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Subject:	Proposal for a COUNCIL REGULATION amending Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027

Delegations will find attached document COM(2025) 3500 final.

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Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal for an amendment of Regulation (EU, Euratom) 2020/2093[1] is presented together with the proposal for a Regulation establishing the Reparations Loan to Ukraine and amending Regulation (EU) 2024/792 establishing the Ukraine Facility[2].

Following the unprovoked and unjustified Russian invasion of Ukraine, the Union has provided substantial support to Ukraine through a series of financial measures. Ukraine will require continued assistance, which should be delivered under the proposed new Regulation establishing the Reparation Loan to Ukraine.

The amendment of Regulation (EU, Euratom) 2020/2093 will extend the budgetary guarantee currently applied, as a rule, to loans to Ukraine under the MFA+ instrument,[3] the Ukraine Facility[4] and the MFA to Ukraine under the Ukraine Loan Cooperation Mechanism[5] to cover also the financial assistance to Ukraine under Regulation (EU) XXX/XXX of the European Parliament and of the Council. That guarantee should ensure that the necessary resources are always available in time in order to allow the Union to meet all its financial obligations towards its creditors. Accordingly, if the Union has to honour repayment obligations from resources of the Union's budget - in the case a beneficiary state fails to provide the due payment on time – the necessary amounts would be mobilised over and above the MFF ceilings up to the limits of the own resources ceiling (from the so called 'headroom').

The budgetary coverage from the headroom should only apply to financial assistance to Ukraine, which is available under Regulation (EU) XXX/XXX of the European Parliament and of the Council.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 312 TFEU constitutes the legal basis for the adoption of the Multiannual Financial Framework.

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1 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*.

2 Regulation (EU) XXX/XXX of the European Parliament and of the Council of XXX on establishing the Ukraine Reparations Loan (OJ XXX).

3 Regulation (EU) 2022/2463 of the European Parliament and of the Council of 14 December 2022 establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +) (OJ L 322, 16.12.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2463/oj).

4 Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility (OJ L, 2024/792, 29.2.2024, ELI: http://data.europa.eu/eli/reg/2024/792/oj).

5 Regulation (EU) 2022/2463 of the European Parliament and of the Council of 14 December 2022 establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +) (OJ L 322, 16.12.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2463/oj).

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

The initiative falls under a policy area where the EU has exclusive powers (under Article 312 TFEU). Therefore, the subsidiarity principle does not apply.

- **Proportionality**

The changes are proportionate to the urgent need to establish an instrument for providing support to Ukraine, which can be implemented only once the budgetary coverage currently applicable, as a rule, to loans to Ukraine has been extended to the proposed new instrument.

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

Under the existing provisions of Article 2(3) of Regulation (EU, Euratom) 2020/2093 amounts needed to honour repayment obligations of the Union under borrowing-and-lending operations in case the Union does not receive from the beneficiary state the due payment on time (i.e. the mobilisation of a guarantee for financial assistance to Member States and Ukraine) would be mobilised over and above the MFF ceilings.

The amount mobilised cannot result in exceeding the limits of the own resources ceiling. The provision extending the budgetary coverage from the headroom to the guarantee for financial assistance to Ukraine under the [Reparation Loan Regulation] is therefore compatible with paragraphs 1 and 3 of Article 312 TFEU, under which the MFF '*shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources'*, and '*shall lay down any other provisions required for the annual budgetary procedure to run smoothly'*.

4. BUDGETARY IMPLICATIONS

By extending the mobilisation of a guarantee for financial assistance over and above the MFF ceilings to Ukraine for the proposed financial assistance in addition to financial assistance to EU Member States and to Ukraine under the MFA+ instrument, the Ukraine Facility and the MFA to Ukraine under the Ukraine Loan Cooperation Mechanism, the proposal will allow a more efficient use of the budgetary resources under the MFF ceilings. The possibility to mobilise the guarantee over and above the MFF ceilings would offer full coverage of the financial assistance available to Ukraine in accordance with Regulation (EU) XXX/XXX of the European Parliament and of the Council in the next years, in accordance with the principle of sound financial management. Given that it is a guarantee, no expenditure is expected during the period of the 2021-2027 MFF.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 312 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament[6],

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

Acting in accordance with a special legislative procedure,

Whereas:

(1) Following Russia's unprovoked and unjustified war of aggression against Ukraine, the Union has been supporting Ukraine with a series of financial measures.

(2) Ukraine will require continued financial and economic assistance in a predictable, continuous, orderly, flexible and timely manner covering its financing needs notably resulting from Russia's war of aggression. To that end, the Union has established a new instrument under Regulation (EU) XXX/XXX of the European Parliament and of the Council. Under that instrument, the envisaged financial assistance is to be provided in the form of loans.

(3) To that end, the Union budget guarantee should be extended to cover the financial assistance to Ukraine under Regulation (EU) XXX/XXX of the European Parliament and of the Council. That guarantee should ensure that the necessary resources are always available in time in order to allow the Union to meet all its financial obligations towards its creditors.

(4) It should be possible to mobilise the necessary appropriations in the Union budget over and above the ceilings of the multiannual financial framework for financial assistance to Ukraine under Regulation (EU) XXX/XXX of the European Parliament and of the Council. That possibility should be without prejudice to the obligation to respect the own resources ceiling laid down in Article 3(1) of Council Decision (EU, Euratom) 2020/2053

(5) Council Regulation (EU, Euratom) 2020/2093 should therefore be amended accordingly.

(6) In view of the urgency entailed by the exceptional circumstances caused by Russia's unprovoked and unjustified war of aggression against Ukraine, 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.

(7) In light of the 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,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 2(3) of Regulation (EU, Euratom) 2020/2093, the following subparagraph is added:

‘Where it is necessary to mobilise a guarantee for financial assistance to Ukraine under Regulation (EU) XXX/XXX of the European Parliament and of the Council and authorised in accordance with Article 223(1) of the Regulation (EU, Euratom) 2024/2509, the necessary amount shall be mobilised over and above the MFF ceilings.’

Article 2

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 Council
The President