



**Instrument for providing support to Ukraine for 2023 (macro-
financial assistance +)
of up to EUR 18 billion**

MEMORANDUM OF UNDERSTANDING

between

**The European Union
as Lender**

and

**Ukraine
as Borrower**

MEMORANDUM OF UNDERSTANDING BETWEEN THE EUROPEAN UNION AND UKRAINE

1. On 14 December 2022, the European Parliament and the Council of the European Union adopted a Regulation establishing an instrument for providing support to Ukraine (hereafter referred to as “the Country”) for 2023 (Regulation (EU) 2022/2463), to make available the Union’s support in the form of loans, non-repayable support and an interest rate subsidy to Ukraine in the context of Russia’s military aggression (hereafter referred to as “the instrument”).¹ The Regulation makes available to the Country support under the instrument in the form of loans (hereafter referred to as “loan assistance”) of up to EUR 18 billion. Additional amounts of non-repayable support pursuant to Regulation (EU) 2022/2463 Article 4(3) (hereafter referred to as “additional non-repayable support”) may be provided depending on the availability to finance measures referred to in paragraph 4. The support under the instrument shall be made available for the period from 1 January 2023 – or the first day after the entry into force of this Memorandum of Understanding (hereafter referred to as “the MoU”), if it is later than 1 January 2023 – until 31 December 2023. Disbursement may be possible until 31 March 2024.
2. The objective of this instrument is to provide short-term financial relief to the Country 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 membership in the European Union. This support under the instrument from the European Union is complementary to the resources provided to the Country by international financial institutions and bilateral donors in support of the country’s economic, social and financial resilience.
3. The loan assistance shall be disbursed in several instalments, which may each be disbursed in one or more tranches. The European Commission (hereafter referred to as “Commission”) shall decide on the amount and timing of each instalment and tranche, with an overall indicative level of loan assistance of about EUR 4.5 billion per quarter.

The disbursement of the first instalment of the loan assistance of up to EUR 3 billion shall not take place earlier than the first day after the signature and entry into force of this MoU and the accompanying Loan Facility Agreement, and the satisfactory implementation of the reporting requirements laid down in Annex 1 of this MoU.

The release of the second instalment and of any subsequent instalment of the assistance shall be conditional on the satisfactory implementation of the reporting requirements and on satisfactory progress towards the implementation of the policy conditions laid down in Annex 1 of this MoU. The Commission shall decide on the timing of the release of the second instalment and of any subsequent instalment.

¹ Regulation (EU) 2022/2463 establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +) of the European Parliament and of the Council of 14 December 2022, OJ L 322, 16 December 2022, p. 1.

The release of the final instalment up to the maximum of the assistance will be conditional on the satisfactory implementation of the reporting requirements and of the policy conditions laid down in Annex 1 of this MoU.

4. Additional non-repayable support, which may be forthcoming from Member States, third countries or third parties, may be released upon availability and in accordance with the terms laid down in a financing agreement to be concluded between the Commission and Ukraine, to finance measures achieving one or more of the following objectives:
 - a) 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;
 - b) sectoral and institutional reforms, including anti-corruption and judicial reforms, respect for the rule of law, good governance, and modernisation of the national and local institutions.
5. The additional specific conditions for the release of any additional forthcoming non-repayable support shall be specified in a separate annex to this MoU, in accordance with the procedures laid down in paragraph 21 of this MoU, if and when such support becomes available. The conditions provided for by the present MoU shall also apply to the release of any forthcoming non-repayable support.
6. Ukraine will be able to request an interest rate subsidy each year by the end of February of the preceding year (year N-1), which may be provided subject to respect for the political precondition laid down in Article 8 of the instrument.
7. The authorities of the Country are committed to ensure that the financial support received under this instrument is spent in a manner that is efficient, transparent and accountable vis-à-vis the European Union and the Commission. To this end, they shall – as already set out in the MoU accompanying Decision (EU) 2022/1202 and Decision (EU) 2022/1628 – continue to operate a reporting system that enables the availability of sound budgetary information to the Commission in an accessible, timely and comprehensive manner. They shall provide monthly reports on revenues (which includes the additional resources provided under the instrument), expenditures of the state budget at the level of the major expenditure headings and areas of expenditures for which the corresponding funds were spent. In these reports, the authorities of the Country shall also include details on the administrative and financial management measures in place, including the internal controls, applied in general and in particular as regards the Union's support under this instrument. Annex I of this MoU provides further details of this reporting system. In addition, the authorities of the Country are committed to address, adequately and swiftly, any shortcoming detected in the context of the operational assessment done during the implementation of this assistance, which may be conducted together with the operational assessment provided for under Decision (EU) 2022/1201 and Decision (EU) 2022/1628.
8. Prior to the release of the second instalment and of each subsequent instalment by the Commission, the Country's authorities shall provide the Commission with a Compliance Statement on the implementation of the conditions as made explicit in Annex I. Upon receipt of the compliance statement by the authorities of the Country, the Commission will evaluate, based on consultations with the authorities of the Country and, wherever

