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COVER NOTE

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2022/0371 (COD)

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 +)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Russia's recent escalation of its brutal war of aggression against Ukraine confirms its resolve to violate the fundamental rights of Ukraine to independence, sovereignty and territorial integrity within its internationally recognised borders and destroy its viability as a State. The bravery, courage and determination shown by the Ukrainian people to defend their country deserve profound respect and gratitude.

In a Team Europe approach, the EU, its Member States and European financial institutions have since the beginning of Russia's war of aggression mobilised EUR 19.7 billion for Ukraine's economic, social and financial resilience. This combines the support from the Union budget (EUR 12.4 billion), including macro-financial assistance, support from the European Investment Bank and the European Bank for Reconstruction and Development, fully or partially guaranteed by the EU budget, as well as further financial support by Member States (EUR 7.3 billion).

The EU budget, in particular via the European Neighbourhood Instrument and the Neighbourhood, Development and International Cooperation Instrument, has been providing comprehensive reform and investment support to Ukraine since 2014. Since the beginning of the Russian war of aggression, this support has been reoriented especially to emergency assistance and, increasingly, rehabilitation of damaged/destroyed national and municipal infrastructure and housing. It is critical to continue this support in a complementary way through the MFA+ instrument, including by reforms linked to Ukraine's European path.

In addition, the Council decided on assistance measures to support the Ukrainian armed forces under the European Peace Facility, amounting to EUR 3.1 billion, and a military assistance mission in support of Ukraine with EUR 0.1 billion for the common costs aiming at training 15.000 soldiers as a first start. The EU and its Member States have also delivered an unprecedented in-kind emergency response via the EU Civil Protection Mechanism, constituting the largest emergency operation since the creation of the Mechanism, and channelled millions of emergency items to Ukraine and the region.

The damage from Russia's war of aggression on the Ukrainian economy, citizens and businesses is tremendous. In the short run, the International Monetary Fund predicts that the Ukrainian economy could contract by as much as 35% in real terms by the end of this year. Inflation has been accelerating and is set to reach 30% by the end of 2022, due to scarcities of goods, logistical challenges to supply and the financing of government needs by monetary creation.

Due to Russia's ongoing war, the short-term funding needs of Ukraine for 2023 are expected to be significant. According to recent estimates by the Ukrainian authorities, in cooperation with the International Monetary Fund, there will be a continuous funding gap of between EUR 3 and 4 billion per month in 2023. Ukraine will continue to experience high funding needs in the short-term, to maintain essential state functions, ensure macroeconomic stability and rehabilitate critical infrastructure destroyed by Russia's war. That is why it is critical that new support is mobilised as quickly as possible.

The coming months will be decisive to agree on additional support. This short-term support will require a coordinated international effort and close cooperation among international partners. The EU is steadfast in its support to Ukraine whose future lies within the EU. Continuing the support to Ukraine under an organised collective approach is a strong priority for the Union.

The Union's macro-financial assistance to Ukraine in 2022 has been generous and effective. The Union has committed EUR 7.2 billion of highly concessional loans, including a subsidy on interest rate payments, under its emergency and exceptional macro-financial assistance packages, out of which EUR 4.2 billion were disbursed already by mid-October, with the remaining EUR 3 billion set to reach Ukraine by the end of the year. Yet, so far assistance has been provided on an ad-hoc basis, covering a few months at a time. It has required significant provisioning from the EU budget and national guarantees. Therefore, a more structural and efficient approach to the Union's support to Ukraine in 2023 should be considered. This proposal sets an orderly and sustainable framework for the channelling of financial assistance to Ukraine, while offering sufficient flexibility to adjust the support to the evolving funding needs of the country and preparing the ground for a future 'Rebuild Ukraine' Facility, in line with the Communication of 18 May 2022 on "Ukraine Relief and Reconstruction"¹ and the principles agreed in the Lugano's Ukraine Reform Conference of July 2022.

The broad parameters of the Union's relief and rehabilitation support should be decided for the whole of 2023 on basis of a stable framework. A unified and efficient system to secure the best borrowing conditions and extend market access for loan support has major advantages in a context of rising costs and interest rates.

To this end, the Commission proposes to create an instrument to provide support to Ukraine (macro-financial assistance +) for 2023. The instrument will provide short-term financial relief in the form of highly concessional loans in a predictable, continuous, orderly and timely manner, financing immediate needs, rehabilitation of critical infrastructure and initial support towards sustainable post-war reconstruction, with a view to supporting Ukraine on its path towards European integration. The EU will subsidise the interest rate costs of Ukraine, which will be financed by contributions from Member States in the form of external assigned revenue until the end of 2027. To ensure coverage of interest costs during the lifetime of the loans, contributions from Member States beyond 2027 should be renewed and continue as external assigned revenue unless covered through other means in future multiannual financial frameworks. Furthermore, amounts stemming from additional voluntary contributions from Member States and possible contributions from third countries and parties may provide non-repayable support.

Upcoming funding needs for Ukraine require mobilisation and disbursement in a cost-effective and agile manner. It is of paramount importance that this funding be organised under a single funding method alongside other EU funding in order to allow multiple policy needs to be met concurrently. For that reason, it is necessary to amend Regulation (EU, Euratom) 2018/1046, to establish the diversified funding strategy, currently implemented for borrowings under Decision (EU, Euratom) 2020/2053² as the baseline method for the implementation of borrowing operations.

¹ COM/2022/233 final

² Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom, OJ L 424, 15.12.2020, p. 1.

To ensure a sound financial underpinning, loans to Ukraine should be backed up by a guarantee from the EU budget headroom, i.e. the budgetary space above the ceiling for payments of the multiannual financial framework (MFF) up to the limit of the own resources ceiling. It would provide a high degree of protection and reassurance to investors, avoid the need for provisioning of loans or establishment of national guarantees, without changes to the size or ceilings of the MFF. This necessitates a limited amendment of Regulation (EU, Euratom) 2020/2093³ that will allow contingent liabilities stemming from financial assistance to Ukraine available for 2023 and 2024 to be treated in the same way as financial assistance for Member States.

Support under the instrument will require Ukraine to further enhance rule of law, good governance, anti-fraud and anti-corruption measures. Therefore, while taking into account the evolution on the ground, financial support should be framed by policy conditions, increasingly geared towards strengthening Ukraine's institutions and preparing the ground for a successful reconstruction effort as well as supporting Ukraine's efforts on its European path.

The future of Ukraine and its citizens lies indeed within the EU. The European Council has granted candidate status to Ukraine in June 2022. The immediate effort to sustain Ukraine's financial resilience as well as the long-term reconstruction will require Union's expertise, working with international partners, as well as transparency and monitoring.

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

The support under this instrument will be consistent and complementary to activities financed under Regulation (EU) 2021/947⁴ and Regulation (EC) No 1257/96⁵ in line with the respective objectives, intervention logic and rules of these instruments.

- **Consistency with other Union policies**

The candidate status granted by the European Council on 23 June 2022 anchors Ukraine firmly on its European path. This is why the whole EU response in support of Ukraine's resilience and recovery – including through this instrument – will also contribute to the early phase of Ukraine's pre-accession process.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 212 TFEU is an appropriate legal basis for financial assistance programme granted by the Union for third countries, which are not development countries. The continued unprovoked and unjustified military aggression by Russia requires granting of additional financial assistance to Ukraine in line with the objectives and modalities described under this proposal.

