



Council of the
European Union

Brussels, 8 May 2024
(OR. en)

Interinstitutional File:
2024/0093(NLE)

9492/2/24
REV 2

RESUA 4
FIN 406
ECOFIN 531
ELARG 59
COEST 269
DEVGEN 66

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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

COUNCIL IMPLEMENTING DECISION

of ...

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 Facility¹, and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) On 23 June 2022, the European Council granted Ukraine the status of candidate country. 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 against Ukraine has had a disruptive impact on the Ukrainian economy which contracted by 29.1 % in 2022 and recovered only mildly in 2023. This contraction was due to the incapacitation of productive resources within territories either occupied by Russia 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 Russian invasion. Due to high spending 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 net budget financing was based on external support.
- (3) In this context, the Union has established 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') has been 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 objective of contributing to Ukraine's recovery, reconstruction and modernisation needs while supporting the country's reform efforts on its accession path towards membership of the Union.

- (4) Financial support under Pillar I of the 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 Regulation (EU) 2024/792. Due to the provision of exceptional bridge financing of up to EUR 6 000 000 000, the total sum of financial resources made available to the Ukraine Plan amounts to a maximum of EUR 32 270 000 000, of which up to EUR 5 270 000 000 is in the form of non-repayable financial support and up to EUR 27 000 000 000 is 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 if the Ukraine Plan is not adopted by 2 March 2024 or the Framework Agreement provided for in Article 9 of that Regulation is not signed. On 13 March 2024, the Commission and Ukraine signed a Memorandum of Understanding on providing 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 Ukraine Plan to the Commission, in accordance with Articles 14, 16 and 17 of Regulation (EU) 2024/792. The Ukraine Plan includes 15 sectoral chapters and three horizontal chapters on 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 Ukraine Plan. A total of 151 measurable qualitative and quantitative steps are linked to the funding under Pillar I of the Facility, of which five are allocated to the exceptional bridge financing and 146 to the financing under this Decision. Those steps were identified by the European Commission and the Government of Ukraine based on the needs, priorities and capacity of Ukraine. Beyond the measures covered under the Facility, the Ukraine Plan proposes a broader reform and investment agenda. In this regard, it serves as one comprehensive plan for the Government of Ukraine, setting out the reform and investment priorities for all donors working on Ukraine's immediate financing needs and future economic recovery and reconstruction in the short to medium term. Necessary steps should also be taken to ensure close coordination and complementarity among donors, including through regular consultations and strategic outreach.

- (7) In accordance with Article 18 of Regulation (EU) 2024/792, the Commission has assessed the Ukraine Plan's relevance, comprehensiveness, and appropriateness. In carrying out this assessment, the Commission acted, as much as possible, in cooperation with Ukraine and consulted other international partners. The Commission assessed in particular whether the Ukraine 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 Union 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 Ukraine 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 Ukraine Plan takes into consideration, where appropriate, the inputs of stakeholders, and whether it ensures that other donors are able to support its objectives.

- (8) The Ukraine Plan proposes 69 reforms and 10 investments to be implemented with a view to achieving the general and specific objectives of the Facility. The Ukraine 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 Government of Ukraine 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 front-loaded in the first and second years of implementation. This front-loading 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 Ukraine 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 Ukraine Plan contributes either significantly or partially to at least one of the general objectives and one of the specific objectives of the Facility, focusing on reforms and measures to promote convergence with the Union, strengthening the rule of law, democracy and respect for human rights and fundamental freedoms. The Commission will monitor progress in the implementation of the Ukraine Plan and its contribution to the general and specific objectives of the Facility, including via the Scoreboard for the Ukraine Plan to be established under Article 21 of Regulation (EU) 2024/792.