possible, with competent international organisations, the satisfactory observance of the conditions that the release of the loan assistance and any additional non-repayable support is linked to. The concrete policy measures and reporting requirements for this evaluation are made explicit in Annex I, and may be amended with specific additional conditions set out in a separate annex pursuant to paragraph 4 for any forthcoming non-repayable support. In its assessment, the Commission will pay particular attention if steps taken by the Country will lead to the implementation or satisfactory progress towards the implementation of the policy conditions. The prevailing security situation and its impact on the Country at the time of each evaluation, including relevant regional differences, shall be duly taken into account by the Commission. In case of an overall negative evaluation, where no satisfactory progress towards the implementation of policy conditions has been obtained, the Commission may withhold the disbursement of an instalment until the Country proves satisfactory compliance with the relevant reporting requirements and policy conditions. In any case, the Commission shall verify the fulfillment of all the policy conditions agreed in Annex 1 of this MoU before the maximum amount of the support under the instrument is disbursed.

9. The Commission will also, where possible in close cooperation with competent international organisations, continuously monitor the financing needs of the Country and may reduce, suspend or cancel the loan assistance in case the financing needs of the Country have decreased fundamentally during the period of disbursement compared to the initial projections. The findings of the Commission's monitoring of the financing needs shall inform the mid-term review of this MoU pursuant to paragraph 22.
10. The Commission shall disburse the instalments to a euro account of the State Treasury of Ukraine (hereafter referred to as "the Recipient") at the National Bank of Ukraine (hereafter referred to as "the Agent"). Given the substantial budgetary financing needs faced by the Country, the proceeds of the loan will be used to finance the state budget.
11. During the implementation of the instrument, the Country's authorities shall supply the Commission with all information that is relevant for the monitoring of its economic and financial situation and for the assessment of progress in structural reforms. In particular, the authorities will supply to the Commission on a timely basis the relevant information as set out in Annex II.
12. With a view to preventing irregularities and fraud related to the use of the support under the instrument and ensuring the protection of the EU's financial interests, the relevant provisions of the Loan Facility Agreement will apply, notably those regarding regular checks by the Country on the use of European Union assistance, and checks, audits and investigations performed by the Commission, including the European Anti-Fraud Office, the European Court of Auditors and the European Public Prosecutor's Office. Also, the provisions of the Loan Facility Agreement and the Financing Agreement on early repayment will apply in case it has been established that the Country has engaged, in relation to the management of the support under the instrument, in any act of fraud, corruption or any other illegal activity. Beyond the actions included in this MoU, Ukraine is expected to "further strengthen the fight against corruption, in particular at high level" as part of the membership process as outlined in the Commission's opinion thereon.

13. The Commission, represented by its own agents or its duly mandated experts, shall have the right to carry out operational assessments of the administrative procedures and financial circuits of the Country and of the Agent that relate to the management of European Union macro-financial assistance + throughout the duration of this MoU and for five years after the disbursement of the last instalment (*ex-post* period).
14. An independent *ex-post* evaluation of the support under the instrument may be carried out by the Commission or its duly authorised representatives. The authorities of the Country are committed to supplying all necessary information to the Commission, represented by its own agents or its duly mandated experts, for the duration of this process. The evaluation report will be made available to the authorities of the Country for comments.
15. The authorities of the Country will ensure, as appropriate, close co-operation with the European Commission. Confidential information under this Memorandum shall be exchanged in accordance with the Agreement between the European Union and Ukraine on the security procedures for the exchange of classified information of 13 June 2005.
16. The support under the instrument shall be conditional upon the requirement that the authorities of the Country continue to uphold and respect effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and upon respect for human rights. The Country also undertakes to safeguard central bank independence, continue to be guided by international best practice for good governance of state-owned enterprises and banks, and to make progress towards implementation of the Association Agreement, including the Deep and Comprehensive Free Trade Area (DCFTA). The Country also undertakes to address weaknesses and make progress on the steps outlined by the Commission in its opinion on granting Ukraine candidate status for membership in the European Union.
17. The support under the instrument is implemented on the understanding that the authorities of the Country are committed to phasing out the temporary emergency measures in the area of economic and financial policy that have been imposed for the duration of the war, at the appropriate time and with an adequate sequencing, especially with regard to the monetary policy and exchange rate framework, financial sector regulation, governance of state-owned enterprises, freedom of capital movements, and the tax, excise duty and trade regimes. The authorities of the Country are also committed to reinstating the established economic and financial policy institutions in their pre-war mandates once martial law is lifted.
18. Annexes I and II, and any annex that would specify the additional specific parameters of non-repayable support referred to in paragraph 4, are an integral part of this MoU.
19. All notices in relation with the present MoU shall validly be given if in writing and sent to:

