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**COMMISSION IMPLEMENTING DECISION**

**of 4.6.2024**

**on the approval of the conclusion of Ukraine Guarantee agreements under the Ukraine  
Facility between the European Union and eligible counterparts**

# COMMISSION IMPLEMENTING DECISION

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## on the approval of the conclusion of Ukraine Guarantee agreements under the Ukraine Facility between the European Union and eligible counterparts

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union (TFEU),

Having regard to Regulation (EU, Euratom) 2018/1046 of the European<sup>1</sup> 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 (“the Financial Regulation”), and in particular Article 110 thereof,

Having regard to Regulation (EU) 2024/792<sup>2</sup> of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility (“the Ukraine Facility Regulation”), and in particular Article 31(1) thereof,

Whereas:

- (1) The Ukraine Facility Regulation has established the Ukraine Facility which includes the Ukraine Investment Framework and therein the Ukraine Guarantee. The Ukraine Investment Framework is an investment framework that aims to support recovery and reconstruction investments in Ukraine, undertaken by Ukrainian authorities, private sector companies, municipalities, state-owned enterprises or other actors.
- (2) The Ukraine Investment Framework will address priorities identified in the Ukraine Plan and support its objectives and its implementation. It will concentrate on economic sectors that are identified as strategic in the Ukraine Plan, including access to finance/financial markets, human capital and social sectors, energy, transport, agri-food, critical raw materials, digital transformation, green transition and environmental protection, as well as specific strategic investments and industries.
- (3) The Ukraine Investment Framework constitutes an integrated financial package supplying financing capacity in the form of financial instruments, budgetary guarantees and blending operations in Ukraine. Given the scale of recovery and reconstruction investments in Ukraine that will require risk-sharing, a dedicated guarantee capacity has been established in the form of the Ukraine Guarantee.
- (4) Pursuant to Article 32 of the Ukraine Facility Regulation, the provisioning of the Ukraine Guarantee should be financed from the resources of the Ukraine Facility and is to be transferred into the Common Provisioning Fund.
- (5) Commission Implementing Decision C(2024) on the financing of the Ukraine Investment Framework under the Ukraine Facility and the adoption of the work

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<sup>1</sup> OJ L 193, 30.7.2018, p.1.

<sup>2</sup> OJ L 792, 29.2.2024, p.1.

programme for 2024 approved the maximum Union contribution for the provisioning of the Ukraine Guarantee compartment of the Common Provisioning Fund for 2024.

- (6) In line with Article 3(1) of the Ukraine Facility Regulation, the overarching objective of operations under this Decision is to contribute to address the social, economic and environmental consequences of Russia's war of aggression, thereby contributing to the peaceful recovery, reconstruction, restoration and modernisation of the country and to the post-war recovery of Ukrainian society.
- (7) Pursuant to Article 31(6) of the Ukraine Facility Regulation, an indicative dedicated minimum amount of the Ukraine Guarantee of 25 % should be used to cover operations implemented by the EIB Group in Ukraine, aims to support Ukrainian sovereign entities and non-commercial sub-sovereign entities.
- (8) The operations approved in this Decision should contribute to climate change mitigation and adaptation, environmental protection, including biodiversity conservation, and to the green transition, or to addressing the challenges resulting therefrom, in line with Recital 31 of the Ukraine Facility Regulation.
- (9) The envisaged assistance should comply with the conditions and procedures set out by the restrictive measures adopted on the basis of Article 215 TFEU<sup>3</sup>.
- (10) Pursuant to Article 30(1) of the Ukraine Facility Regulation, indirect management should be used for the implementation of the action.
- (11) The Commission is to ensure a level of protection of the financial interests of the Union with regards to entities and persons entrusted with the implementation of Union funds by indirect management as provided for in Article 154(3) of the Financial Regulation. To this end, such entities and persons are to be subject to an assessment of their systems and procedures in accordance with Article 154(4) of the Financial Regulation<sup>4</sup> and, if necessary, to appropriate supervisory measures in accordance with Article 154(5) thereof before a guarantee agreement can be signed.
- (12) Pursuant to Article 31(3) of the Ukraine Facility Regulation, the implementation of the Ukraine Guarantee is subject to the conclusion of Ukraine Guarantee agreements by the Commission on behalf of the Union with eligible counterparts.
- (13) For the purposes of Article 31(3) of the Ukraine Facility Regulation, the responsible authorising officer should be authorised to conclude, by delegation Ukraine Guarantee agreements with eligible counterparts. In exercising the delegation, the responsible authorising officer should act in accordance with that article and with the Annex to this Decision. Pursuant to Article 31(5)(b) of the Ukraine Facility Regulation, such guarantee agreements should include detailed rules on the provision of the Ukraine Guarantee.
- (14) Pursuant to Article 31(8) of the Ukraine Facility Regulation, the Commission may use up to 30 % of the amount referred in Article 31(1) of that Regulation to increase the amounts of the guarantee provided through External Action Guarantee agreements concluded pursuant to Article 38 of Regulation (EU) 2021/947. For this purpose, the

