



**Macro-financial assistance to Ukraine  
of up to EUR 1 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 4 July 2018, the European Parliament and the Council of the European Union adopted a decision (Decision (EU) 2018/947<sup>1</sup>) to make available to Ukraine (hereafter referred to as “the Country”) macro-financial assistance (hereafter referred to as “assistance”) of up to EUR 1 billion in the form of a loan. The assistance shall be made available for two and a half years starting from the first day after the entry into force of this Memorandum of Understanding (hereafter referred to as “the MoU”).
2. The objective of this assistance is to ease the Country’s external financing constraints, alleviate its balance of payments and budgetary needs, strengthen its foreign exchange reserve position and help the Country address the current external and financial vulnerabilities. This assistance shall contribute to values shared with the European Union, including sustainable and socially responsible development leading to employment creation and poverty reduction, and a commitment to a strong civil society. This assistance from the European Union is complementary to the resources provided to the Country by international financial institutions and bilateral donors in support of the authorities’ economic stabilisation and reform programme.
3. The assistance shall be disbursed in two instalments of up to EUR 500 million each.
4. The release of the first instalment shall not take place earlier than the first day after the entry into force of the MoU and the accompanying Loan Facility Agreement. The release of the second instalment shall not, in principle, take place earlier than three months after the release of the first instalment.

The disbursement of the two instalments of the assistance will be conditional on both a satisfactory track record in the implementation of the programme agreed with the International Monetary Fund (hereinafter “the IMF”) and on a positive assessment by the European Commission (hereafter referred to as “the Commission”) on behalf of the European Union, of progress made with respect to a number of macroeconomic and structural adjustment measures. The policy conditions attached to this assistance are based on the economic stabilisation and reform programme endorsed by the authorities of the Country and are consistent with agreements reached by the Country with the IMF. Accordingly, before the release of each instalment of this assistance, the Commission, in co-operation with the national authorities and IMF staff, will verify that the conditions attached to this assistance have been adequately respected or new understandings reached.

5. Prior to the release of the two instalments by the Commission, the Country’s authorities shall provide the Commission with a Compliance Statement on the fulfilment of the conditionality attached to the instalments in question. Upon receipt of the compliance statement by the authorities of the Country, the Commission will evaluate, based on

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<sup>1</sup> OJ L 171, 06/07/2018, p. 11.

consultations with the authorities of the Country and IMF staff, progress made with respect to the fulfilment of the conditionality. In this evaluation, particular attention will be paid to reforms concerning the fight against corruption and more particularly reforms to strengthen the related governance, administrative capacities and institutional set-up. The concrete policy measures and frame of reference for this evaluation are made explicit in Annex I. In case of a negative evaluation, the Commission may withhold the disbursement of the instalments until the Country proves the compliance with the conditionality. If necessary, Annex I may be amended upon mutual agreement, following the completion of the respective approval processes of the European Union and the Country.

6. The Commission will also continuously verify the financing needs of the Country and may reduce, suspend or cancel the assistance in case the financing needs of the Country have decreased fundamentally during the period of disbursement compared to the initial projections.
7. The Commission shall transfer the instalments to a euro account of the Ministry of Finance of the Country (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 Country’s budget.
8. During the implementation of the assistance, 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.
9. With a view to preventing irregularities and fraud related to the use of the assistance 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 and audits performed by the Commission, including the European Anti-Fraud Office, and the European Court of Auditors. Also, the provisions of the Loan Facility Agreement on early repayment will apply in case it has been established that the Country has engaged, in relation to the management of this assistance, in any act of fraud, corruption or any other illegal activity.
10. 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).
11. An independent *ex-post* evaluation of the assistance 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.

12. The authorities 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.
13. This assistance is implemented on the understanding that the authorities of the Country will continue to respect effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and to guarantee the respect for human rights.
14. Annexes I and II are an integral part of this MoU.
15. 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 Hrushevskyi 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

16. 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.
17. The MoU may be amended upon mutual agreement of the parties in form of a written Addendum. The Addendum will be an integral part of this MoU and will enter into force according to the same procedures as the MoU.