For the European Union

European Commission
Directorate General for
Economic and Financial Affairs
CHAR 11/248
B-1049 Brussels, Belgium

For Ukraine

Ministry of Finance
12/2 Hrushevskiyi Street
Kyiv 01008
Ukraine
For the attention of: Minister or Deputy
Ministers and the Department of Debt
Policy

With copy to:
National Bank of Ukraine
9 Instytutska Street
Kyiv 01601
Ukraine
For the attention of: Governor or Deputy
Governors

20. The present MoU shall enter into force following the signature by the European Union and the Country and upon its ratification by the Country's Parliament or following another applicable internal procedure pursuant to its legal order. A signed or electronically signed copy of this MoU transmitted by secure email, or other secure means of electronic transmission, shall be deemed to have the same legal effect as the delivery of an original executed copy of this document for all purposes.
21. The MoU may be amended upon mutual agreement of the parties, including in the form of a written Addendum. Any Addendum shall be an integral part of this MoU and shall enter into force according to the same procedures as those applying to the MoU.
22. The Commission may review this MoU at mid-term of the availability period. In this review, the Commission may take stock of the evolution of Russia's war of aggression and its implications on the funding needs of the Country as well as of the continued relevance and feasibility of the reporting requirements and policy conditions as set out in the annexes to this MoU. An amendment of the MoU may be envisaged to reflect the findings of the review in accordance with paragraph 21 of this MoU, without prejudice to the possibility to make ad-hoc amendments when it is considered appropriate.

Done in ~~[Luxembourg]~~ Brussels and in Kyiv on ~~[XX]~~ January 2023 in two originals in the English language.

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FOR THE EUROPEAN UNION
as Lender

Valdis DOMBROVSKIS
Executive Vice-President
of the European Commission



FOR UKRAINE
as Borrower

Sergii MARCHENKO
Minister of Finance of Ukraine



FOR THE NATIONAL BANK
OF UKRAINE
as Agent to the Borrower



Andriy PYSHNYI
Governor

ANNEX I

REPORTING REQUIREMENTS AND POLICY CONDITIONS

A. Reporting requirements on the use of funds received under this instrument

During the implementation of the instrument, the relevant authorities of the Country shall provide to the Commission data and information relating to the implementation of the reporting system, which will include the funding needs, main categories and areas of expenditures for which the corresponding funds were spent, indicating the share of expenditures that were made under the public procurement procedure, to the extent possible.

B. Policy conditions

At the time of the Commission staff review that will precede the decision on the disbursement of the second and subsequent instalments, the authorities of the Country shall show satisfactory progress towards the implementation of the following actions, along the indicative timeline set out below. Before the maximum amount of the loan assistance is disbursed, the Commission shall verify the fulfilment of all of those actions.

Macro-financial stability

1. Implementation of the roadmap for phasing out of the temporary emergency measures adopted after the start of the war in the area of tax policy, in a well-sequenced manner, duly accounting for security and its impact on the economic situation. [Q1-Q2 2023].
2. Measures to support the stability of the banking system:
 - i) implementation of the agreed methodology on state-owned bank supervisory board successions [Q1 2023];
 - ii) preparing for launching of commercial banks' asset assessment [Q3 2023].
3. Improving the regimes of bankruptcy of legal entities (corporate bankruptcy) and insolvency of individuals by preparing legislation allowing individuals a full discharge of debt in line with the main principles of Directive EU 2019/1023 on preventive restructuring frameworks, and by adopting a roadmap for capacity building activities to support the implementation of the bankruptcy code [Q3 2023].
4. Measure to strengthen the insurance system: verification by the National Bank of Ukraine of the ownership structures of insurers and of their compliance with legislative prudential requirements in order to build a transparent and competitive insurance market [Q3 2023].