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<sup>3</sup> See [www.sanctionsmap.eu](http://www.sanctionsmap.eu). The sanctions map is an IT tool for identifying sanctions regimes. The sanctions are sourced from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website it is the OJ version that prevails.

<sup>4</sup> Except for the cases listed in Article 154(6) of the Financial Regulation, where the Commission may decide, not to require an ex-ante assessment.

Ukraine Guarantee shall be implemented by an amendment or an addendum to agreements concluded pursuant to Article 38 of Regulation (EU) 2021/947<sup>5</sup> ('top-ups').

- (15) The fulfilment of the requirement set out in Article 31.8 (d) and 31.13 of the Ukraine Facility Regulation concerning the contribution by eligible counterparts with their own resources should be assessed at the level of the portfolio of guarantee agreements to be signed under the Ukraine Guarantee with each respective eligible counterpart, as per practice established under the EFSD+. Accordingly, it shall be possible for the Commission to enter into 'pass-through' guarantee agreements under the Ukraine Guarantee, provided that the eligible counterpart contributes with own resources under a different guarantee agreement and alignment of interest is ensured at the most relevant level of the implementation structure.
- (16) The guarantee agreements provided for in this Decision are in accordance with the opinion of the Ukraine Investment Framework Steering Board.
- (17) The Commission should approve the guarantee agreements as set out in the Annex to this Decision.

HAS DECIDED AS FOLLOWS:

*Article 1*  
*Guarantee agreements*

The guarantee agreements for the investments under the Ukraine Guarantee, as set out in the Annex, are hereby approved.

*Article 2*  
*Methods of implementation and eligible counterparts*

The implementation of the actions carried out by way of indirect management, as set out in the Annex may be entrusted to the counterparts referred to in Article 4 hereunder.

*Article 3*  
*Delegation to the responsible authorising officer*

The responsible authorising officer shall be authorised to conclude, in accordance with Article 31 of the Ukraine Facility Regulation and the Annex to this Decision, Ukraine Guarantee agreements with the following counterparts<sup>6</sup>, including by way of addenda to External Action Guarantee agreements concluded pursuant to Article 38 of Regulation (EU) 2021/947:

- (a) European Bank for Reconstruction and Development (EBRD), the guarantee agreements concerning:
- (1) Municipal, Infrastructure & Industrial Resilience Programme – Top-up
  - (2) HI-BAR – Top-up
  - (3) Financial Inclusion – Top-up

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<sup>5</sup> OJ L 209, 14.6.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/947/oj>.

<sup>6</sup> The responsible authorising officer shall be authorised to conclude, in accordance with Article 31 of Regulation (EU) 2024/792 and the Annex to this Decision, the following Ukraine Guarantee agreements with the indicated counterparts, provided that the latter's relevant systems, rules and procedures have been assessed in accordance with Article 154(3) of the Financial Regulation.

- (4) Ukraine Recovery and Reconstruction Facility
- (b) European Investment Bank (EIB), the guarantee agreements concerning:
- (1) EIB dedicated part of the Ukraine Guarantee
  - (2) MSME Access to green, growth and inclusive finance
- (c) International Finance Corporation, the guarantee agreements concerning Better Futures Program – Top-up.

Done at Brussels, 4.6.2024

*For the Commission*  
*Olivér VÁRHELYI*  
*Member of the Commission*