



## **ANNEX 1**

of the Commission Implementing Decision on the Annual Action Programme 2019 (part 1) in  
favour of Ukraine

### **Action Document for the EU Anti-Corruption Initiative in Ukraine (Phase II)**

<b><u>ANNUAL PROGRAMME</u></b>		
This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation and action programme/measure in the sense of Articles 2 and 3 of Regulation N° 236/2014.		
<b>1. Title/basic act/ CRIS number</b>	<b><u>EU Anti-Corruption Initiative in Ukraine (Phase II)</u></b> CRIS number: ENI/2019/041-726 financed under European Neighbourhood Instrument	
<b>2. Zone benefiting from the action/location</b>	European Neighbourhood region, Ukraine The action shall be carried out at the following location: Ukraine – nationwide, the programme team will be based in Kyiv	
<b>3. Programming document</b>	Single Support Framework for EU support to Ukraine 2018-2020	
<b>4. Sustainable Development Goals (SDGs)</b>	SDG targets Nr. 16, 16.5, 16.6 and 16.a	
<b>5. Sector of intervention/ thematic area</b>	Strengthening institutions and good governance, including the rule of law and security	DEV. Aid: NO
<b>6. Amounts concerned</b>	Total estimated cost: EUR 22.9 million Total amount of EU budget contribution EUR 15 million The action is co-financed in joint co-financing by Denmark for an amount of EUR 7.9 million	
<b>7. Aid modality(ies) and</b>	Project Modality Indirect management with the Ministry of Foreign Affairs of Denmark	

<b>implementation modality(ies)</b>	(DANIDA) Direct management through procurement			
<b>8 a) DAC code(s)</b>	15113, 25010			
<b>b) Main Delivery Channel</b>	10000 PUBLIC SECTOR INSTITUTIONS			
<b>9. Markers (from CRIS DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<b>x</b>
	Aid to environment	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and Women's and Girl's Empowerment	<input type="checkbox"/>	<b>x</b>	<input type="checkbox"/>
	Trade Development	<input type="checkbox"/>	<b>x</b>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Biological diversity	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>10. Global Public Goods and Challenges (GPGC) thematic flagships</b>	N/A			

## SUMMARY

Combating corruption has been one of the key priorities in the Ukrainian reform agenda since 2014. A comprehensive legal framework was adopted, new corruption prevention and repression bodies have been established and the High Anti-Corruption Court is being set up. Modern mechanisms to prevent corruption, such as an electronic system for asset declarations and a public procurement platform ProZorro, have been introduced. Pressure from a vibrant civil society and international engagement significantly contributed to these achievements. However, tangible results are still limited, in particular as regards adjudication of high-level corruption cases, control of assets and conflicts of interests of public officials and the management of corruption risks in the public and private sector. Ukraine's anti-corruption activists are increasingly put under pressure, especially in the regions. Persistent challenges related to corruption and fragile state of reforms suggest that support to Ukraine's anti-corruption efforts must continue. The proposed EUACI Phase II will capitalise on the work started in the first phase and will aim at ensuring the sustainability of anti-corruption reforms achieved so far and further reinforcement of anti-corruption efforts at the national and local level. It will be a holistic and flexible instrument composed of the following three mutually reinforcing components aimed at fostering the culture of integrity in the society:

- 1) Further support to the institutional development of anti-corruption institutions

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| <ul style="list-style-type: none"><li>2) Improved governance, transparency and accountability at the local level</li><li>3) Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance.</li></ul> |
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## **1 CONTEXT ANALYSIS**

### **1.1 Context Description**

Since the Revolution of Dignity, combatting corruption has been a top priority in the Ukrainian reform programme and political rhetoric. A comprehensive new legal framework largely complying with European standards was adopted. New anti-corruption (AC) bodies - the National Anti-Corruption Bureau (NABU), the Specialised Anti-Corruption Prosecution Office (SAPO), the National Agency for Corruption Prevention (NACP), the Asset Recovery and Management Agency (ARMA) and a High Anti-Corruption Court (HACC) have been or are in the process of being established. New mechanisms to fight corruption, such as an electronic system for asset declarations, have been introduced. Pressure from an active civil society and investigative media as well as strong international engagement contributed significantly to these achievements.