³ 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.

⁴ Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/Union of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (Text with EEA relevance), OJ L 209, 14.6.2021, p. 1.

⁵ Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

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

The subsidiarity principle is respected as the need for a common response in providing support to Ukraine on adequate scale cannot be sufficiently achieved by the Member States alone and can be better achieved by the EU. The main reasons are the fiscal capacity and budgetary constraints faced at the national level and the need for strong donor coordination in order to maximise the scale and effectiveness of the support, while limiting the burden on the administrative capacity of Ukrainian authorities, which is very stretched in the current circumstances.

- **Proportionality**

The proposed financial support to Ukraine is considered adequate in size, based on the best estimates of Ukraine's funding needs, submitted by the national authorities and assessed in cooperation with the international community, including the International Monetary Fund. Such support does not go beyond what is necessary for the sought purpose to provide structured and predictable support to Ukraine in 2023 and its related financing.

- **Choice of the instrument**

A Regulation is the appropriate instrument as it provides directly applicable rules for the support.

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

- **Ex-post evaluations/fitness checks of existing legislation**

The proposal follows a series of macro-financial assistance operations provided to Ukraine since 2015. Past ex-post evaluations of previous MFA operations to Ukraine have shown that in general they were highly relevant in terms of their objectives, financial envelope and policy conditions. In particular, MFA operations proved crucial to support Ukraine in addressing its balance-of-payment problems and implementing key structural reforms to stabilise the economy and enhance the sustainability of its external position. They allowed for fiscal savings and financial benefits, and acted as catalyst for additional financial support and investor confidence. The conditionality attached to the MFA operations was found complementary to the related IMF programmes. It created a politically reinforcing effect that contributed to the mobilisation of the Ukrainian authorities around essential reforms, especially in structural policy areas that are less covered by other international donor programmes.

The one-by-one approach to financial assistance to Ukraine in 2022 has demonstrated significant drawbacks in the context of the war, however, in particular on agreeing on the financing side. It has required significant provisioning from the EU budget and/or national guarantees. To avoid having to repeatedly seize the EU and national legislators on financial support issues, the broad parameters of the Union's relief and rehabilitation support should be decided for the whole of 2023 on the basis of a stable framework.

- **Stakeholder consultations**

The proposal delivers on the calls for stable and predictable Union support to Ukraine from the international community and the country itself. In the preparation of this proposal, the Commission services have consulted with international financial institutions and other bilateral (including Member States) and multilateral donors, with significant expertise,

including as regards the Ukrainian economy. The Commission has also been in regular contact with the Ukrainian authorities.

- **Collection and use of expertise**

The proposal builds on thirty years long experience with macro-financial assistance as well as on experience with Union's external action support.

The Commission based this proposal on a careful analysis, also building on inputs from international financial institutions and other competent international institutions, of the financial needs and broader macro-financial situation of Ukraine. This includes discussions on a regular basis of the latest projections of Ukraine's funding needs within international fora, e.g. the G7, International Expert Conference on the Recovery, Reconstruction and Modernisation of Ukraine, as well as continuous direct contacts with the Ukrainian authorities.

- **Impact assessment**

The Union's macro-financial assistance is an exceptional emergency instrument aimed at addressing severe balance-of-payments difficulties in third countries. More generally, the Commission's MFA proposals build on lessons learned from ex-post evaluations carried out on past operations in the EU's neighbourhood. This MFA+ Instrument will help alleviate the short-term funding needs of Ukraine in 2023, given the current extraordinary circumstances. The reporting requirements and policy conditions linked to it aim to ensure the efficiency, transparency, and accountability of the support. This MFA+ Instrument should build upon the achievements of the seven MFA programmes since 2015, including the latest COVID-19, the early 2022 emergency and the 2022 exceptional MFA operations.

- **Regulatory fitness and simplification**

The proposal is not linked to regulatory fitness and simplification.

- **Fundamental rights**

A pre-condition for granting support under the instrument is that Ukraine continues to respect effective democratic mechanisms and its institutions, including a multi-party parliamentary system, the rule of law, and to guarantee respect for human rights.

The reform-commitment and strong political will by the Ukrainian authorities is a positive sign, in particular as evidenced by the European Council granting candidate status to Ukraine in June 2022 and by the renewed successful completion of the structural policy conditionality attached to the recent MFA operations to Ukraine. Since the Russian aggression, the Ukrainian authorities have shown an impressive degree of resilience and have remained committed to pursue these reforms in a transparent manner and working towards EU standards and in line with the country's path towards EU integration.

To that end, the political pre-condition for an MFA operation is considered to be satisfied at present. At the same time, the continuous adherence to this political pre-condition will be further ensured by policy conditionalities as established in the future Memorandum of Understanding for this instrument.

4. BUDGETARY IMPLICATIONS

An overall envelope of up to EUR 18 billion in loans will be provided for a period of 12 months, corresponding to EUR 1.5 billion on average per month. This amount comes on top of the assistance provided via existing instruments.

Additional amounts stemming from specific voluntary contributions from Member States (as external assigned revenue) would be used for the following purposes:

- Support to loans' interest costs – no target volume can be set in advance as these costs will depend on the actual interest on the loans
- Non-repayable support for activities covered by the Memorandum of Understanding of the Instrument or
- To be channelled to the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI) and/or Humanitarian Aid for activities benefitting Ukraine.

Moreover, third countries and parties may make available extra resources to those described above, as external assigned revenue to contribute to the Memorandum of Understanding of the Instrument or to be channelled to NDICI and/or Humanitarian Aid for activities benefitting Ukraine.

The Commission intends to grant the loans under the Instrument with long maturities (with a maximum duration of 35 years) and with no repayment of principal before 2033. This will be coupled with the above mentioned interest costs to be covered.

Disbursements can be organised flexibly and swiftly in response to the needs of the Ukrainian authorities in the course of the year 2023. They could be envisaged in general, on a quarterly basis so as to minimise the administrative burden on the Ukrainian authorities. A review mid-way through the year will take stock of the evolution of Russia's war of aggression and its implications on the funding needs as well as of the continued relevance and feasibility of the policy conditionality.

Further details on the budgetary implications and the human and administrative resources required are provided in the Legislative Financial Statement attached to this proposal.

5. OTHER ELEMENTS

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

The European Union should make this MFA+ instrument available to Ukraine for a total amount of up to EUR 18 billion in the form of highly concessional loans in a predictable, continuous, orderly and timely manner, contributing to covering its short-term funding needs, financing of rehabilitation of critical infrastructure and initial support towards post-war reconstruction, with a view to supporting Ukraine on its path towards European integration. The support will contribute to covering the residual external funding gap of Ukraine in 2023 and is planned to be disbursed in several instalments. The disbursements would further be conditional on the implementation of the reporting requirements and policy reforms as agreed in the MoU and referred to in this Regulation, including the report to be provided by Ukraine ahead of the disbursement of each instalment. The Commission will work closely with the national authorities to monitor relevant developments and the application of the requirements and policy conditions, as agreed in the MoU. The support will be managed by the

Commission. Specific provisions on the prevention of fraud and other irregularities, consistent with the Financial Regulation, are applicable.

