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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with a view of an early second reading with the Parliament to the Proposal of REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +)
– Draft Statement of the Council's reasons

I. INTRODUCTION

1. On 9 November 2022, the Commission tabled the proposal for a Regulation of the European Parliament and of the Council establishing an Instrument for providing support to Ukraine for 2023 (macro-financial assistance +) (MFA+ Instrument)¹. The general objective of the MFA+ Instrument is to provide short term financial relief in a predictable, continuous, orderly and timely manner, financing of rehabilitation and initial support towards post-war reconstruction, where appropriate, with a view to supporting Ukraine on its path towards European integration.
2. The European Parliament adopted its position on the MFA+ Instrument at first reading at its plenary session on 24 November 2022² without any amendment to the Commission's proposal.
3. The Financial Counsellors Working Party examined the proposed MFA+ Instrument in at its meetings on 15 November 2022 and 8 December 2022 and it agreed to introduce amendments to the Commission's proposal³.
4. The Permanent Representatives Committee endorsed on [9] December 2022 the Council position at the first reading and suggested it to the Council for adoption.
5. The Council adopted its position at first reading on [10] December 2022, in accordance with the ordinary legislative procedure laid down in Article 294 TFEU⁴.

¹ Doc. ST 14562/22.

² Doc. PE-CONS 63/22.

³ Doc. 15231/22.

⁴ Doc. 15727/22

II. OBJECTIVE

6. Regulation (EU, Euratom) 2020/2093⁵ (MFF Regulation) currently does not allow for coverage of the financial liability arising from loans under the MFA+ Instrument. That is why the proposal for the MFA+ Instrument was part of the package of proposals on financing the support to Ukraine, together with the Commission's proposal for a Council Regulation amending the MFF Regulation⁶ and the Commission's proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) 2018/1046 as regards the establishment of a diversified funding strategy as a general borrowing method⁷.

Given that it does not seem possible to adopt the proposed amendment to the MFF Regulation timely enough to allow for the coverage of the financial liability arising from the loans under the MFA+ Instrument as proposed by the Commission, it is appropriate to seek an alternative solution that would allow for swift disbursements of the funds to Ukraine.

7. Voluntary contributions by Member States in the form of guarantees have been identified as an appropriate tool to provide the protection allowing the borrowing and lending operations under the MFA+ instrument. The Member States' guarantees would constitute an appropriate safeguard ensuring the Union's ability to repay the borrowings supporting the loans. Such voluntary guarantees would cease to be callable as of the date of application of an amendment to the MFF Regulation, or its successor, which provides for a guarantee of the loans under the MFA+ Instrument under the Union's budget over and above the MFF ceilings and up to the limits of the ceilings referred to in Article 3(1) and (2) of Decision (EU, Euratom) 2020/2053.

⁵ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433I, 22.12.2020, p. 11).

⁶ Doc. 14442/22.

⁷ Doc. 14443/22.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

8. The Council has introduced amendments to Article 4 and introduced two new Articles [4a][5] and [4b][6]. The rationale of the modifications is explained in new recitals [29a][30] to [29g][36].

(a) Available support under the Instrument (Article 4)

9. The support under the MFA+ Instrument would become available progressively, as Member States' guarantees have entered into force, without exceeding the amounts covered by those guarantee agreements. However, that requirement of making the support progressively availability would cease to apply from the date of application of an amendment to the MFF Regulation, or its successor, which provides for a guarantee of the loans under the MFA+ Instrument under the Union's budget over and above the MFF ceilings and up to the limits of the ceilings referred to in Article 3(1) and (2) of Decision (EU, Euratom) 2020/2053.

(b) Guarantees by Member States (Articles [4a][5] and [4b][6])

10. Article [4a][5] foresees a possibility for the Member states to provide irrevocable, unconditional and on-demand guarantees up to a total amount of EUR 18bn in respect of the support under the MFA+ Instrument in the form of loans. The relative share of the contribution of the Member States would correspond to the GNI key.

11. Article [4b][6] sets out the main features of the guarantee agreements to be concluded between the Commission and the Member States.

IV. CONCLUSION

12. The Council's position at first reading, while maintaining the initial Commission's proposal, brings additional elements that would allow a timely disbursement of the financial support to Ukraine, both pending the adoption of the relevant amendment to the MFF as well as from the date of application of such amendment.
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