In parallel, major reforms were launched to reduce the space for corruption, in particular in the energy and banking sectors, VAT administration and health care. A new electronic system of public procurement ProZorro and its spin-off Prozorro Sale, a public asset sale and lease platform, were introduced boosting transparency in previously opaque procurement processes. These reforms allowed Ukraine to save an estimated USD 6 bn or 6% of its GDP<sup>1</sup>.

While Ukraine made some good progress over the past five years in reducing the space for corruption, results are still meagre when it comes to the adjudication of high-level corruption cases and fighting the “culture of impunity”. So far, no high-level official has been put to prison for corruption. NABU has brought several hundred investigations in high-level corruption cases to court, but these cases do not advance.

Moreover, implementation of AC laws and policies remains deficient, in particular as regards control of assets and conflicts of interests of senior public officials, as well as management of corruption risks in both public and private sector. Adoption of the new AC Strategy for 2018-2020 has been delayed. NACP has yet to prove its effectiveness and independence following a 2017 whistleblowing scandal. Out of more than 2 million declarations submitted only 400 have been verified as of end-2018. To address this issue and as required by policy conditionality of the 4<sup>th</sup> EU Macro-Financial Assistance, the Ukrainian authorities upgraded the automated verification system of asset declarations and started using it in 2018. Further progress is expected in 2019, in order to make the verification system fully-functional (notably, by establishing connections to the remaining state registers) and effective in detecting undeclared income and assets.

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<sup>1</sup> Institute for Economic Research and Policy Consulting, Ukraine’s fight against corruption: the Economic Front, Kyiv 2018.

It is also of concern that Ukraine's anti-corruption activists and investigative journalists are increasingly put under pressure, harassed and even physically attacked, notably in the regions.

Vested interests of the old and often corrupt bureaucracy in connivance with political forces linked to the monopolistic power structures in industry and business are a major source of resistance to these changes and persistently attempt to undermine the legislative and institutional AC framework. As a result, corruption remains one of the major challenges for Ukraine. Ukraine's score on corruption perception has been improving in recent years but remains relatively low by international comparison<sup>2</sup>. Pervasiveness of corruption in Ukraine imposes significant economic costs on businesses and the population, discourages domestic and foreign investment and stifles a much-needed economic recovery. The lack of real progress in the fight against corruption also leads to a growing frustration and cynicism in the Ukrainian public, which perceives that the fundamentals of the old corrupt system remain unchanged. This undermines public trust in the democratic institutions and the rule of law and weakens the legitimacy of political leadership.

The EU Anti-Corruption Initiative (EUACI) launched at the end of 2016 has effectively contributed to the establishment and operationalisation of AC institutions, sought to engage the Parliament on AC reforms, launched the Integrity City initiative in five selected pilot cities and empowered the civil society and investigative media to expose corruption and promote integrity. The EUACI has succeeded in engaging a number of EU Member States in its activities, thus drawing on best EU practices.

Persisting challenges related to corruption, as well as the fragile status of AC reforms and institutions suggest that support to Ukraine's AC efforts must continue. Reforms in Ukraine have not yet become irreversible and many political, institutional and practical challenges still stand on the way of a real breakthrough on the fight against corruption.

## 1.2 Policy Framework (Global, EU)

Ukraine is a party to the main international conventions and bodies in the area of anti-corruption: Ukraine ratified the **UN Convention against Corruption** (2006), the **Council of Europe Civil Law Convention on Corruption** (2005) and the **Council of Europe Criminal Law Convention on Corruption** (2009). Ukraine is a member of the Council of Europe bodies **GRECO** (Group of States against Corruption) and **MONEYVAL** (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) as well as of the **OECD's Anti-corruption Network for Eastern Europe and Central Asia** (ACN).