Finally, the Commission will submit to the European Parliament and to the Council an assessment of the implementation of the Union's support to Ukraine under this instrument, including an evaluation. Not later than two years after the end of the availability period, the Commission shall submit to the European Parliament and to the Council an ex-post evaluation report, assessing the results and efficiency of the completed Union's support under the Instrument and the extent to which it has contributed to the aims of the support.

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

Chapter I of the Regulation concerns its general provisions.

Article 1 provides the subject of the Regulation, which is the establishment of an Instrument for providing the Union's support for Ukraine.

Article 2 defines the general objective of the Instrument and lists its main specific objectives.

Article 3 describes the areas under which support may be provided in order to achieve the objectives of the Instrument.

Article 4 gives the amounts of support in terms of loans. It also provides for additional amounts for covering an interest rate subsidy and possible non-repayable support. Finally, the article sets the period of availability for the support.

Article 5 describes how Member States and interested third countries and parties may contribute to the Instrument.

Section 2 elaborates on the conditions of the support under the Instrument.

Article 6 sets the general precondition for granting the support under the Instrument.

Article 7 stipulates that the Commission will conclude with Ukraine a Memorandum of Understanding and provides information on its content, timing, and review.

Article 8 refers to the reporting requirements under the Memorandum of Understanding.

Section 3 gives provisions on how the support under the Instrument is released, on the assessment and information obligations.

Article 9 provides how the support under the Instrument is released.

Article 10 lays down the procedural steps for the release of the support.

Article 11 gives rules on the reduction, suspension and cancellation of the support.

Article 12 provides that the Commission shall assess the implementation of the support under the Instrument.

Article 13 defines how the European Parliament and the Council will be informed about the developments regarding the Instrument.

Chapter II of the Regulation gives specific provisions related to the implementation of the Instrument: Article 14 in regard to the borrowing and lending operations and derogations from Regulation (EU) 2021/947 with regard to the External Action Guarantee coverage and provisioning requirements, Article 15 – on the interest subsidy and Article 16 – on the financing agreement for the non-repayable support.

Chapter III of the Regulation describes the common and final provisions regarding comitology (Article 17), annual reporting (Article 18), and entry into force (Article 19).

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 +)

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 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure⁶,

Whereas:

- (1) An Association Agreement between the Union and Ukraine⁷, including a Deep and Comprehensive Free Trade Area, entered into force on 1 September 2017.
- (2) In 2014, Ukraine embarked on an ambitious reform programme with the aim of stabilising its economy and improving the livelihoods of its citizens. The fight against corruption, as well as constitutional, electoral and judicial reforms, are among the top priorities on the agenda. The implementation of those reforms was supported by consecutive macro-financial assistance programmes, under which Ukraine has received assistance from the Union in the form of loans for a total of EUR 6.6 billion.
- (3) The emergency macro-financial assistance, which was made available in the context of mounting threat, right before the Russian invasion, pursuant to Decision (EU) 2022/313 of the European Parliament and of the Council⁸, provided EUR 1.2 billion in loans to Ukraine, disbursed in two instalments, each of EUR 600 million, in March and May 2022.
- (4) The Union's exceptional macro-financial assistance of up to EUR 1 billion, made available pursuant to Decision (EU) 2022/1201 of the European Parliament and of the Council⁹, provided swift and urgent support to the Ukrainian budget and was fully disbursed in two tranches on 1 and 2 August 2022. That assistance constituted the first stage of the planned exceptional macro-financial assistance to Ukraine for up to EUR 9 billion, announced by the Commission in its Communication of 18 May 2022

⁶ Position of the European Parliament of ... 2022 (not yet published in the Official Journal) and decision of the Council of ... 2022.

⁷ Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (OJ L 161, 29.5.2014, p. 3).

⁸ Decision (EU) 2022/313 of the European Parliament and of the Council of 24 February 2022 providing macro-financial assistance to Ukraine (OJ L 55, 28.2.2022, p. 4).

⁹ Decision (EU) 2022/1201 of the European Parliament and of the Council of 12 July 2022 providing exceptional macro-financial assistance to Ukraine (OJ L 186, 13.7.2022, p. 1).

entitled ‘Ukraine Relief and Reconstruction’ and endorsed by the European Council of 23-24 June 2022.

- (5) Decision (EU) 2022/1628¹⁰ constituted a further step in the implementation of that envisaged Union’s exceptional macro-financial assistance. It established the basis for providing to Ukraine a further amount of up to EUR 5 billion in the form of loans on highly concessional terms, out of which EUR 2 billion were disbursed on 18 October, with the remaining EUR 3 billion should be disbursed by the end of 2022.
- (6) Russia’s unprovoked and unjustified war of aggression against Ukraine since 24 February 2022 has caused Ukraine a loss of access to financial markets and a significant drop in public revenues, while public expenditure to address the humanitarian situation and to maintain the continuity of State services has increased markedly. In that very uncertain and volatile situation, the best estimates of Ukraine’s funding needs by the International Monetary Fund (IMF) in the summer of 2022 pointed to an extraordinary funding gap of around USD 39 billion in 2022, of which around half could be met thanks to the international assistance. The swift provision by the Union of the macro-financial assistance to Ukraine under Decision (EU) 2022/1628 was, given the extraordinary circumstances, considered to be an appropriate short-term response to the sizeable risks to Ukraine’s macro-financial stability. The further amount of up to EUR 5 billion of Union’s exceptional macro-financial assistance under Decision (EU) 2022/1628 was to support Ukraine’s macro-financial stabilisation, strengthen the immediate resilience of the country and sustain its capacity towards recovery, thereby contributing to the public debt sustainability of Ukraine and its ability to ultimately be in a position to repay its financial obligations.
- (7) The Union, its Member States and European financial institutions have since the beginning of Russia’s war of aggression mobilised EUR 19.7 billion for Ukraine’s economic, social and financial resilience. This combines the support from the Union budget (EUR 12.4 billion), 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 EU budget, as well as further financial support by Member States (EUR 7.3 billion).
- (8) In addition, the Council decided on assistance measures to support the Ukrainian armed forces under the European Peace Facility, amounting to EUR 3.1 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 EU Civil Protection Mechanism, constituting the largest emergency operation since the creation of the Mechanism, and channels millions of emergency items to Ukraine and the region.
- (9) The European Council granted candidate status to Ukraine in June 2022.¹¹ Continuing strong support to Ukraine is a key priority for the Union. It requires an organised collective approach set out in this instrument, as the damage from Russia’s war of aggression on the Ukrainian economy, citizens and businesses is tremendous.

¹⁰ Decision (EU) 2022/1628 of the European Parliament and of the Council of 20 September 2022 providing exceptional macro-financial assistance to Ukraine, reinforcing the common provisioning fund by guarantees by the Member States and by specific provisioning for some financial liabilities related to Ukraine guaranteed under Decision No 466/2014/EU, and amending Decision (EU) 2022/1201 (OJ L 245, 22.9.2022, p. 1).

¹¹ European Council conclusions, 23-24 June 2022.

