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Subject:	Proposal for a COUNCIL IMPLEMENTING DECISION on the approval of the assessment of the Ukraine Plan

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2024/0093 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

on the approval of the assessment of the Ukraine Plan

{SWD(2024) 93 final}

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2024/0093 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

on the approval of the assessment of the Ukraine Plan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility[1] and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 23 June 2023, the European Council granted Ukraine the status of candidate country. The decision was based on Ukraine's fulfilment of the conditions specified in the Commission's opinion of June 2022 on Ukraine's membership application. On 14 December 2023, the European Council decided to open accession negotiations with Ukraine, following the recommendation issued by the European Commission.

(2) Russia's war of aggression had a disruptive impact on the economy of Ukraine. The economy contracted by 29.1 % in 2022 and recovered only mildly in 2023, due to the incapacitation of productive resources within territories either occupied or adjacent to the frontlines, the large-scale displacement of people, and disruptions in industry, agriculture and trade. Both inflation and unemployment increased significantly after the invasion. Due to high spending in on defence, the general government deficit reached 16 % of GDP in 2022 and 27 % in 2023. Having lost access to international financial markets, Ukraine continues to rely on foreign assistance. In 2023, 17.5 % of the net budget financing was based on external support.

(3) In this context, the Union set up an exceptional medium-term single instrument that brings together the bilateral support provided by the Union to Ukraine. In accordance with Regulation (EU) 2024/792, the Ukraine Facility ('the Facility') was established as a dedicated instrument with an overall maximum amount of Union support of EUR 50 000 000 000 in current prices. The Facility aims to contribute to addressing Ukraine's financing gap and maintaining macro-financial stability until 2027 with the aim of contributing to Ukraine's recovery, reconstruction, and modernisation needs, while supporting the country's reform efforts on its accession path towards the Union.

(4) Financial support under Pillar I of the Ukraine Facility amounts to up to EUR 38 270 000 000. Of this, EUR 5 270 000 000 is in the form of non-repayable support, while up to EUR 33 000 000 000 is in the form of loans, including any financing that may be provided as exceptional bridge financing in accordance with Article 25 of the

[1] OJ L, 2024/792, 29.2.2024, ELI: http://data.europa.eu/eli/reg/2024/792/oj.

Regulation. Due to the exceptional bridge financing of up to EUR 6 000 000 000, the total sum of financial resources made available to the Ukraine Plan ('the Plan') amounts to a maximum of EUR 32 270 000 000, with up to EUR 5 270 000 000 in the form of non-repayable financial support and up to EUR 27 000 000 000 in the form of a loan.

(5) In accordance with Article 25 of Regulation (EU) 2024/792, the Commission may provide limited, exceptional support through bridge financing, in the form of loans, for a period of up to 6 months starting from 1 January 2024. This support is made available if the Plan is not adopted by 2 March 2024 or the Framework Agreement is not signed. On 14 March 2024, the Commission and Ukraine signed a Memorandum of Understanding (MoU) to provide Ukraine with up to EUR 6 000 000 000 in the form of loans as exceptional bridge financing, conditional on Ukraine's compliance with the precondition for Union support, the fulfilment of five policy conditions and of certain reporting requirements To ensure continuity in the implementation of the reform agenda in Ukraine, these five policy conditions are also reflected in the Ukraine Plan.

(6) On 20 March 2024 Ukraine formally submitted the Plan to the Commission, in accordance with Articles 14, 16 and 17 of Regulation (EU) 2024/792. The Plan includes 15 sectoral chapters and 3 horizonal chapters on the reconstruction and modernisation processes across all levels of the government, on the mechanisms and arrangements to protect the financial interests of the Union, and on the stakeholders' consultation during the preparation of the Plan. A total of 151 measurable qualitative and quantitative steps are linked to the funding under Pillar I of the Facility, of which 5 are allocated to the exceptional bridge financing and 146 to the financing under this Decision. These steps were identified by the European Commission and the Ukrainian Government based on the needs, priorities, and capacity of Ukraine. Beyond the measures covered under the Facility, the Plan proposes a broader reform and investment agenda. In this regard, it serves as one comprehensive Plan for the Ukrainian government, setting out the reform and investment priorities for all the donors in the short to medium term.