The fight against corruption is a central principle and key area of cooperation between the parties under the **EU-Ukraine Association Agreement** (Articles 3 and 14). Following the signature of the Association Agreement in 2014, the 2015 EU-Ukraine Association Agenda listed more precise short-term priorities, in particular the implementation of the anti-

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<sup>2</sup> Ukraine's score in the annual Transparency International Corruption Perception Index improved from 26 points in 2014 to 32 points in 2018 but Ukraine still ranks 120 out of 180 countries worldwide (below all regional peers, except Azerbaijan and Russia).

corruption legal package adopted in October 2014 and the setting up and effective functioning of both the National Anti-Corruption Bureau and the National Agency for the Prevention of Corruption.

### 1.3 Public Policy Analysis of the partner country

Ukraine's new political leaders and the civil society successfully pushed for changes after the Revolution of Dignity, which led to the adoption in October 2014 of an **Anti-Corruption legislative package**, including a national strategy covering the period 2014-2017, followed by an action plan to implement the anti-corruption strategy adopted in April 2015. The strategy notably foresaw the creation of three new institutions which presented a major break-through in the reform: 1) the National Anti-Corruption Bureau (NABU) in charge of investigating high-level corruption cases 2) the Specialised Anti-Corruption Prosecution Office in charge of prosecuting NABU cases and 3) the National Agency for the Prevention of Corruption (NACP) in charge of anti-corruption policy development and implementation, anti-corruption screening of draft legal acts, research and training, verifying asset declarations and conflicts of interests of public officials, control of political party finances, whistle-blower protection.

The implementation of Ukraine's new legislative and strategic framework was a core element of the **European Commission's Visa Liberalisation Action Plan (VLAP)** which contained specific benchmarks on anti-corruption. The VLAP benchmarks notably required Ukraine to establish and make fully operational the new anti-corruption institutions and to put in place a mechanism for submitting and verifying electronic asset declarations by public officials. After intense negotiations, the European Commission concluded that significant legislative and institutional changes have taken place and proposed, in April 2016, to grant Ukraine visa-free status. This proposal was subsequently adopted by the European Parliament and the Council and the visa-free regime entered into force in June 2017. In parallel, the European legislator introduced a new suspension mechanism which monitors the continued fulfilment of the Visa Liberalisation Benchmarks in all countries concerned. The first annual report, published on 20 December 2017, concludes for Ukraine that while *"[o]verall, the visa liberalisation benchmarks continue to be fulfilled [...] in view of recent developments, immediate actions need to be taken in order to ensure full implementation and sustainability of past reforms, in particular as regards the anti-corruption benchmark."* In this respect, the report urges Ukraine to:

- Ensure the independence, effectiveness and sustainability of the anti-corruption institutional framework, in particular by setting up an independent and specialised high anti-corruption court in accordance with the Venice Commission opinion and Ukrainian legislation. In parallel, the independence and capacity of NABU and SAP must be ensured and reinforced, reversing current trends undermining their work
- Restore as a matter of urgency the credibility of the NACP and establish an effective verification system of asset declarations, including through the automatic verification software with direct and automatic access to state databases and registers;
- Repeal the amendments extending the scope of asset declaration obligations to civil society declarants and ensure that civil society can play its role without undue obstacles and interference; and

- Step up efforts to combat organised crime, including by dedicating sufficient resources and expertise in the National Police, introducing a clear delineation of competencies and improving cooperation between law enforcement agencies.

Anti-corruption reforms also figured prominently in the EU's **3<sup>rd</sup> Macro-Financial Assistance Packages** which required, similarly to the VLAP benchmarks, to make the new anti-corruption institutions fully operational. The current **4<sup>th</sup> Macro-Financial Assistance Package** requires Ukraine to put in place an effective system for the verification of electronic asset declarations and to make significant progress with the establishment of the High Anti-corruption Court.

Whenever possible, the EUACI Phase II will provide assistance in addressing the aforementioned EU and national policy priorities in the area of anti-corruption.

