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COMMISSION IMPLEMENTING DECISION

of 26.7.2016

**on the Special Measure 2016 for Anti-Corruption and Support to Key Reforms in
favour of Ukraine to be financed from the general budget of the European Union**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action¹, and in particular Article 2(1) thereof,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002², and in particular Article 84(2) thereof,

Whereas:

- (1) The European Council on 19 March 2015 confirmed the EU support to Ukraine's reform process, together with other donors and in line with the International Monetary Fund (IMF) conditionality. It acknowledged the Ukrainian Government's reform efforts so far and called on it to further intensify its work.
- (2) In the framework of the fragile situation in Ukraine it was not possible to finalise the multi-annual programming exercise. In order to face the urgent needs related to the transition process in the country the Commission opted for implementing a Special Measure in 2016.
- (3) The objective pursued by the Special Measure to be financed under the European Neighbourhood Instrument (ENI)³ is to contribute, in the framework of the implementation of the Association Agreement (AA) and its Deep and Comprehensive Free Trade Area (DCFTA), to support the prevention and the fight against corruption as well as implementation of key reforms in Ukraine. The Special Measure contains two actions.
- (4) The first action entitled "EU Anti-corruption Initiative in Ukraine" contributes to strengthening the capacity to prevent and fight corruption, enhancing parliamentary oversight, as well as strengthening the involvement of civil society and media in anti-corruption initiatives. The action will be implemented under direct management through service contracts and under indirect management with the Ministry of Foreign Affairs of Denmark (DANIDA).
- (5) The second Action entitled "Technical Cooperation Facility 2016" is aimed at supporting Ukraine in designing and implementing key reforms stemming from the

¹ OJ L 77, 15.3.2014, p. 95.

² OJ L 298, 26.10.2012, p. 1.

³ Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27).

EU-Ukraine Association Agreement, including a Deep and Comprehensive Free Trade Area, as well as from other bilateral agreements. The action will be implemented under direct management through grants, service contracts and under indirect management with the International Labour Organisation (ILO) and the European Bank for Reconstruction and Development (EBRD). Management of the component on Ukraine's participation in the Danube Transnational Programme will be delegated to the Directorate General for Regional and Urban Policy of the European Commission (through a cross-sub delegation) and implemented under shared management.

- (6) It is necessary to adopt a financing decision the detailed rules of which are set out in Article 94 of Commission Delegated Regulation (EU) No 1268/2012⁴.
- (7) It is necessary to adopt a work programme for grants the detailed rules of which are set out in Article 128(1) of Regulation (EU, Euratom) No 966/2012 and in Article 188(1) of Delegated Regulation (EU) No 1268/2012. The work programme is constituted by the Annex 2 (sections 5.3.1 and 5.3.2).
- (8) The Commission should entrust budget-implementation tasks under indirect management to the entities specified in this Decision, subject to the conclusion of a delegation agreement. In accordance with Article 60(1) and (2) of Regulation (EU, Euratom) No 966/2012, the authorising officer responsible needs to ensure that these entities guarantee a level of protection of the financial interests of the Union equivalent to that required when the Commission manages Union funds. The Ministry of Foreign Affairs of Denmark (DANIDA) complies with the conditions of points (a) to (d) of the first subparagraph of Article 60(2) of Regulation (EU, Euratom) No 966/2012 and the supervisory and support measures are in place as necessary. The ILO and the EBRD are currently undergoing the assessment under Regulation (EU, Euratom) No 966/2012. In anticipation of the results of this review, the authorising officer responsible deems that, based on the entities' positive assessment under Council Regulation (EC, Euratom) No 1605/2002⁵ and on the long-standing and problem-free cooperation with them, budget-implementation tasks can be entrusted to these entities.
- (9) The authorising officer responsible should be able to award grants without a call for proposals provided that the conditions for an exception to a call for proposals in accordance with Article 190 of Delegated Regulation (EU) No 1268/2012 are fulfilled.
- (10) It is necessary to allow the payment of interest due for late payment on the basis of Article 92 of Regulation (EU, Euratom) No 966/2012 and Article 111(4) of Delegated Regulation (EU) No 1268/2012.
- (11) Pursuant to Article 94(4) of Delegated Regulation (EU) No 1268/2012, the Commission should define changes to this Decision which are not substantial in order to ensure that any such changes can be adopted by the authorising officer responsible.
- (12) The measures provided for in this Decision are in accordance with the opinion of the European Neighbourhood Instrument Committee set up by Article 15 of the ENI Regulation,

⁴ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

⁵ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p.1).

HAS DECIDED AS FOLLOWS:

Article 1

Adoption of the measure

The “Special Measure 2016 for Anti-Corruption and Support to Key Reforms in favour of Ukraine”, as set out in the Annexes, is approved.

The Special Measure shall include the following actions:

- Annex 1: EU Anti-corruption Initiative in Ukraine;
- Annex 2: Technical Cooperation Facility 2016.

Article 2

Financial contribution

The maximum contribution of the European Union for the implementation of the Special Measure 2016 referred to in Article 1 is set at EUR 43.5 million and shall be financed from budget lines 22 04 02 01 (EUR 15 million) and 22 04 02 02 (EUR 28.5 million) of the general budget of the European Union for 2016.

The financial contribution provided for in the first paragraph may also cover interest due for late payment.

Article 3

Implementation modalities

Budget-implementation tasks under indirect management may be entrusted to the entities identified in the attached Annexes 1 (section 5.3.1) and 2 (section 5.3.4 and 5.3.5), subject to the conclusion of the relevant agreements.

The section “Implementation” of the Annexes to this Decision sets out the elements required by Article 94(2) of Delegated Regulation (EU) No 1268/2012.

Grants may be awarded without a call for proposals by the authorising officer responsible in accordance with Article 190 of Delegated Regulation (EU) No 1268/2012.

The eligibility of costs related to EU contribution to the European Bank for Reconstruction and Development-Ukraine Stabilisation and Sustainable Growth Multi-Donor Account (MDA) may be authorised as of the dates set out in the Annex 2.

Article 4

Non-substantial changes

Increases or decreases of up to EUR 10 million not exceeding 20% of the contribution set by the first paragraph of Article 2, or cumulated changes to the allocations of specific actions not exceeding 20% of that contribution, as well as extensions of the implementation period shall not be considered substantial within the meaning of Article 94(4) of Delegated Regulation (EU) No 1268/2012, provided that they do not significantly affect the nature and objectives of the actions.

The authorising officer responsible may adopt such non-substantial changes in accordance with the principles of sound financial management and proportionality.

Done at Brussels, 26.7.2016

For the Commission
Johannes HAHN
Member of the Commission