(7) In accordance with Article 18 of Regulation (EU) 2024/792, the Commission has assessed the Plan's relevance, comprehensiveness, and appropriateness. In carrying out this assessment, the Commission acted in cooperation with Ukraine and other international partners. The Commission assessed in particular whether the Plan represents a needs-based, coherent, comprehensive and adequately balanced response to the objectives of the Facility, whether it contributes to and is consistent with addressing the relevant challenges identified in the context of Ukraine's EU accession path, whether its measures are consistent with the general principles of the Facility referred to in Article 4 of Regulation (EU) 2024/792, and whether it meets Ukraine's recovery, reconstruction and modernisation needs. The Commission also assessed whether the arrangements proposed by Ukraine can be expected to ensure an effective implementation, monitoring and reporting on the Plan, and whether they are expected to effectively ensure an adequate level of protection of the financial interests of the Union. Finally, the Commission assessed whether the Verkhovna Rada has been duly consulted in accordance with Ukraine's national legal framework, whether the Plan considers, where appropriate, the inputs of stakeholders, and whether it ensures that other donors are able to support its objectives.

(8) The Plan proposes 69 reforms and 10 investments to be implemented with a view to achieving the general and specific objectives of the Facility. The Plan encompasses

key areas, such as public administration, public financial management, the judiciary, the fight against corruption and anti-money laundering, financial markets, management of public assets, human capital, the business environment, decentralisation and regional policy, energy, transport and logistics, agri-food, management of critical raw materials, digital transformation, the green transition and environmental protection. Investments are included in six sectoral chapters, namely human capital, the business environment, energy, transport and logistics, agri-food, and decentralisation and regional policy.

(9) The 146 measurable qualitative and quantitative steps identified by the European Commission and the Ukrainian Government as conditions for receiving financing from the Facility are spread out from 2024 to 2027. The payment profile is determined by these steps and reflects Ukraine's financing and macroeconomic needs. Considering Ukraine's macroeconomic situation and debt sustainability, the financing is frontloaded in the first and second year of implementation. This frontloading is also reflected in the number of steps to be fulfilled. The steps under the chapter on public financial management include conditions on essential requirements, such as the maintenance of economic and financial stability, budget oversight and public financial management.

(10) The qualitative and quantitative steps linked to the reforms and investments under the Plan adequately respond to the general and specific objectives of the Facility, as set out in Article 3 of Regulation (EU) 2024/792. Each chapter of the Plan contributes either significantly or partially to at least one of the general objectives and one of the specific objectives, focusing on reforms and measures to promote the convergence with the Union, strengthening the rule of law, democracy and the respect of human rights and fundamental freedoms. The Commission will monitor the progress in the implementation of the Plan and the contribution to the general and specific objectives including via the Scoreboard of the Ukraine Plan, to be established under Article 21 of Regulation (EU) 2024/792.

(11) The qualitative and quantitative steps proposed in the Plan are expected to contribute to climate change mitigation and adaptation, environmental protection, including biodiversity conversation, and to the green transition. The steps adhere to the extent possible in a war-torn country, to the climate and environmental standards of the Union and are guided by the 'leaving no one behind' principle, in accordance with Article 4 of Regulation (EU) 2024/792. The steps are linked to environmental and climate policy as well as certain sectoral policy reforms that aim to mainstream sustainability practices across key sectors. These support, to the extent possible, both Ukraine's alignment with the principle of 'do no significant harm' and fulfilment of its obligations under multilateral environmental agreements. At least 12 % of all investments planned under the Pillar I should be aligned with the environmental and climate objectives, considering the conditions of a war-torn country, including at least 80 % of all investments in transport infrastructure and at least 60 % of all those in energy infrastructure. The Plan also prioritises Ukraine's digital transformation and the strengthening of its cybersecurity capabilities, paving the way towards the implementation of the EU's 5G Security Toolbox. The Plan also recognises the critical focus on Ukraine's labour force and human capital. In this respect, it proposes reform and investment steps to modernise the country's social institutions, it contributes to social objectives, including the inclusion of groups in vulnerable situations such as war veterans, displaced people and ensuring the best interest of children. The Plan also promotes gender equality and the empowerment and the rights of women and girls.