- (11) The qualitative and quantitative steps proposed in the Ukraine Plan are expected to contribute to climate change mitigation and adaptation, environmental protection, including biodiversity conservation, and to a sustainable and just green transition. Those 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. Those steps are linked to environmental and climate policy as well as to certain sectoral policy reforms that aim to mainstream sustainability practices across key sectors. They support, to the extent possible, both Ukraine’s alignment with the principle of ‘do no significant harm’ and its progress towards achieving the United Nations Sustainable Development Goals and the fulfilment of its obligations under multilateral environmental agreements. At least 12 % of all investments planned under Pillar I of the Facility should be aligned with climate and environmental objectives, considering the conditions in a war-torn country, including at least 80 % of all investments in transport infrastructure and at least 60 % of all investments in energy infrastructure. The Ukraine Plan also prioritises Ukraine’s digital transformation and the strengthening of its cybersecurity capabilities, paving the way towards the implementation of the Union’s 5G Security Toolbox.

- (12) The Ukraine Plan also recognises the critical focus on Ukraine's labour force and human capital for the reduction of poverty and economic growth. In this respect, it emphasizes the restoration and improvement of health and education facilities and proposes reform and investment steps to modernise the country's social institutions and improve social security. It contributes to social objectives for an inclusive, peaceful society, together with the inclusion of groups in vulnerable situations such as war veterans, displaced people and ensuring the best interests of children. The Ukraine Plan also contributes to gender equality and the empowerment of women and girls and promotes their rights, including by encouraging women's full, equal and meaningful participation in decision-making processes, as well as preventing and combating violence against women, gender-based violence and domestic violence.
- (13) The Ukraine Plan is expected to contribute to the overall promotion of the rule of law. The proposed reforms should enhance the independence, accountability, integrity, and professionalism of the judicial system at all levels, improve insolvency and enforcement procedures, increase access to justice, and reinforce integrity, meritocracy and professionalism in the prosecution service. The Ukraine Plan also aims to improve institutional capacity and the legal framework, including through the necessary procedures to vet current staff and select new recruits, in relevant bodies in a transparent and meritocratic manner for the fight against corruption, and to align Ukraine's legal framework with regard to anti-money laundering with the Union acquis and other global standards.

- (14) The Ukraine Plan acknowledges the need to establish a coordination system to ensure effective reconstruction and modernisation processes across all levels of government, and to recognise the important role of sub-national authorities, in particular local self-government, in those processes. In this regard, the measures contained in the Ukraine Plan broadly reflect the recovery, reconstruction and modernisation needs of Ukraine's regions and municipalities. One of the horizontal chapters of the Ukraine 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 national and sub-national levels. The Ukraine Plan proposes steps to advance decentralisation reform across Ukraine and to 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 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 of the Facility 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.

- (15) The Ukraine Plan is an integral part of Ukraine's efforts to maintain financial stability and ensure the basic functioning of the Ukrainian State, including the continued provision of essential public services. It is also one of the main tools for outlining the Government of Ukraine's key reform, reconstruction and investment agenda for the four-year period of the Ukraine Plan, and the main tool for mobilising stable and predictable funding from the Union. The steps identified in the Ukraine 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 the Union's economic, social, and environmental standards without prejudice to Ukraine's obligations under international law to all Member States. According to the Commission's internal simulations, if all proposed reforms and investments are fully implemented, the Ukraine Plan has the potential to lift Ukraine's GDP by approximately 6.2 % by the end of 2027 and by approximately 14.2 % by 2040, compared to a scenario in which the Ukraine Plan was not implemented, excluding second-round effects, which are also expected to be considerable.
- (16) The Facility is expected to contribute to ensuring Ukraine's fiscal sustainability. Internal simulations by the Commission project that following the implementation of the Facility, debt would be lower by about 10 percentage points of GDP compared to an alternative scenario in which the Facility was not implemented. 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 Ukrainian economy on a sounder footing. Together with the highly concessional terms of funding which will lower interest payments and debt servicing, the implementation of the Facility and the Ukraine Plan will therefore support fiscal and public debt sustainability.

