ***in a timely fashion***. ***In exceptional cases, a request may be made for an extension of time in which to implement the recommendations, but in all cases this shall not exceed six months after the initial recommendation was made. The information provided by the Ukrainian authorities on the recommendations shall also be published by the Audit Board.***

The reports of, and information from, the Audit Board shall also be sent to OLAF ***and, where applicable, to the EPPO,*** 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***, as well as to investigate and prosecute criminal offences affecting the financial interests of the Union***.

8. The Audit Board shall have access to information, databases and registries required to carry out its tasks. The framework agreement referred to in Article 9 shall define rules and details for the access to relevant information by the Audit Board and the provision of relevant information by Ukraine to the Audit Board.

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

10. The functioning of the Audit Board shall be funded under Chapter V***, including the funding for the appointed independent external auditor***.

***Article 34a***

***Transparency***

***1. The Commission shall transmit the framework agreement, concluded between the Commission and Ukraine, the Ukraine Plan, submitted by Ukraine, simultaneously and on equal terms to the European Parliament and the Council without undue delay.***

***2. Information transmitted by the Commission to the Council in the context of this Regulation or its implementation shall simultaneously be transmitted to the European Parliament, subject to confidentiality arrangements if necessary. Relevant outcomes of discussions held in Council shall be shared with the competent committees of the European Parliament.***

***3. The Commission shall provide the competent committees of the European Parliament with an overview of its preliminary findings concerning the satisfactory fulfilment of the relevant conditions referred to in Article 15.***

***4. The competent committee of the European Parliament may invite the Commission and the head of the established Audit Board, referred to in Article 34, to provide information on the state of play of the assessment of the Facility in the context of the Reconstruction and Pre-accession Dialogue referred to in Article 34b.***

***Article 34b***

***Reconstruction and Pre-accession Dialogue***

***1. In order to enhance the dialogue between the Union institutions, in particular the European Parliament, the Council and the Commission, and to ensure greater transparency and accountability, the competent committee(s) of the European Parliament may invite the Commission and other relevant stakeholders, such as in particular the Audit Board, referred to in Article 34a, at least every four months, to discuss the following matters:***

***(a) the state of reconstruction and accession-related reforms in Ukraine, as well as the measures adopted under this Regulation;***

***(b) the Ukraine Plan and the assessment of the Ukraine Plan;***

***(c) the main findings of the review report referred to in Article 36(4);***

***(d) the status of fulfilment of the conditions of the Ukraine Plan;***

***(e) progress in fulfilling the accession criteria;***

***(f) payment, suspension and termination procedures, including any observation presented to ensure a satisfactory fulfilment of the conditions; and***

***(g) any other relevant information and documentation provided by the Commission to the competent committee(s) of the European Parliament in relation to the implementation of the Facility.***

***2. The European Parliament may express its views in resolutions as regards the matters referred to in paragraph 1.***

***3. The Commission shall take into account any elements arising from the views expressed through the Reconstruction and Pre-accession Dialogue, including the resolutions from the European Parliament, where relevant.***

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 ***by means of an independent external evaluation***. That ex-post evaluation shall assess the Union contribution to the achievement of the objectives of this Regulation. ***The Commission shall take due account of proposals by the European Parliament or the Council for this independent external evaluation.***

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 ***or the European Parliament***. 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 ***referred to in Articles 4, 13, 19, 20, 20a and 31*** 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 ***Articles 4, 13, 19, 20, 20a and 31 shall be conferred on the Commission for a period of four years from seven days after the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the four-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***

3. The delegations of power referred to in ***Articles 4, 13, 19, 20, 20a and*** 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 ***Articles 4, 13, 19, 20, 20a and*** 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 ***two months*** 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 ***two months*** 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.

***3a. Information, communication and publicity shall be provided in accessible format, in accordance with the UN CRPD Article 9, and EU harmonised legislation, notably Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on accessibility requirements for products and services.***

*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* |