(12) The Plan is expected to contribute to the overall promotion of the rule of law. The proposed reforms should enhance the accountability, integrity, and professionalism of the judiciary, improve_insolvency and enforcement procedures, increase access to justice, and reinforce integrity, meritocracy, and professionalism of the prosecution service. The Plan also aims to improve the institutional capacity and the legal framework for the fight against corruption, align Ukraine’s legal framework in terms of anti-money laundering with the EU acquis and other global standards.

(13) The Plan acknowledges the need to establish a comprehensive coordination system to ensure effective reconstruction and modernisation processes across all levels of government, and the important role of sub-national authorities, in particular local self-government. In this sense, the measures in the Plan broadly reflect the recovery, reconstruction and modernisation needs of Ukraine’s regions and municipalities. One of the horizontal chapters of the Plan outlines the roles and responsibilities of state institutions and agencies, the core strategic planning documents and the fundamental principles of Ukraine's reconstruction and modernisation processes at the national and sub-national levels. The Plan proposes steps that should advance the decentralisation reform across Ukraine and should strengthen the development of regional policy, taking into account the powers, tasks and responsibilities assigned to different levels of government. A mechanism is to be put in place to involve the sub-national authorities in decision-making on the use of support in the reconstruction process at local level, together with a methodology for the tracking of the related expenditure. The equivalent of at least 20 % of the non-repayable financial support under Pillar I should be allocated to the recovery, reconstruction and modernisation needs of Ukraine’s sub-national authorities, in particular local self-government, by the end of 2027.

(14) The Plan is an integral part of Ukraine’s efforts to maintain financial stability and ensure the basic functioning of the State, including the continued provision of essential public services. It is also the main tool for outlining the government’s key reform and investment agenda for the four-year period, and for mobilising stable and predictable funding from the Union. The steps identified in the Plan constitute a balanced and well-targeted response to Ukraine’s needs, amplifying the country’s growth potential in the medium-to-long term and supporting convergence towards EU’s economic, social, and environmental standards. According to the Commission’s internal simulations, if all proposed reform and investment are fully implemented, the Plan has the potential to lift Ukraine’s GDP by around 6.2 % by the end of 2027 and by around 14.2 % by 2040, when compared to a scenario without the Ukraine Plan, excluding second-round effects, also expected to be considerable.

(15) The Facility is expected to contribute to ensuring Ukraine’s fiscal sustainability. Internal simulations by Commission services project that debt would be lower by about 10 percentage points of GDP, compared to an alternative scenario without the Facility. The reforms outlined in the Ukraine Plan aim to increase investments, enhance total productivity and economic resilience, and ultimately boost growth, which will put the economy on a sounder footing. Together with the highly concessional terms of funding which would lower interest payments and debt servicing, this will help support fiscal and public debt sustainability.

(16) The Plan aims to reinforce Ukraine’s efforts on the enlargement track. The reforms and investments proposed under the Plan contribute, complement and, in certain areas,

overlap with the recommendations in the Commission Opinion and its analytical report, and the 2023 EU enlargement report[2]. Most of the qualitative and quantitative steps of the Plan have a broad or a partial complementarity with the recommendations in the EU enlargement report. Many of the measures provided for in the Plan aim to bring Ukraine closer to EU standards and best practices by achieving further alignment with the EU acquis across the key areas identified in the Plan. Such alignment would also support creation of the necessary conditions for Ukraine's integration into the single market. Therefore, the Plan is consistent with and reinforces the objectives of the EU-Ukraine Association Agreement including a Deep and Comprehensive Free Trade Area. Moreover, the Plan’s focus on economic growth feeds into the EU accession process as a means to accelerate economic convergence with the EU. Achievement of the qualitative and quantitative steps of the Plan will have to be followed up by concrete implementation actions which will be duly taken into account within the framework of the accession process.