- (10) Russia's war of aggression against Ukraine represents a strategic geopolitical threat to the Union as a whole and requires Member States to stand strong and united. It is therefore essential that Union support be deployed rapidly and be able to adapt flexibly and gradually for immediate relief and short-term rehabilitation on the way to future reconstruction.
- (11) In this context, the Instrument established under this Regulation aims at contributing to closing the funding gap of Ukraine in 2023, notably by providing highly concessional short-term financial relief to the state budget in a predictable, continuous, orderly and timely manner, including to finance the rehabilitation and initial support towards post-war reconstruction, where appropriate, with a view to supporting Ukraine on its path towards European integration.
- (12) To attain the general objective, the assistance should be provided to support macro-financial stability in Ukraine, and to ease Ukraine's external financing constraints. The Commission should implement the support in accordance with the key principles and objectives of the measures taken within the different areas of external action and other relevant Union policies.
- (13) The provision of rehabilitation support, repair, and maintenance of critical functions and infrastructure as well as relief for people in need and for most affected areas in terms of material and social support, temporary housing, residential and infrastructural construction should also count among the main areas of support under the Instrument.
- (14) The Instrument should also support strengthening the capacity of Ukrainian authorities to prepare for the future post-war reconstruction and for the early preparatory phase of the pre-accession process, as appropriate, including strengthening Ukraine's institutions, reforming and reinforcing the effectiveness of public administration as well as transparency, structural reforms and good governance at all levels.
- (15) The Instrument will support the Union's external policy towards Ukraine. The Commission and the European External Action Service should work closely together throughout the support operation in order to coordinate, and ensure the consistency of, the Union's external policy. The support to Ukraine under this Regulation continues contributing significantly to satisfying Ukraine's funding needs as estimated by the IMF, World Bank and other international financial institutions, taking into account Ukraine's capacity to finance itself with its own resources. The determination of the amount of the support also takes into account the expected financial contributions from bilateral and multilateral donors, as well as the pre-existing deployment of the Union's other external financing instruments in Ukraine and the added value of the overall Union involvement.
- (16) The situation of Ukraine requires a step-by-step approach whereby an instrument focusing on macro-financial stability as well as immediate relief and rehabilitation should be accompanied by continuous support under the Neighbourhood, Development and International Cooperation Instrument – Global Europe and the Humanitarian Aid Instrument.
- (17) The Regulation should lay down the resources available for the Instrument for the period from 1 January 2023 to 31 December 2023 with possible disbursements until 31 March 2024. A maximum amount of EUR 18 billion should be made available in the form of loans. In addition, for the period from 1 January 2023 to 31 December 2027 the Regulation should provide for an interest rate subsidy. To ensure coverage of interest costs during the lifetime of the loans, contributions from Member States

beyond 2027 should be renewed and continue as external assigned revenue unless covered through other means in future multiannual financial frameworks. Therefore it might be possible to extend the contributions from Member States beyond 2027.

- (18) The Regulation should provide the possibility for the Member States to make available additional resources, as external assigned revenue, to be implemented under the Memorandum of Understanding of this Instrument. Such a possibility for additional contribution should also be made for third countries and interested parties as external assigned revenues, in accordance with Article 21(2), point (d) and (e) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council¹². To foster synergies and complementarities, it is appropriate to allow that such additional contributions from Member States, from third countries and other third parties could also be made available to the programmes established under Regulation (EU) 2021/947 of the European Parliament and of the Council¹³ and Council Regulation (EC) No 1257/96¹⁴ to finance measures contributing to the objectives of this Instrument.
- (19) Voluntary contributions by Member States should be irrevocable, unconditional and on demand. For this purpose, the Member State providing the support should enter into a contribution agreement within the meaning of Article 22(2) of Regulation (EU, Euratom) 2018/1046 with the Commission. The contribution agreement should cover the contribution to the interest rate subsidy and, should the Member State wish to provide them, also additional amounts.
- (20) The support under the Instrument should be made available under the precondition that Ukraine continues to respect effective democratic mechanisms and its institutions, including a multi-party parliamentary system, the rule of law and to guarantee respect for human rights.
- (21) The support under the Instrument should be linked to policy conditions to be set out in a memorandum of understanding. They should also include commitments to strengthen the country's economic performance and resilience, the business environment, facilitate critical reconstruction and address challenges in the energy sector.
- (22) The policy conditions should be complemented by stringent reporting requirements, aiming to ensure that the funds are used in an efficient, transparent and accountable manner.
- (23) In view of the current situation in Ukraine it is appropriate to provide for a mid-term review of the memorandum of understanding.

¹² Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

¹³ Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/Union of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (Text with EEA relevance), OJ L 209, 14.6.2021, p. 1.

¹⁴ Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

- (24) The support should be released subject to the respect of preconditions, satisfactory implementation and progress towards the implementation of the policy conditions.
- (25) It is appropriate to provide for the possibility to reassess the funding needs of Ukraine and to reduce, suspend or cancel the support if they decrease fundamentally during the period of the disbursement of the Union's support under the Instrument compared to the initial projections. It is also appropriate to provide for the possibility to suspend or cancel the disbursements in case the requirements for the release of the support under the Instrument are not fulfilled.
- (26) In the current context of urgent financial needs of the country, it is appropriate to organise the financial assistance to Ukraine under the single funding method provided under Article 220a of Regulation (EU, Euratom) 2018/1046, which is expected to enhance the liquidity of Union's bonds and the attractiveness and cost-effectiveness of Union's issuance.
- (27) Given the difficult situation of Ukraine caused by Russia's war of aggression and to support it on its long-term stability path, it is appropriate to provide to Ukraine loans on highly concessional terms with a maximum duration of 35 years and start of the repayment of the principal not before 2033. It is also appropriate to derogate from Article 220(5), point (e) of Regulation (EU, Euratom) 2018/1046 and to allow that the Union has the possibility to cover the interest rate costs and waive to Ukraine the administrative costs. The interest rate subsidy should be granted as an instrument deemed appropriate to ensure the effectiveness of the support within the meaning of Article 220(1) of Regulation (EU, Euratom) 2018/1046. It should be financed from additional voluntary contributions by the Member States and should be available gradually as the agreements with the Member States have entered into force.
- (28) Ukraine might request the subsidy of the interest rate and the waiver of administrative costs by end-March of each year.
- (29) The financial liability from loans under this Regulation should not be supported by the External Action Guarantee, by derogation to Article 31(3), second sentence of Regulation (EU) 2021/947. The amounts necessary to cover any shortfall under the financial assistance to Ukraine available for 2023 should be mobilised in line with Article 2(3) of Council Regulation (EU, Euratom) 2020/2093¹⁵. The support 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, the provisioning should not be constituted for the financial assistance in the form of loans under this Instrument and, by derogation to Article 211(1) of the Regulation (EU, Euratom) 2018/1046, no provisioning rate as a percentage of the amount referred to in Article 4(1) should be set.
- (30) It is appropriate that the Commission and Ukraine conclude a loan agreement for the loan support, within the framework of conditions set out in the MoU. In order to ensure that the Union's financial interests linked to the support under the Instrument are protected efficiently, Ukraine should take appropriate measures on the prevention of and fight against fraud, corruption and any other irregularities linked to that assistance. In addition, provision should be made in the loan agreement and in the financing agreement for the Commission to carry out checks, for the Court of Auditors

¹⁵ 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).

to carry out audits and for the European Public Prosecutor's Office to exercise its competences, in accordance with Articles 129 and 220 of Regulation (EU, Euratom) 2018/1046.