Done in Kyiv on 14 September 2018 in four originals in the English language.

FOR THE EUROPEAN UNION  
as Lender

FOR UKRAINE  
as Borrower

H.E. Valdis DOMBROVSKIS  
Vice-President of the  
European Commission

H.E. Oksana MARKAROVA  
First Deputy Minister of Finance

FOR THE NATIONAL BANK  
OF UKRAINE  
as Agent to the Borrower

H.E. Yakiv SMOLIY  
Governor

## ANNEX I

### STRUCTURAL REFORM CRITERIA

**At the time of the Commission staff review that will precede the decision on the disbursement of the first and second instalments, the authorities of the Country are committed to having accomplished the following actions:**

#### *First instalment*

##### **Public finance management**

1. To improve the predictability of the tax environment for businesses, the Ministry of Finance of Ukraine will issue at least seven **general tax consultations on the practical application of tax legislation** in the third quarter of 2018. These general tax consultations will take the form of orders of the Ministry of Finance.

##### **Good governance and fight against corruption**

2. To put in place an automated **verification system for electronic asset declarations of persons authorised to perform functions of the state and local self-government** and thereby detect and prevent corruption, the Ukrainian authorities will (a) ensure the upgrade of the verification module to enable logical and arithmetic control of electronic asset declarations, obtaining the necessary certificate of compliance for this module, take ownership of the module and put it into operational use, and (b) conclude the technical protocols on automatic data exchange between the verification module and relevant state registers and establish these connections.
3. To ensure effective **verification of information on companies' beneficial ownership** in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, amend the company registration process so as to require – whenever a legal entity seeks to register or change its entry – additional information on beneficial ownership, notably (a) the type of beneficial ownership, (b) the percentage of each beneficial owner's interest, (c) a description of the ownership structure in case a legal entity is not directly and wholly owned by its members/shareholders, and (d) a reasoned explanation in case no beneficial owner can be stated.
4. In the draft 2019 budget to be submitted to the Parliament of Ukraine by 15 September 2018, the Ukrainian government will include an amount for the **High Anti-Corruption Court** of Ukraine that is appropriate for its effective and independent functioning. The Ukrainian authorities will also launch the processes of selection of members of the Public Council of International Experts and of judges of the High Anti-Corruption Court of Ukraine.

##### **Sector reforms and state-owned enterprises**

5. To improve corporate **governance in state-owned enterprises (SOEs)**, the Ukrainian authorities will (a) select and nominate independent members of the supervisory board of Ukrenergo (electricity transmission operator), so that the supervisory board becomes operational in its new composition, and (b) launch the selection process for independent supervisory board members in at least three other large SOEs, assisted by professional executive search companies.

6. Pursuant to the government's privatisation plan, **put at least 200 small state-owned objects up for sale** through electronic auction in the ProZorro.Sale system.

### *Second instalment*

#### **Public finance management**

1. With a view to improving domestic revenue mobilisation, the Cabinet of Ministers of Ukraine will adopt a medium-term **reform plan for the tax and customs administration** with clear deliverables to ensure tax compliance, tax audit, customs and cross-border cooperation and enforcement, and staff integrity.
2. To ensure a better balance between **customs control and trade facilitation**, (a) adopt changes to the Customs Code of Ukraine with a view to introducing an Authorised Economic Operator programme and (b) submit to the Parliament the draft law on the implementation in the national legislation of Ukraine of the provisions of the Convention on a common transit procedure and the Convention on the simplification of formalities in trade in goods, enabling Ukraine to start the procedure for its accession to these Conventions and to apply a new computerised transit system.
3. To ensure progress with the minimum OECD requirements on **fighting tax evasion**, submit to the Parliament of Ukraine and ratify the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.

