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Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the Association Council established by the 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, as regards the amendment of Annex XLIV to that Agreement

COUNCIL DECISION (EU) 2023/...

of ...

**on the position to be taken on behalf of the European Union
within the Association Council established by the 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,
as regards the amendment of Annex XLIV to that Agreement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 83(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The 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 part¹ ('the Agreement') entered into force on 1 September 2017.
- (2) The Preamble to the Agreement recognises the Parties' desire to move the reform and approximation process forward in Ukraine, thus contributing to the gradual economic integration and deepening of political association, as well as to achieving economic integration through extensive regulatory approximation.
- (3) Article 1(2), point (d), of the Agreement refers to the objective to support Ukrainian efforts to complete the transition into a functioning market economy by means of, inter alia, the progressive approximation of its legislation to that of the Union.
- (4) Pursuant to Article 459(1) of the Agreement, the Parties are to implement assistance in accordance with the principles of sound financial management and cooperate in protecting of the financial interests of the EU and of Ukraine as set out in Annex XLIII to the Agreement. The Parties are to take effective measures to prevent and fight fraud, corruption and any other illegal activities, inter alia, by means of mutual administrative assistance and mutual legal assistance in the fields covered by the Agreement.

¹ OJ L 161, 29.5.2014, p. 3.

- (5) Pursuant to Article 459(2) of the Agreement, Ukraine is to also gradually approximate its legislation in line with the provisions as set out in Annex XLIV to the Agreement.
- (6) Article 474 of the Agreement provides for the general commitment of Ukraine to carry out gradual approximation of its legislation to EU law, based on commitments identified in, inter alia, Title VI of the Agreement. Commitments concerning gradual approximation of Ukrainian legislation to EU law identified in Title VI of the Agreement include protection of the financial interests of the EU and of Ukraine in the context of financial assistance provided through the relevant EU funding mechanisms and instruments in order to achieve the objectives of the Agreement, taking into account Ukraine's needs, sector capacities and progress with reforms.
- (7) Pursuant to Article 463(1) and (3) of the Agreement, the Association Council has the power to take decisions for the purpose of attaining the objectives of the Agreement. In particular, it may update or amend the Annexes to the Agreement, taking into account the evolution of EU law and applicable standards set out in international instruments deemed relevant by the Parties.

- (8) Since the conclusion of negotiations for the Agreement, EU law on protection of the financial interests of the European Union, provisions of which were incorporated in Annex XLIV to the Agreement, was replaced by Directive (EU) 2017/1371 of the European Parliament and of the Council¹, and thus Ukraine's commitments envisaged by the implementation of the Agreement have changed as well. Those amendments of EU law need to be reflected in Annex XLIV to the Agreement, which therefore needs to be amended.
- (9) The Association Council is therefore to amend Annex XLIV to the Agreement and to adjust the deadline for implementation of the provisions referred to in that Annex in order to take into account the new amendments of EU law.
- (10) It is appropriate to establish the position to be taken on the Union's behalf within the Association Council, as regards the amendment of Annex XLIV to the Agreement,

HAS ADOPTED THIS DECISION:

¹ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

Article 1

The position to be taken on the Union's behalf within the Association Council established by the 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, as regards the amendment of Annex XLIV to that Agreement, shall be based on the draft Decision of the Association Council attached to this Decision.

Article 2

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

Done at ...,

For the Council

The President