- (31) Since the objective of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (32) 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 Council¹⁶.
- (33) In view of the urgency entailed by the exceptional circumstances caused by Russia's unprovoked and unjustified war of aggression, it is considered to be appropriate to invoke the exception to the eight-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community,
- (34) In light of the current situation in Ukraine, 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

Union's support for Ukraine

SECTION 1

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes an Instrument for providing the Union's support for Ukraine (the 'Instrument') in the form of loans, non-repayable support and an interest rate subsidy.

It lays down the objectives of the Instrument, its financing, the forms of Union funding under it and the rules for providing such funding.

¹⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Article 2

Objectives of the Instrument

1. The general objective of the Instrument shall be 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. To reach the general objective, the main specific objectives shall in particular be to support:
 - (a) macro-financial stability, and to ease the Country's external and internal financing constraints;
 - (b) a reform agenda gearing towards the early preparatory phase of the pre-accession process, as appropriate, including strengthening Ukraine's institutions, reforming and reinforcing the effectiveness of public administration as well as transparency, structural reforms and good governance at all levels;
 - (c) rehabilitation of critical functions and infrastructure and relief for people in need

Article 3

Areas of support

To achieve its objectives, the Instrument shall support notably the following:

- (a) the financing of Ukraine's funding needs, with a view to maintaining the macro-financial stability of the country;
- (b) rehabilitation, for instance in restoring critical infrastructure, such as energy infrastructure, water systems, transport networks, internal roads or bridges, or in strategic economic sectors and social infrastructure, such as healthcare facilities, schools, and housing for relocated persons, including temporary and social housing;
- (c) sectoral and institutional reforms, including anti-corruption and judicial reforms, respect of the rule of law, good governance, and modernisation of the national and local institutions;
- (d) preparation of the reconstruction of Ukraine;
- (e) support for the alignment of the regulatory framework of Ukraine to that of the Union and the country's integration into the single market, as well as strengthening economic development and improving competitiveness;
- (f) the strengthening of Ukraine's administrative capacity through appropriate means, including the use of technical assistance.

Article 4

Available support under the Instrument

1. The support under the Instrument in the form of loans, shall be available for an amount of up to EUR 18 000 000 000 for the period from 1 January 2023 to 31 December 2023 with possible disbursement until 31 March 2024.
2. Additional support under the Instrument for the period from 1 January 2023 to 31 December 2027 shall also be available, subject to Article 5(1), for covering the expenditure pursuant to Article 15. This additional support may be available beyond 31 December 2027 subject to Article 5(1).
3. Additional amounts available in accordance with Article 5(2) and 5(4) of this Regulation may be implemented as non-repayable support where provided for in the Memorandum of Understanding to be concluded in accordance with Article 7 of this Regulation or in accordance with Regulation (EU) 2021/947 and Regulation (EC) No 1257/96 to finance measures achieving the objectives referred to in Article 2(2)(b) to (c) to in accordance with the rules of those Regulations.
4. The amounts referred to in paragraph 3 may cover support expenditure for the implementation of the Instrument and for the achievement of its objectives, including administrative support associated with the preparation, follow-up, monitoring, control, audit and evaluation activities necessary for such implementation, as well as expenditure at headquarters and Union delegations for the administrative and coordination support needed for the Instrument, and to manage operations financed under the Instrument, including information and communication actions, and corporate information technology systems.

Article 5

Contributions by Member States and third parties

1. Member States may contribute to the amounts referred to in Article 4(2). The relative share of the contribution of the Member State concerned to those amounts shall correspond to the relative share of that Member State in the total gross national income (GNI) of the Union. For the contributions for year *n*, the GNI-based relative share shall be calculated as the share in the total GNI of the Union, as resulting from the respective column in the revenue part of the last adopted annual Union budget or amending annual Union budget for the year *n-1*.

The support under the Instrument under this paragraph shall become available in respect of any amount set in an agreement with the respective Member State after that agreement enters into force.

2. Member States may contribute to the Instrument with additional amounts as referred to in Article 4(3).
3. The contributions referred to in paragraphs 1 and 2 shall constitute external assigned revenue in accordance with Article 21(2), point (a)(ii) of Regulation (EU, Euratom) 2018/1046.
4. Interested third countries and parties may also contribute to non-repayable support under the Instrument with additional amounts referred to in Article 4(3), in particular related to the specific objectives referred to in Article 2(2)(b) to (c). These contributions shall constitute external assigned revenue in accordance with Article 21(2), point (d) and (e) of Regulation (EU, Euratom) 2018/1046.

SECTION 2

CONDITIONS OF THE SUPPORT UNDER THE INSTRUMENT

Article 6

Precondition for the support under the Instrument

1. A precondition for granting the support under this Instrument shall be that Ukraine continue to uphold and respect effective democratic mechanisms, including a multi-party parliamentary system, the rule of law, and guarantee respect for human rights.
2. The Commission and the European External Action Service shall monitor the fulfilment of the precondition set out in paragraph 1 throughout the period of the support provided under the Instrument, in particular before disbursements are made, taking, as appropriate, duly into account the regular enlargement report. It shall also take into account the circumstances in Ukraine and the consequences of the application there of martial law.
3. Paragraphs 1 and 2 of this Article shall apply in accordance with Council Decision 2010/427/EU¹⁷.

Article 7

Memorandum of Understanding

1. The Commission shall conclude with Ukraine a Memorandum of Understanding which shall in particular establish the policy conditions, the indicative financial planning and the reporting requirements, as referred to in Article 8.

The policy conditions shall be linked, as appropriate, in the context of the overall situation in Ukraine, to the objectives and their implementation referred to respectively in Article 2 and Article 3 and to the precondition set out in Article 6. They shall include commitment to the principles of sound financial management with focus on anti-corruption, fight against organised crime, anti-fraud and avoidance of conflict of interests and the establishment of a transparent and accountable framework for the management of rehabilitation and, where appropriate, reconstruction.
2. The MoU may be reviewed by the Commission at mid-term. The Commission may amend the MoU following the review.
3. The MoU shall be adopted and amended in accordance with the examination procedure referred to in Article 17(2).

¹⁷ Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

Article 8

Reporting requirements

1. Reporting requirements for Ukraine shall be included in the MoU and shall ensure, in particular, the efficiency, transparency and accountability of the use of the support provided under the Instrument.
2. The Commission shall verify, at regular intervals, the implementation of the reporting requirements and the progress made towards fulfilling the policy conditions set out in the MoU. The Commission shall inform the European Parliament and the Council of the results of that verification.

SECTION 3

RELEASE OF THE SUPPORT UNDER THE INSTRUMENT, ASSESSMENT AND INFORMATION OBLIGATIONS

Article 9

Release of the support under the Instrument

1. Subject to the requirements referred to in Article 10, the support under the Instrument shall be made available by the Commission in instalments. The Commission shall decide on the timeframe for the disbursement of each instalment. An instalment may be disbursed in one or more tranches.
2. The release of the support under the Instrument shall be managed by the Commission based on its assessment of the implementation of the policy conditions included in the MoU.