(17) The preparation of the Plan followed a comprehensive consultation process conducted by the Ukrainian government in accordance with the requirements of the Regulation. The process targeted consultations both within Ukraine, and with the international community via the Multi-Agency Donor Coordination Platform (MDCP). Within Ukraine, the government duly consulted central executive government bodies, relevant stakeholders, sub-national authorities, civil society and the Verkhovna Rada and its parliamentary committees. This was carried out through regular consultations throughout the process in various formats including presentations, workshops, written questionnaires, and dedicated discussions. Throughout the Plan’s implementation, the Ukrainian government will hold annual consultations on its progress and on the related qualitative and quantitative steps with the Verkhovna Rada and, whenever needed, with the other relevant stakeholders.

(18) The Plan includes adequate arrangements for its implementation, monitoring and reporting on the Ukraine Plan to ensure an adequate level of protection of the financial interests of the Union. Ukraine appointed a National Coordinator under the Ministry of Economy to ensure overall coordination, implementation, and monitoring of the Plan. The Ministry of Finance assumes the responsibility for auditing the implementation of the Plan and the fulfilment of the steps. The authorities responsible for implementing the qualitative and quantitative steps will work together with the National Coordinator to ensure a timely implementation. The Plan outlines the measures to prevent, detect and correct irregularities, fraud, all forms of corruption, including high-level corruption, and any other illegal activity affecting the financial interests of the Union, as well as conflicts of interest. It also sets out measures to investigate and prosecute offences affecting the funds provided under the Facility, while also envisaging a mechanism to enable judicial cooperation with competent authorities of the Union and its Member States. Lastly, it outlines the arrangements that aim to avoid double funding from the Facility and other Union programmes or donors. Ukraine should also ensure an adequate level of information and visibility in the implementation of the Plan.

(19) Ukraine should ensure that, upon request, the Commission has full access to the underlying relevant data that supports due justification of the requests for payments, both for the assessment of the requests for payment and for audit and control purposes.

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[2] European Commission, DG Neighbourhood and Enlargement Negotiations, EU Enlargement Package – Ukraine, 2023, COM(2022) 407 final and SWD(2023) 30 final

(20) Throughout the implementation of the Plan, Ukraine should ensure full compliance with the provisions of the Framework Agreement concluded with the Commission, in accordance with Article 9 of the Regulation (EU) 2024/792.

(21) In accordance with Article 7 of Regulation (EU) 2024/792, Member States, third countries, international organisations, international financial institutions, or other sources may provide additional contributions to the Facility, including the Plan. The Plan does not specify financial contributions from other donors for its implementation, but it describes how it ensures coordination and alignment with the international community, including on Ukraine's reform agenda and on the investment needs of Ukraine to ensure its reconstruction, recovery, and modernisation. To this end, during the Plan's preparation, regular consultations were held with the G7 and partners from international financial institutions through the MDCP and associated expert groups, and with Member States. The Ukrainian government will continue to carry out consultations and ensure appropriate coordination with international partners throughout the implementation of the Plan to ensure that they are able to support its objectives.

(22) In accordance with Article 5 of Regulation (EU) 2024/792, the financial support under the Plan is to be made available under the precondition that Ukraine continues to uphold and respect effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, guarantee respect for human rights, including the rights of persons belonging to minorities and upon satisfactory fulfilment of the conditions laid down in the Plan. In this sense, crucial elements of the Plan are strengthening the rule of law, including the independence of the judiciary, the fight against corruption and in particular high-level corruption, the fight against money laundering, and strengthening public administration reform. Based on the Commission's assessment, at the moment the assessment of the Plan is proposed for approval, Ukraine fulfils the precondition for support under the Facility.

(23) The financial resources made available to the Plan will be provided through pre-financing and 15 quarterly instalments distributed over 2024-2027 upon Ukraine's satisfactory fulfilment of the relevant qualitative and quantitative steps identified in relation to the implementation of the Ukraine Plan. The amount of each instalment broadly reflects the number of qualitative and quantitative steps involved, also considering Ukraine's macroeconomic situation and debt sustainability in the short term.