## 1.4 Stakeholder analysis

The **National Anti-Corruption Bureau (NABU)** is a law enforcement body created in April 2015 and became fully operational in December 2015. NABU is tasked with investigating corruption involving high-ranking public or local government officials. Regional offices were created in Kharkiv, Lviv and Odessa. NABU is formally a state law enforcement authority, not subordinated to the Government. A number of guarantees are included in the law to secure its independent functioning. The Bureau is managed by a Director appointed by the President of Ukraine upon the recommendation of the selection board for a seven-year period.

NABU's strategy emphasises the need to build capacity of staff, to automate business processes, to decrease corruption risks, and improve analytical functions, e.g. through e-case management, which would enhance efficiency in the investigation of cases. NABU's cooperation with the Specialised Anti-Corruption Prosecution Office and the National Agency for Corruption Prevention needs to be improved, while cooperation with SFMS and ARMA works well.

The **Specialised Anti-Corruption Prosecution Office, (SAPO)** was established in November 2015. SAPO is responsible for managing criminal investigations into high level corruption cases investigated by NABU and for bringing these cases to court. SAPO is formally part of the Public Prosecutor's Office, but a number of safeguards ensuring its independence and autonomous operation, were introduced. In June 2018, the Head of SAPO was found to have seriously violated prosecutorial ethics and criminal procedure laws, but he was still not dismissed by the prosecutorial disciplinary body. It raises concerns over the independence and integrity of SAPO management.

SAPO suffers from a considerable backlog of cases and serious delays in court proceedings. It is expected that the establishment of the High Anti-Corruption Court (HACC) will remedy this situation, but SAPO is still in need of continuous capacity building and more staff with the right set of skills. In terms of IT equipment, SAPO is currently well-funded by the Government. Where possible, the **Academy of Public Prosecutors** will be engaged for systematic capacity building for SAPO staff.

The **National Agency for Corruption Prevention (NACP)** is responsible for the development and implementation of AC policy, monitoring the lifestyle of public officials, verifying declarations of assets and conflicts of interest of public officials. The Agency is also in charge of controlling political party funding and protection of whistle-blowers. NACP's reputation has been damaged following the whistleblowing scandal in November 2017 when senior NACP officials accused NACP's top management of political dependence and abuse of power.

Beside restoring the NACP's trust and cooperation with other relevant AC institutions, NACP will have a high demand for improved technical solutions, e.g. establishment of datacentre and an e-case management system, as well as continued capacity building for its relatively young and inexperienced staff in all core areas, including corruption risk assessment, conflict of interest management, verification processes and communication. There is also a potential need for assistance in the development and/or implementation of the AC strategy after the 2019 elections.

The **National Asset Recovery and Management Agency (ARMA)** was established in 2016 and started its operation at the end of 2017. It is responsible for identifying, tracing and managing of assets derived from corruption and other crimes. In its activities, it is cooperating with national law enforcement and judiciary institutions and international partners. As a newly established organisation ARMA is still growing and will need to continue the institutional development process and recruitment of additional staff, including in the regions.

The cooperation between the current EUACI programme and ARMA has worked well, but many of its needs will still remain in terms of capacity building, organisational reforms and specialised IT solutions. Furthermore, ARMA has the ambition to enhance its communication efforts, as its mandate is still not sufficiently understood by the law enforcement and judicial institutions and it is also publicly challenged by vested interests. Currently, ARMA does not have a clear development strategy, for which EUACI Phase II could also be employed.

The **State Financial Monitoring Service of Ukraine (SFMS)** is Ukraine's Financial Intelligence Unit responsible for collecting, analysing and disseminating information regarding potential money laundering and suspected proceeds of crime. SFMS therefore plays an important role in identifying possible financial crimes, including corruption, and it maintains a close cooperation with NABU.

SFMS's main needs revolve around the development of special analytical skills for its staff and technical solutions for conducting forensic tracing and enhanced information sharing with NABU and other relevant law enforcement agencies. Where possible, the **Academy of Financial Monitoring** will be engaged for systematic capacity building of SFMS staff.