Article 10

Decision on release of the support under the Instrument

1. Ukraine shall submit a request for funds ahead of the disbursement of each instalment accompanied by a report in accordance with the provisions of the MoU.
2. The Commission shall decide on the release of the instalments subject to its assessment of the following requirements:
 - (a) respect for the precondition set out in Article 6;
 - (b) the satisfactory implementation of the reporting requirements agreed in the MoU;
 - (c) satisfactory progress towards the implementation of the policy conditions set out in the MoU.
 - (d) Before the maximum amount of the support under the Instrument is disbursed, the Commission shall verify the fulfilment of all the policy conditions set out in the MoU.

Article 11

Reduction, suspension and cancellation of the support under the Instrument

1. If the funding needs of Ukraine decrease fundamentally during the period of the disbursement of the Union's support under the Instrument compared to the initial projections, the Commission may reduce the amount of the support, suspend it or cancel it.
2. Where the requirements set out in Article 10(2) are not met, the Commission shall suspend or cancel the disbursement of the support under the Instrument.

Article 12

Assessment of implementation of the support under the Instrument

During the implementation of the Instrument, the Commission shall assess, by means of an operational assessment, which may be conducted together with the operational assessment provided for under Decision (EU) 2022/1201 and Decision (EU) 2022/1628, the soundness of Ukraine's financial arrangements, the administrative procedures, and the internal and external control mechanisms which are relevant to the assistance.

Article 13

Information to the European Parliament and to the Council

The Commission shall inform the European Parliament and the Council of developments regarding the Instrument, including disbursements thereof, and developments in the operations referred to in Article 9, and shall provide those institutions with the relevant documents in due time. In case of suspension or cancellation pursuant to Article 11(2), it shall without delay inform the European Parliament and the Council of the reasons for the suspension or cancellation.

Chapter II

Specific provisions related to the implementation of the support

Article 14

Borrowing and lending operations

1. In order to finance the support under the Instrument 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 220(a) of Regulation (EU, Euratom) 2018/1046.
2. The detailed terms of the support under the Instrument in the form of loans shall be laid down in a loan agreement in accordance with Article 220 of Regulation (EU, Euratom) 2018/1046, to be concluded between the Commission and Ukraine. The loans shall have a maximum duration of 35 years.

3. By derogation to Article 31(3), second sentence of Regulation (EU) 2021/947, macro-financial assistance provided to Ukraine in the form of loans under this Instrument shall not be supported by the External Action Guarantee.

No provisioning for the loans under this Regulation shall be constituted and, by derogation to Article 211(1) of the Regulation (EU, Euratom) 2018/1046, no provisioning rate as a percentage of the amount referred to in Article 4(1) shall be set.

Article 15

Interest rate subsidy

1. By derogation from Article 220(5), point (e), of Regulation (EU, Euratom) 2018/1046 and subject to available resources, the Union may bear interest by granting an interest rate subsidy and cover administrative costs related to the borrowing and lending, with the exception of costs related to early repayment of the loan, in respect of the loans under this Regulation.
2. Ukraine may request the interest rate subsidy and coverage of the administrative costs by the Union each year.

Article 16

Financing agreement for non-repayable support

The detailed terms of the non-repayable support referred to in Article 4(3) shall be laid down in a financing agreement to be concluded between the Commission and Ukraine. By derogation from Article 220 (5) of Regulation (EU, Euratom) 2018/1046, the financing agreement shall contain only provisions referred to in points (a) to (c) of Article 220(5) thereof. The financing agreement shall include provisions on the protection of the Union's financial interests, checks, audits, prevention of fraud and other irregularities, and the recovery of funds.

Chapter III

Common and final provisions

Article 17

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 18
Annual report

1. The Commission shall submit to the European Parliament and to the Council, an assessment of the implementation of Chapter I, including an evaluation of that implementation. That report shall:
 - (a) examine the progress made in implementing the Union's support under the Instrument;
 - (b) assess the economic situation and prospects of Ukraine, as well as the implementation of the requirements and conditions referred to in Section 2 of Chapter I;
 - (c) indicate the connection between the requirements and conditions set out in the MoU, Ukraine's ongoing macro-financial situation and the Commission's decisions to release the instalments of the support under the Instrument.
2. Not later than two years after the end of the availability period, the Commission shall submit to the European Parliament and to the Council an *ex-post* evaluation report, assessing the results and efficiency of the completed Union's support under the Instrument and the extent to which it has contributed to the aims of the assistance.

Article 19
Final provisions

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
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

1.2. Policy area(s) concerned

1.3. The proposal/initiative relates to:

1.4. Objective(s)

1.4.1. General objective(s)

1.4.2. Specific objective(s)

1.4.3. Expected result(s) and impact

1.4.4. Indicators of performance

1.5. Grounds for the proposal/initiative

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

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

1.5.3. Lessons learned from similar experiences in the past

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

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

1.6. Duration and financial impact of the proposal/initiative

1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

2.2. Management and control system(s)

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

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

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

2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

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

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

3.2.2. Summary of estimated impact on administrative appropriations

3.2.3. Compatibility with the current multiannual financial framework

3.2.4. Third-party contributions

3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1 Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council establishing an Instrument to provide support to Ukraine

1.2 Policy area(s) concerned (Programme cluster)

6. Neighbourhood and the World

14. External Action

Instrument to provide support to Ukraine (macro-financial assistance +)

1.3 The proposal/initiative relates to:

☒ **a new action**

☐ **a new action following a pilot project/preparatory action**¹⁸

☐ **the extension of an existing action**

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

1.4 Objective(s)

1.4.1 General objective(s)

To provide short term financial relief, financing of rehabilitation and initial support towards post-war reconstruction, with a view to supporting Ukraine on its path towards European integration.

1.4.2 Specific objective(s)

- (a) macro-financial stability, and to ease the Country's external and internal financing constraints;
- (b) a reform agenda gearing towards the early preparatory phase of the pre-accession process, as appropriate, including strengthening Ukraine's institutions, reforming and reinforcing the effectiveness of public administration as well as transparency, structural reforms and good governance at all levels
- (c) rehabilitation, of critical functions and infrastructure and relief for people in need;

1.4.3 Expected result(s) and impact

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

- Support Ukraine's economic resilience and stability under the war circumstances.
- Contribute to covering the external funding needs of Ukraine, in the context of a significant deterioration of their external accounts brought about by the unprovoked and unjustified Russian invasion of Ukraine.

¹⁸

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

- Alleviate the partner's budgetary financing needs, as a continuation of the emergency assistance already provided.
- Support structural reforms aimed at improving the overall macroeconomic management, strengthening economic governance and transparency, and improving conditions for sustainable growth, in view of pursuing integration to the EU.

1.4.4 Indicators of performance

Specify the indicators for monitoring progress and achievements.

The authorities of Ukraine will be required to report on a set of economic indicators to the Commission services on a regular basis and on the reporting requirements included in the MoU.

The Commission services will continue to monitor public finance management, following the operational assessment of the financial circuits and administrative procedures in Ukraine, that was delivered in June 2020.