(24) The time limit for completing all qualitative and quantitative steps is 31 December 2027. A final instalment can be paid during the first quarter of 2028, reflecting the completion of qualitative and quantitative steps during the last quarter of 2027.

(25) The support to be provided in the form of loan is to be financed from the borrowing by the Commission on behalf of the Union on the basis of Article 22(1) of Regulation (EU) 2024/792.

(26) In the Plan, Ukraine requested a pre-financing payment of 7 % of the loan support, equivalent to EUR 1 890 000 000. That amount should be made available subject to the entry into force of and in accordance with framework agreement (the 'Framework Agreement') to be concluded between the Union and Ukraine pursuant to Article 9 of Regulation (EU) 2024/792 and the loan agreement (the 'Loan Agreement') to be concluded between the Union and Ukraine pursuant to Article 22 of Regulation (EU) 2024/792 . Pre-financing should be cleared by being proportionally deducted against payment of the instalments.

(27) Following the Commission's positive assessment of the Plan, in accordance with Article 19 of Regulation (EU) 2024/792 this Decision sets out the qualitative and quantitative steps necessary to implement the Plan, and the amount to be made available from the Union in the form of non-repayable financial support and loan support.

HAS ADOPTED THIS DECISION:

Article 1
Approval of the assessment of the Ukraine Plan

The assessment of the Ukraine Plan, on the basis of the criteria provided for by Article 18 of Regulation (EU) 2024/792, is approved. The reforms and investments projects described in the Ukraine Plan, the arrangements and timetable for monitoring and implementing the Ukraine Plan, including the qualitative and quantitative steps, and the arrangements for providing the Commission with full access to the underlying documents and data are set out in the Annex to this Decision.

Article 2
Financial contribution

1. The Union shall make available to Ukraine a financial contribution in the form of non-repayable support amounting to EUR 5 270 000 000.

2. The Union financial contribution shall be made available by the Commission to Ukraine in instalments in accordance with the Annex to this Decision.

3. The release of instalments in accordance with the Framework Agreement and Financing Agreement to be concluded between the Union and Ukraine pursuant to Articles 9 and 10, respectively, of Regulation (EU) 2024/792 shall be conditional on available budget appropriations and a decision by the Council, taken in accordance with Article 26 of Regulation (EU) 2024/792, that Ukraine has satisfactorily fulfilled the relevant qualitative and quantitative steps identified in relation to the implementation of the Ukraine Plan following a positive assessment by the Commission. In order to be eligible for payment, Ukraine shall complete the quantitative and qualitative steps no later than 31 December 2027.

Article 3
Loan support

1. The Union shall make available to Ukraine a loan amounting to a maximum of EUR 27 000 000 000.

2. The loan support referred to in paragraph 1 shall be made available by the Commission to Ukraine in instalments in accordance with the Annex to this Decision. An amount of EUR 1 890 000 000 shall be made available as a pre-financing payment, equal to 7 % of the loan support in accordance with Article 24 of Regulation (EU) 2024/792. The pre-financing and instalments may be disbursed by the Commission in one or several tranches. The size of the tranches shall be subject to the availability of funding.

3. The pre-financing referred to in paragraph 2 shall be released subject to the entry into force of and in accordance with the Framework Agreement and the Loan Agreement provided for in Article 22 of Regulation (EU) 2024/792 to be concluded between the

Union and Ukraine. Pre-financing shall be cleared by being proportionally deducted against payment of the instalments.

4. The release of instalments in accordance with the Framework Agreement and the Loan Agreement shall be conditional on available funding and a decision by the Council, taken in accordance with Article 26 of Regulation (EU) 2024/792, that Ukraine has satisfactorily fulfilled the relevant qualitative and quantitative steps identified in relation to implementation of the Ukraine Plan following a positive assessment by the Commission. In order to be eligible for payment, Ukraine shall complete the quantitative and qualitative steps no later than 31 December 2027.

Article 4
Addressee

This Decision is addressed to Ukraine.

Done at Brussels,

For the Council
The President