The **High Anti-Corruption Court (HACC)** is currently being established on the basis of the Law on HACC which was adopted in June 2018 in line with the recommendations of the Venice Commission. The process of selection of HACC judges and the establishment of the court is underway supported by the EUACI and other international assistance programmes. Once established, HACC will adjudicate all high-level corruption cases falling under the jurisdiction of NABU and SAPO, as well as some other serious crime cases.

There will be a considerable need for assistance for HACC in both the short- and medium-term of its operationalisation. Beside the setting up of the organisational structure and internal policies (human resource management, ICT, court security, communication, case management, etc.), the HACC will be in need of tailor made capacity building, as well as ICT support. A close coordination will be required among donors to ensure a timely, relevant and well-organised assistance for the new court. Where possible, the **National School of Judges** will be engaged for ensuring systematic capacity building for SAPO staff.

**The Ministry of Justice** is *inter alia* mandated to carry out legal assessment, including the corruption proofing part, of all laws proposed by the Government, as well as all bylaws proposed by the central and regional (oblast) government institutions. Without positive conclusion from the Ministry, a given law or bylaw cannot be formally adopted and needs to be improved in line with the Ministry of Justice recommendations. Corruption proofing is only one part (a chapter) of the overall legal assessment report on a given legal act. The Ministry is keen to receive support to enhance its capacities in this important area.

**The Parliament** is the legislative body in charge of, among many other tasks, law-making and parliamentary control of the Executive. The **Parliament's Anti-Corruption Committee**, among other tasks, is responsible for considering draft legislation pertaining to the area of anti-corruption, monitoring the implementation of anti-corruption reforms by the government, and corruption proofing of all draft laws ahead of the first reading in the plenary. The EUACI has been providing some support in the first phase, but additional capacity development, notably on the specific function of corruption proofing, is required.

**Integrity cities** – the city councils and the executive committees of the cities of Chernivtsi, Mariupol, Zhytomyr, Nikopol and Chervonohrad – the so-called Integrity Cities selected in the first phase of the EU Anti-Corruption Initiative - are executing various local administration functions and providing services to citizens. The Programme will continue supporting them in consolidating and further expanding modern transparency and accountability mechanisms aimed at reducing corruption risks and improving city governance. Further sub-national entities may be included in this initiative.

**Investigative journalists/media** play an important role in uncovering corruption schemes, thereby effectively contributing to prevention and repression of corruption, as well as raising public awareness and promoting the culture of integrity. Investigative media faces significant obstacles in their work, including political pressure, physical attacks, legal actions, as well as insufficient financial and human resources. The network of investigative journalists is particularly scarce in the regions. The EUACI Phase I has established good cooperation with trusted partners such as the Regional Press Development Institute and Bihus.info, which supported investigative journalism across the country, while the needs for continued strategic support in this area are evident.

**Civil Society Organisations (CSOs)** (including local and national membership organisations, advocacy groups, think tanks, research institutions) play a key role in the reform process. Many AC laws were developed, and public sector reforms launched with direct involvement of the civil society. CSOs at both central and local/regional level continue to be very active in advocating further AC reforms and in monitoring the implementation of AC laws and performance of state institutions. Similar to investigative journalists, they are often subject to



pressure and suffer from insufficient funding and human resources, especially in the regions. Further support to CSOs will be required with particular focus on AC awareness raising, watchdog and policy dialogue initiatives, as well as capacity building of local-level CSOs.

**Business membership organisations** are associations at central and regional level whose mission is to protect and represent the interests of their member companies or entrepreneurs. They can serve as entry points for promoting compliance and business integrity among their members. Generally, the business chambers are relatively small and weak in Ukraine, but the EUACI Phase II may strategically identify the most appropriate partners and work with them to promote integrity and demand for it within the private sector both at the national and the local (e.g. Integrity City) level. One of these may be the **Ukrainian Network of Integrity and Compliance (UNIC)** which was founded in 2017 by the Business Ombudsman Council with the support of EBRD and OECD with the purpose to promote the culture of integrity among Ukraine's businesses. UNIC unites some 50 Ukrainian companies of both foreign and local capital and offers a learning and experience-sharing platform for implementing international standards of compliance and business ethics.