- (17) The Ukraine Plan aims to reinforce Ukraine's efforts towards accession to the Union. The reforms and investments proposed under the Ukraine Plan contribute to, complement and, in certain areas, overlap with the recommendations in the Commission Opinion and in its analytical report, as well as in the 2023 EU enlargement report². Most of the qualitative and quantitative steps of the Ukraine Plan have a broad or a partial complementarity with the recommendations in the EU enlargement report. Many of the measures provided for in the Ukraine Plan aim to bring Ukraine closer to Union standards and best practices by achieving further alignment with the Union acquis across the key areas identified in the Ukraine Plan. The Commission should also ensure that reforms and investments funded by the Facility comply with Union norms and standards, including in the agricultural and other relevant sectors. Such an alignment would also support the creation of the necessary conditions for Ukraine's integration into the internal market. Therefore, the Ukraine Plan is consistent with and reinforces the objectives of the EU-Ukraine Association Agreement including a Deep and Comprehensive Free Trade Area. Moreover, the Ukraine Plan's focus on economic growth feeds into the accession process as a means to accelerate economic convergence with the Union. Achievement of the qualitative and quantitative steps of the Ukraine 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.

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

- (18) The preparation of the Ukraine Plan included a consultation process conducted by the Government of Ukraine in accordance with the national legal framework, as set out in Regulation (EU) 2024/792. That process targeted consultations both within Ukraine, and with the international community via the Multi-Agency Donor Coordination Platform (MDCP). Within Ukraine, the Government consulted central executive government bodies, relevant stakeholders, sub-national authorities, civil society and the Verkhovna Rada and its parliamentary committees. The process was carried out through regular consultations in various formats including presentations, workshops, written questionnaires, and dedicated discussions. Throughout the implementation of the Ukraine Plan, the Government of Ukraine will hold annual consultations on its progress and on the related qualitative and quantitative steps with the Verkhovna Rada and, where necessary, with other relevant stakeholders.

- (19) The Ukraine Plan includes adequate arrangements for its implementation, monitoring and reporting 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 Ukraine Plan. The Ministry of Finance assumes the responsibility for the auditing and implementation of the Ukraine Plan and the fulfilment of the qualitative and quantitative steps. The authorities responsible for implementing the qualitative and quantitative steps will work together with the National Coordinator to ensure a timely implementation. Effective coordination and monitoring of the total Union financial assistance to Ukraine would benefit from regular dialogue and cooperation between the institutions involved in the governance of the Ukraine Plan and the Accounting Chamber of Ukraine. The Ukraine 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. 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 Ukraine Plan. In particular, procurements financed under Pillar I of the Facility should be based on Union standards as set out in Articles 8 and 11 of Regulation (EU) 2024/792.

- (20) Ukraine should ensure that, upon request, the Commission, OLAF, the European Court of Auditors and, where applicable, the European Public Prosecutor's Office have full access to the underlying relevant data that supports due justification of requests for payments, both for the assessment of those requests and for audit and control purposes. Ukraine should also report irregularities in relation to the use of funds to the Commission as soon as they are detected.
- (21) Throughout the implementation of the Ukraine Plan, Ukraine is to 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.
- (22) 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 Ukraine Plan. While the Ukraine Plan does not specify financial contributions from other donors for its implementation, 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 Ukraine Plan's preparation, consultations were held with the G7 and partners from international financial institutions through the MDCP and associated expert groups, and with Member States. The Government of Ukraine will continue to carry out consultations and ensure appropriate coordination with international partners throughout the implementation of the Ukraine Plan to ensure that they are able to support its objectives.