Structural reforms and good governance

1. Initiate the implementation of the Action Plan to deregulate economic activity and improve the business climate, including deregulation of the licensing and permit system (end-February), improving the e-construction portal [Q1 2023], simplification of temporary constructions for business activities [Q2 2023], abolition of outdated provisions [Q3 2023], and digitalisation of issuing of licences [Q4 2023].
2. Further developing the system of public procurement with a view to its alignment with the EU acquis to ensure transparent and competitive procurement, including for the reconstruction of Ukraine in the post-war period and, regarding medical procurement, preserving the SOE Medical Procurement of Ukraine as the sole national procurer of medical equipment, medicines and vaccines at central level.

3. Advancing the customs administration reform, including improvement in IT systems, HR management and anti-corruption measures [Q4 2023].
4. Strengthening the selection process of independent members of the supervisory boards and management boards for the largest of state-owned enterprises [Q4 2023].
5. Aligning the legislation with the requirements of the Law of Ukraine “On Administrative Procedure” [Q3 2023].

Rule of law

1. Finalising the selection [Q1 2023] and appointment [Q2 2023] of the new Head of the National Anti-corruption Bureau of Ukraine (NABU).
2. Re-establish the High Council of Justice and the High Qualification Commission of Judges (HQCJ) based on the current work of the Ethics Council and the Selection Commission [Q3 2023].
3. Development and adoption of an overarching strategic plan for the reform of the entire law enforcement sector as part of Ukraine’s security environment [Q3 2023].
4. Improving the selection of judges: (a) making efforts to streamline the stages of selection and rearrange their sequencing; (b) review of the length of the mandatory judicial training period; (c) approval and publication by the renewed HQCJ of regulations on the selection of judges, including on clear assessment criteria and scoring methodology [Q2/Q3 2023]; and launching the procedure of selection of judges based on the improved framework [Q4 2023].
5. Improving the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) regulatory framework by developing relevant secondary legislation and making progress in developing institutional capacities related to beneficial ownership [Q3 2023].
6. Adopting and starting to implement relevant legislation aimed at criminalising large-scale smuggling of all goods, foreseeing effective prison sentences for each damage to the state budget above a defined threshold [Q4 2023].
7. Further strengthening the capacity of the Specialized Anti-Corruption Prosecutor's Office (SAPO), *inter alia* through introducing performance evaluation, improving the selection of its management and other measures targeted to ensure its accountability and independence [Q4 2023].

Energy

1. Strengthen the legal and administrative framework to ensure the use of high energy performance standards, aiming for the application of international best practice as regards energy efficiency and circular economy, for newly built and rehabilitated buildings [Q2 2023].
2. Improve the functioning of the gas system through
 - i) selection of the supervisory board of Naftogaz [Q1 2023];
 - ii) taking measures necessary for the certification of the gas storage operator in compliance with the Regulation (EU) No. 715/2009 [Q1 2023];
 - iii) launching corporate restructuring of the Gas Transmission System Operator in line with the agreed target model [Q2 2023].

3. Preparation of the Action Plan for the restoration of the energy infrastructure of Ukraine destroyed as a result of the military aggression of the Russian Federation, anchored to the objectives of green transition and build-back better, where possible [Q2 2023].
4. Make progress in implementation of a roadmap for electricity market integration after synchronisation [Q4 2023].

ANNEX II

MONITORING SYSTEM

1. Monitoring of macro-economic and financial developments and policies

During the implementation of the instrument, the following indicators and reports shall be published or provided to the Commission by the relevant authorities of the Country:

a) Information submitted by the Ministry of Finance

- GDP or national income (quarterly)
- Main components of GDP (quarterly)
- Employment and unemployment rates (quarterly)
- Level and composition of general and central government revenue and expenditure as well as government payment arrears (quarterly)
- Fiscal balance of the central government (quarterly)
- Fiscal balance of the general government (annual)
- External public debt stock and (interest and principal) payments (quarterly)
- Domestic public debt stock and (interest and principal) payments (quarterly)
- Scheduled quarterly payments (interest and principal) of domestic and external public debt for the years 2022-2024 (quarterly)
- Consumer and producer price changes (monthly)
- Interest rates on benchmark government bonds at liquid maturities (monthly)

b) Information submitted by the National Bank of Ukraine

- Interbank interest rates at benchmark maturities (monthly)
- Banks' overall lending rate (monthly)
- Balance-of-payments and main components (quarterly)
- International reserve position (monthly)
- Nominal bilateral exchange rates against the euro and the USD (monthly)

2. Monitoring of structural policies

During the implementation of the instrument, data and/or information relating to the implementation of policy measures specified in Annex I shall be provided to the Commission by the relevant authorities of the Country, on request from the Commission.