## **1.5 Problem analysis/priority areas for support**

The fight against corruption continues to be one of the key political priorities of the Ukrainian government and several positive results and lessons learned have already been achieved. However, the implementation of the new anti-corruption framework and the establishment and operation of the new institutions needs a longer time horizon to ensure and sustainability.

In order to translate the political priorities into tangible results it is necessary to continue providing substantial technical and financial support to consolidate and empower the new anti-corruption institutions and other relevant stakeholders, such as civil society (including business sector organisations) and media to effectively carry out their work and to strengthen the external oversight over the reform process.

The proposed EUACI Phase II will build on the successful features of the existing support, as well as identify a few new priority areas to combat corruption. Continued EU support will not only contribute to the fight against corruption, but also be an important signal to civil society, the politicians and the Ukrainian public at large that EU continues to stand behind and constructively support demands for real and deep reforms in this area.

Key issues to be addressed by the EUACI Phase II can be grouped as follows:

### **a) Weak operational and strategic capacities of anti-corruption institutions**

Most of the anti-corruption institutions have now become operational, but will still need to mature and demonstrate tangible results. Capacity development initiatives have been offered to the key institutions, but there is still a gap in expertise and experience. Investments have also been made in technical equipment, but this area will still need to be upgraded further. Finally, many of the institutions seem to be in need of support in setting the strategic directions for their organisation in the medium- to longer-term and ensuring effective inter-agency cooperation.

### **b) Insufficient use of modern technologies and IT solutions by public bodies**

Administrative processes in the Ukrainian institutions tend to be bureaucratic and paper-based, thereby enlarging the room for corruption. Modernisation of hardware and software is underway, but further support is still needed. The e-governance and inter-operability solutions that are developed at the central level are still to be tested, operationalised and rolled out. At the same time, the investigation of complex corruption cases or the verification of asset declarations cannot be efficiently carried out without the use of modern IT solutions and equipment. It is therefore essential to be able to provide stakeholders with the necessary expertise and supplies, in order to allow them to effectively carry out their work, while taking due account of local ICT policy developments.

**c) Attempts to hamper reforms by anti-reform's forces/vested interests**

Initiatives in creating necessary legal, regulatory and institutional AC framework, as well as its enforcement face fierce resistance from anti-reformist forces. Political commitment to advance anti-corruption agenda remains limited and unstable. In order to facilitate progress, constant and well-coordinated monitoring and pressure from the civil society, media and international stakeholders is needed, along with professional performance and strategic communication from the side of AC institutions. Therefore, the programme will continue supporting capacity development of relevant institutions, various policy dialogue, monitoring, awareness raising, investigative and analytical activities by the civil society, media and independent experts, while also assisting the EU in its political and policy dialogue with the Ukrainian authorities.

**d) Dispersed and ineffective public communication on reform implementation**

There is no effective mechanism in place to ensure that actual progress on the implementation of reforms can be properly communicated to the general public, thereby reassuring public opinion that things are moving forward. Currently, the (limited) results are only communicated in a dispersed manner by the individual institutions themselves. AC institutions need support with the development of a public communication strategy on anti-corruption and the design of specific communication initiatives to help individual stakeholders to report about reform implementation in a more effective and coordinated manner.

**e) High levels of corruption at the local level where rights holders are less organised and more exposed to pressure**

Corruption risks remain significant at the local (sub-national) level where local self-government bodies, following the decentralisation reform, have received significant new powers and resources, while adequate systems to ensure transparency and accountability and to manage corruption risks at these bodies are often not in place. Local vested interest groups remain strong in many regions and exert pressure on local activists and influence decision-making of local authorities. This is combined with weak civil society and media at the local level to monitor and demand change and to mobilise local communities. Similarly, the business community is showing some interest in enhancing integrity, but is still weak and insufficiently prepared and organised in promoting these efforts at the national and local level