#### **Good governance and fight against corruption**

4. Operate a fully functional **verification system for electronic asset declarations** of persons authorised to perform functions of the state and local self-government proving effective in detecting undeclared income and assets, based on automated verification software and automated access to information held in relevant state registers. On this basis, verify at least 1,000 declarations of high-level officials (including from the executive, the Parliament and the judiciary) and adopt the corresponding verification decisions.
5. Progress in **making the High Anti-Corruption Court of Ukraine operational** in line with the law "On the High Anti-Corruption Court" notably by (a) making significant progress with the selection of qualified and independent judges for this Court (at least submission by the High Qualification Commission of Judges of Ukraine to the High Council of Justice of the recommendations on the appointment of candidates for judge according to the results of the competition), and (b) ensuring that the Court has the financial resources to conduct its mission as prescribed by the law.
6. To ensure an improved framework for fighting and **preventing money laundering**, adopt an anti-money laundering law in line with the EU-Ukraine Association Agreement. The anti-money laundering law will, in particular, oblige reporting entities (such as banks, notaries and lawyers) to report, to the specially designated agency, on discrepancies between, on the one hand, data on clients' ultimate beneficial owners (controllers) contained in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations and, on the other hand, information received by the reporting entities as a result of due diligence of their clients.

## Sector reforms and state-owned enterprises

7. With a view to **reducing the high level of non-performing loans** (NPLs) in the banking system of Ukraine, including in state-owned banks, the National Bank of Ukraine will develop a resolution on the management of non-performing assets in banks. The Ukrainian authorities will also continue their efforts on **asset recovery**, including by pursuing action through the courts where appropriate and by reporting publicly and comprehensively on a semi-annual basis on asset recovery in state-owned banks, with the first report to be published at the latest in the first quarter of 2019.
8. To improve corporate **governance in state-owned banks**, their supervisory boards will be granted appropriate powers and have a majority of independent members, to be selected on a competitive and transparent basis. To this end, the Parliament of Ukraine will amend Article 7 on state-owned banks of the law “On Banks and Banking Activities”, in line with the corresponding provisions of draft law No. 8331, with a view to swift implementation of the new system of corporate governance in state-owned banks.
9. Make significant progress in **implementing the electricity market law**, including in the preparation of Ukrenergo for certification as an independent transmission operator and in the separation of control over power generation (notably Energoatom and UkrHydroEnergo) and power transmission (notably Ukrenergo).

## Social policies

10. To ensure adequate healthcare coverage at sustainable cost, implement the **reform of healthcare financing**, including through the signature of at least 600 contracts, between the National Health Service of Ukraine and relevant providers, for the provision of primary healthcare.
11. Improve **targeting, efficiency and fairness of social benefits** to the advantage of those most in need, notably (a) through effective implementation of the resolution No. 329 of the Cabinet of Ministers of Ukraine, dated 27 April 2018, on improved targeting of Household Utility Subsidies (applying exclusion criteria, verification of applications) and (b) by launching the process of monetisation of subsidies at household level through a pilot project.
12. The Cabinet of Ministers of Ukraine will adopt the Action Plan on the implementation of the strategy of **integration of internally displaced persons** and sustainable solutions on internal displacement covering the period until 2020.

## ANNEX II

### MONITORING SYSTEM

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

During the implementation of the European Union macro-financial assistance, the following indicators and reports shall be provided to the Commission by the relevant authorities of the Country, on a quarterly basis.

##### *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 2018-2020 (quarterly)
- Consumer and producer prices (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 European Union macro-financial assistance, 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, notably:

- Number of small state-owned objects put up for sale through electronic auction in the ProZorro.Sale system (monthly)
- Number of electronic asset declarations of public officials verified using the automatic verification system and the number of corresponding verification decisions adopted (monthly)
- Number of contracts signed between the National Health Service of Ukraine and the providers of primary healthcare (monthly)
- Total number of recipients (households) of Household Utility Subsidies and total amount of payments of the Household Utility Subsidies (monthly)