- (23) In accordance with Article 5 of Regulation (EU) 2024/792, financial support under the Ukraine Plan is 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, and to guarantee respect for human rights, including the rights of persons belonging to minorities. Financial support is also dependent upon satisfactory fulfilment of the conditions laid down in the Ukraine Plan. In this regard, crucial elements of the Ukraine Plan are the strengthening of 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 the strengthening of public administration reform. Based on the Commission's assessment of the Ukraine Plan, Ukraine fulfils the precondition for support under the Facility. The Commission will continue to monitor the fulfilment of the precondition throughout the period of the support provided under the Facility.
- (24) Support to the Ukraine Plan under the Facility should ensure the convergence of Ukraine towards the Union through a progressive alignment with its fundamental values and norms, the strengthening of public institutions and the adoption of the Union acquis. To that end, when assessing the quantitative and qualitative steps before each disbursement under the Facility, the Commission, with a view to ensuring the protection of the financial interests of the Union, should pay particular attention to the effective consolidation of the rule of law, governance and public administration in Ukraine, as well as the progressive approximation with the Union acquis in the relevant sectors. This will be reflected in the Commission's assessment of Ukraine's fulfilment of the precondition set out in Article 5 of Regulation (EU) 2024/792 throughout the period of the Union support.

- (25) The financial resources made available to the Ukraine Plan will be provided through pre-financing and in 15 quarterly instalments distributed over the period 2024 to 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, taking into consideration Ukraine's macroeconomic situation and debt sustainability in the short term.
- (26) All qualitative and quantitative steps should be completed by 31 December 2027. A final instalment can be paid during the first quarter of 2028, reflecting the completion of the qualitative and quantitative steps during the last quarter of 2027.
- (27) The support to be provided in the form of loans is to be financed from borrowing by the Commission on behalf of the Union on the basis of Article 22(1) of Regulation (EU) 2024/792.
- (28) In the Ukraine 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 the Framework Agreement concluded between the Union and Ukraine pursuant to Article 9 of Regulation (EU) 2024/792 and the Loan Agreement 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 the payment of the instalments.

- (29) To maximise the leverage of the support provided under the Ukraine Plan, the quantitative and qualitative steps should be implemented in conjunction with the structural benchmarks set out in the IMF's Extended Fund Facility Arrangement for Ukraine and, whenever possible, the conditionalities linked to financial assistance programmes provided to Ukraine by other donors, without prejudice to the provisions of Ukraine Facility instruments with regard to the modalities for the provision of funding.
- (30) Following the Commission's positive assessment of the Ukraine Plan, that assessment should be approved and the qualitative and quantitative steps necessary to implement the Ukraine Plan and the amount to be made available from the Union in the form of non-repayable financial support and loan support to Ukraine should be set out in this Decision in accordance with Article 19 of Regulation (EU) 2024/792,

HAS ADOPTED THIS DECISION:

Article 1

Approval of the assessment of the Ukraine Plan

The Commission assessment of the Ukraine Plan, on the basis of the criteria set out in Article 18 of Regulation (EU) 2024/792, is approved. The reforms and investment 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, OLAF, the European Court of Auditors, and, where applicable, the European Public Prosecutor's Office 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 concluded pursuant to Articles 9 and 10, respectively, of Regulation (EU) 2024/792 shall be conditional on available budget appropriations and a decision of the Council, in accordance with Article 26 of that Regulation, 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. Payments to Ukraine shall be conditional upon the completion of the qualitative and quantitative steps as set out in the Annex to this Decision. The final qualitative and quantitative steps shall be completed by 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 those 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 concluded pursuant to Article 9 of Regulation (EU) 2024/792 and the loan agreement entered into pursuant to Article 22 of that Regulation. 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 referred to in paragraph 3 of this Article shall be conditional on available funding and a decision of the Council, 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. Payments to Ukraine shall be conditional upon the completion of the qualitative and quantitative steps as set out in the Annex to this Decision. The final qualitative and quantitative steps shall be completed by 31 December 2027.

Article 4
Entry into force

This Decision shall enter into force on the date of its adoption.

Done at ..., ...

For the Council
The President