1.5 Grounds for the proposal/initiative

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

The disbursement of the assistance will be conditional on the fulfilment of the pre-condition as well as policy conditions, listed in a Memorandum of Understanding between the Commission and the authorities of Ukraine. The assistance is planned to be disbursed in several instalments. The release of the instalments would occur swiftly after the approval of this proposal and the entry into force of the corresponding MoU, and become available thereafter.

The assistance will be managed by the Commission. Specific provisions on the prevention of fraud and other irregularities, consistent with the Financial Regulation, are applicable. The Commission and the Ukrainian authorities would agree on the MoU setting out reporting requirements. The Commission will work closely with the international financial institutions and the national authorities to monitor relevant developments and the application of the requirements and conditions as agreed in the MoU.

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

This proposal responds to the need for a common response in providing support to Ukraine on an adequate scale, which cannot be sufficiently achieved by the Member States alone and can be better achieved by the EU. The main reasons are the fiscal capacity and budgetary constraints faced at the national level and the need for strong donor coordination in order to maximise the scale and effectiveness of the support, while limiting the burden on the administrative capacity of Ukrainian authorities, which is very stretched in the current circumstances.

The initiative is part of the EU's objective to provide short term liquidity support to Ukraine. It reinforces also actions by the Union for direct humanitarian, economic and defence support, as well as Union's initiatives to coordinate multilateral actions, such as the "Stand-up for Ukraine". By its very nature, it is also a catalyst for

reforms that strengthen the short-term resilience of the country and are also conducive to enhanced longer-term stability. These expected outcomes are particularly relevant for Ukraine at this critical moment.

The key value added of the concessional loans in comparison to other EU instruments is to alleviate the external financial constraints swiftly and to help ensure a continued stable macro-financial framework, including by promoting a sustained and sustainable balance of payments and budgetary situation, within an appropriate framework for reporting requirements.

1.5.3 Lessons learned from similar experiences in the past

Macro-financial assistance operations in partners are subject to ex-post evaluation. Past ex-post evaluations of previous MFA operations to Ukraine have shown that in general they were highly relevant in terms of its objectives, financial envelope and policy objectives.

They proved crucial to support Ukraine in addressing its balance-of-payment problems and implementing key structural reforms to stabilise the economy and enhance the sustainability of its external position. They allowed for fiscal savings and financial benefits, and acted as catalyst for additional financial support and investor confidence.

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

The proposal is compatible with the ceilings of the 2021-2027 multiannual financial framework (MFF). The support in the form of loans will be available for the year 2023. The resources for the instrument will be financed by borrowing (up to EUR 18 billion for the loan-based support).

The EU will provide an interest rate subsidy that will be financed from contributions from Member States as external assigned revenue to the EU budget. Therefore, this expenditure will not impact the ceilings of the 2021-2027 multiannual financial framework.

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

The Union's macro-financial assistance to Ukraine in 2022 has been generous and effective. Yet, this assistance has been provided on an ad-hoc basis, covering a few months at a time. It has required significant provisioning from the EU budget and national guarantees. Therefore, a more structural and efficient approach to the Union's support to Ukraine in 2023 should be considered.

This proposal sets an orderly and sustainable framework for the channelling of financial assistance to Ukraine, while offering sufficient flexibility to adjust the support to the evolving funding needs of the country and preparing the ground for a future 'Rebuild Ukraine' Facility, in line with the Communication of 18 May 2022 on "Ukraine Relief and Reconstruction"¹⁹ and the principles agreed in the Lugano's Ukraine Reform Conference of July 2022.

¹⁹ COM/2022/233 final

To avoid having to repeatedly seize the EU and national legislators on financial support issues, the broad parameters of the Union's relief and rehabilitation support should be decided for the whole of 2023.

Further pressure on a strained EU budget due to provisioning requirements and complex arrangements, involving a multitude of ad hoc national guarantees, should be avoided. A unified and efficient system to secure the best borrowing conditions and extend market access for loan support has major advantages in a context of rising costs and interest rates.

1.6 Duration and financial impact of the proposal/initiative

☒ **limited duration**

- ☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☒ Financial impact in 2023 for loan support, and during the repayment period for support in the form of interest rate subsidy, financed by external assigned revenue unless covered through other means in future multiannual financial frameworks.

☐ **unlimited duration**

- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

1.7 Management mode(s) planned²⁰

☒ **Direct management** by the Commission

- ☒ by its departments, including by its staff in the Union delegations;
- ☐ by the executive agencies

☐ **Shared management** with the Member States

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

- ☐ third countries or the bodies they have designated;
- ☐ international organisations and their agencies (to be specified);
- ☐ the EIB and the European Investment Fund;
- ☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;
- ☐ public law bodies;
- ☐ bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;
- ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;
- ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

²⁰

Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:

<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

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

Comments

N/A

2. MANAGEMENT MEASURES

2.1 Monitoring and reporting rules

Specify frequency and conditions.

The monitoring and reporting obligations under the Regulation (EU, Euratom) 2018/1046 apply.

The monitoring of the action by the Commission services will take place on the basis of the specific measures to be agreed with the Ukrainian authorities in a Memorandum of Understanding (MoU).

The MoU will include reporting requirements that ensure, in particular, the efficiency, transparency and accountability of the use of the support under the Instrument.

The Commission will verify, at regular intervals, the implementation of the reporting requirements and the progress made towards fulfilling the policy conditions set out in the MoU. The Commission will inform the European Parliament and the Council about the results of that verification.

The Commission will submit to the European Parliament and to the Council an assessment of the implementation the Union's support for Ukraine, including an evaluation of that implementation.

No later than two years after the end of the availability period, the Commission will submit to the European Parliament and to the Council an *ex-post* evaluation report, assessing the results and efficiency of the completed Union's support under the Instrument and the extent to which it has contributed to the aims of the assistance.

2.2 Management and control system(s)

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

The actions to be financed under this proposal will be implemented under direct management by the Commission, as it concerns financial support provided directly to the State.

The support under the Instrument will be made available by the Commission in instalments, each of which shall consist of a loan and, if available, non-repayable support.

Disbursements can be organised flexibly and swiftly in response to the needs of the Ukrainian authorities. They could be envisaged, for example, on a quarterly basis so as to minimise the administrative burden on the Ukrainian authorities.

The support should be released subject to the respect of preconditions, satisfactory implementation and progress towards the implementation of the policy conditions.

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

There are political, fiduciary and policy risks related to the proposed operation. A key risk to the operation stems from the continuation of the war caused by the Russian unjustified and unprovoked invasion of Ukraine, which could have a further negative impact on Ukraine's macroeconomic stability and administrative capacity.

There is a risk that the loans could be used in a fraudulent way. As the proposal is not designated to specific expenses (contrary to project financing, for example), this risk is related to factors such as the general quality of management systems in the National Bank of Ukraine and the Ministry of Finance, administrative procedures, control and oversight functions, the security of IT systems and the appropriateness of internal and external audit capabilities.

A third risk stems from the possibility that Ukraine will fail to service the financial liabilities towards the EU stemming from the proposed loans (default or credit risk), which could be caused for example by a significant additional deterioration of the balance of payments and fiscal position of the partner. To that end, following the entry into force of this amendment of Regulation (EU, Euratom) 2018/1046, the Commission will adopt and implement a wider governance framework, risk management procedures, and cost allocation methodology.

Internal control systems

The operations will be liable to verification, control and auditing procedures under the responsibility of the Commission, including the European Anti-Fraud Office (OLAF), and by the European Court of Auditors as foreseen by Article 129 of the Financial Regulation. During the implementation, the Commission will check periodically the partner's declarations. The payment is subject to monitoring by the Commission's staff. The disbursement relating to the operations may be subject to additional independent ex-post (documentary and/or on-the-spot) verifications by officials of the ex-post control team of the relevant Commission department. Such verifications may also be initiated at the request of the responsible authorising officer by sub-delegation. Interruptions and suspensions of payments, financial corrections (implemented by Commission), and recoveries may be practiced where needed (it has not occurred so far), and are explicitly foreseen in the loan and financing agreements with the partners.

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

The control systems in place have ensured an effective error rate for the macro-financial assistance type of payments so far of 0%. There are no known cases of fraud, corruption or illegal activity. Operations have a clear intervention logic, one that allows the Commission to evaluate their impact. The controls enable the confirmation of assurance and of attainment of policy objectives and priorities.

2.3 Measures to prevent fraud and irregularities

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

To mitigate the risks of fraudulent use several measures have been and will be taken. A Loan Agreement to be concluded between the Commission and Ukraine in accordance with Article 220 of Regulation (EU, Euratom) 2018/1046. The detailed terms of any non-repayable support made available in addition to the interest rate subsidy shall be laid down in a financing agreement to be concluded between the Commission and Ukraine.

The agreements will provide a set of provisions on inspection, fraud prevention, audits and recovery of funds in case of fraud or corruption. In particular, the loan and financing agreements will include provisions for the Commission to carry out

checks, for the Court of Auditors to carry out audits and for the European Public Prosecutor's Office to exercise its competences, in accordance with Articles 129 and 220 of Regulation (EU, Euratom) 2018/1046.

It is further envisaged that a number of reporting requirements will be linked to the assistance, with a view to strengthening transparency and accountability on the use of funds.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

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

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
6	New line for interest rate subsidy	Diff				
	New line for support expenditure under Article 4(4)	Non-diff	YES	YES	YES	YES
	New line for non-repayable support under Article 4(3)	Diff				

3.2 Estimated financial impact of the proposal on appropriations

3.2.1 Summary of estimated impact on operational appropriations

The proposed expenditure linked to the Instrument for providing support to Ukraine will be covered by a maximum amount of EUR 18 000 000 000 in the form of loans stemming from borrowing operations of the Union.

Amounts stemming from specific voluntary contributions from Member States (as external assigned revenue) would be used for the following purposes:

support to loans' interest costs subsidy– no target volume can be set in advance as these costs will depend on the actual interest on the loans;

- activities covered by the Memorandum of Understanding of the Instrument;
- be rechannelled to the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI) and/or Humanitarian Aid for activates benefitting Ukraine.

Moreover, third countries and parties may make available extra resources to those described above, as external assigned revenue to contribute to the Memorandum of Understanding of the Instrument or to be rechannelled to NDICI and/or Humanitarian Aid for activates benefitting Ukraine.

Instrument for providing support to Ukraine (assumption: commitment appropriations equal payment appropriations)	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027
• Operational appropriations (of which)					
Loans	18 000 000 000	-	-	-	-
Non-repayable support to cover the interest rate subsidy	pm	pm	pm	pm	pm
Additional contributions for non-repayable support	pm	pm	pm	pm	pm

Heading of multiannual financial framework	7	'Administrative expenditure'
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This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
DG: <.....>								
• Human resources								
• Other administrative expenditure								

TOTAL DG <.....>	Appropriations								
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TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)								
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3.2.2 Summary of estimated impact on administrative appropriations

- ☒ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☐ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year 2023 ²¹	Year 2024	Year 2025	Year 2026	Year 2027	TOTAL
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HEADING 7 of the multiannual financial framework						
Human resources						
Other administrative expenditure						
Subtotal HEADING 7 of the multiannual financial framework						

Outside HEADING 7²² of the multiannual financial framework						
Human resources	pm	pm	pm	pm	pm	pm
Other expenditure of an administrative nature	pm	pm	pm	pm	pm	pm
Subtotal outside HEADING 7 of the multiannual financial framework						

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

²¹ Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

²² Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Estimated requirements of human resources

- ☒ The proposal/initiative does not require the use of human resources.
- ☐ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

	2023	2024	2025		Enter as many years as necessary to show the duration of the impact (see point 1.6)		
• Establishment plan posts (officials and temporary staff)							
20 01 02 01 (Headquarters and Commission's Representation Offices)							
20 01 02 03 (Delegations)							
01 01 01 01 (Indirect research)							
01 01 01 11 (Direct research)							
Other budget lines (specify)							
• External staff (in Full Time Equivalent unit: FTE)²³							
20 02 01 (AC, END, INT from the 'global envelope')							
20 02 03 (AC, AL, END, INT and JPD in the delegations)							
14 01 06²⁴	- at Headquarters						
	- in Delegations						
01 01 01 02 (AC, END, INT - Indirect research)							
01 01 01 12 (AC, END, INT - Direct research)							
Other budget lines (specify)							
TOTAL							
• External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED²⁵							
Other budget line: Assigned revenue							
Financed from assigned revenue – at Headquarters							
Financed from assigned revenue – in Delegation							
TOTAL							

XX is the policy area or budget title concerned.

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

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

²³ AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

²⁴ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

²⁵ AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

3.2.3 Compatibility with the current multiannual financial framework

Loans will be funded from borrowings of the EU on the financial markets.

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

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

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

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

- ☒ requires a revision of the MFF.

The initiative requires a targeted adjustment to the MFF Regulation to allow for loans to Ukraine to be backed up by a guarantee from the EU budget headroom, i.e. the budgetary space above the ceiling for payments of the multiannual financial framework (MFF) up to the limits of the own resources ceiling. This will provide a high degree of protection and reassurance to investors, avoid the costly establishment of national guarantees, without changes to the size or ceilings of the MFF. This necessitates a limited amendment of MFF Regulation (EU, Euratom) 2020/2093 that will allow contingent liabilities stemming from financial assistance to Ukraine to be treated in the same way as financial assistance for Member States. Such limited amendment does not revise the applicable ceilings of the MFF 2021-2027.

3.2.4 Third-party contributions

The proposal/initiative:

- ☒ does not provide for co-financing by third parties²⁶
- ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year N ²⁷	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

²⁶ Third parties contributions will be in the form of assigned revenue presented in the section below.

²⁷ Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

3.3 Estimated impact on revenue

- ☐ The proposal/initiative has no financial impact on revenue.
- ☒ The proposal/initiative has the following financial impact:
 - ☐ on own resources
 - ☒ on other revenue
 - please indicate, if the revenue is assigned to expenditure lines ☒

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ²⁸						
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
	<i>p.m.</i>	<i>p.m.</i>	<i>p.m.</i>	<i>p.m.</i>	<i>p.m.</i>	<i>p.m.</i>	<i>p.m.</i>	<i>p.m.</i>

For assigned revenue, specify the budget expenditure line(s) affected.

See section 3.2.1 above

²⁸ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.