## 2 RISKS AND ASSUMPTIONS

Risks	Risk	Mitigating measures
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	<b>level (H/M/L)</b>	
Diminishing political leadership and will to implement anti-corruption reforms, in particular following the presidential, parliamentary and local elections	M	Use of political dialogue in the framework of Association Agreement and other formats, public diplomacy; Coordination of common approaches with civil society, pro-reformist Ukrainian stakeholders and international partners.
Lack of cooperation from the side of Ukrainian beneficiaries	M	Continued policy dialogue, involvement of the beneficiaries in the preparation of the support to be provided by the programme.
Integrity cities concept not fully developed and tested in time	L	The concept has previously been delayed, but is currently highly prioritised by the existing programme. Additional resources and capacity, also at the local level, will be allocated to the Integrity Cities initiative.
Civil society and investigative media harassed or attacked	M	Continued policy dialogue with Ukrainian authorities and adequate technical and legal assistance to affected partners, demarches and public diplomacy.
Business sector disinterested in compliance/anti-corruption agenda	M	Close dialogue with business representatives focusing on tailored assistance and benefits from compliance initiatives; assistance in Business-to-Government dialogue for achieving benefits for "compliant" businesses.
<b>Assumptions</b>		
<ul style="list-style-type: none"> <li>✓ There are sufficient windows of opportunity and political will which will allow the anti-corruption reform agenda and the anti-corruption institutions to enhance their performance against their mandate</li> <li>✓ The anti-corruption institutions are receptive to the advice and capacity development support provided and has sufficient ownership to allow for institutionalization of reforms based on the long-term strategic vision for the institution</li> <li>✓ That the local governments are willing to use political as well as financial resources to address the corruption risks identified under the integrity city initiative</li> <li>✓ That there are national institutions in place that are willing to take onboard the lessons learned from the integrity city initiative and replicate these across Ukraine</li> <li>✓ That civil society and investigative media will have sufficient space at national and local level to investigate corruption cases, advocate for change, and conduct awareness raising on anti-corruption</li> <li>✓ That the business sector is interested in and willing to commit time and resources to engage in anti-corruption activities</li> <li>✓ That the advocacy and demands from civil society, media and private sector will have sufficient leverage to influence politicians at national and local level</li> </ul>		

### **3 LESSONS LEARNT AND COMPLEMENTARITY**

#### **3.1 Lessons learnt**

The first phase of the EUACI programme contributed significantly to the early stages of development of the new anti-corruption bodies, such as NABU, ARMA, SAPO, and HACC, by providing relevant capacity building activities, advisory services and IT software and hardware. At the same time the programme introduced the innovative concept of Integrity Cities, which took longer than anticipated to get operationalised. The programme also contributed significantly to supporting civil society and investigative journalists which play a crucial role in monitoring anti-corruption reform and achievements in Ukraine. However, the EUACI implementation allowed drawing several key lessons that have to be taken into account for the second phase:

##### **a) Need for a flexible support programme stimulating institutional ownership**

The mid-term review of the EUACI Phase I conducted in summer 2018 showed that support to the fight against corruption in Ukraine requires a longer term and more strategic, multi-dimensional approach. Interventions need to be flexible and take the fluid political climate into account. The programme has introduced a number of innovative initiatives (e.g. the Integrity Cities) and has established cooperation with the key institutions in the fight against corruption. The institutional landscape is still being developed with new institutions becoming operational and the political will, institutional capacity and donor cooperation maturing. This implies that some key actors may not be able to receive assistance as planned, which complicates and delays the work of the programme. In such cases, commitment and national ownership needs to be stimulated in and around these institutions through policy dialogue. Hence, EUACI phase II should continue supporting the AC institutions and frameworks, while retaining flexibility in view of the changing political climate and windows of opportunity.

##### **b) Need for an improved implementation arrangements and programme management**

The mid-term review showed that EUACI programme implementation office has been challenged in terms of the original resources foreseen to implement the activities. Particular elements of the intervention have been more demanding than initially foreseen (e.g. the Integrity Cities and the HACC) and staff resources had to be increased accordingly. Moreover, programme management functions, including planning, steering/controlling, procurement, monitoring and risk management, were identified as requiring further strengthening. EUACI Phase II will respond accordingly to these issues, including by ensuring a proper size, composition and functional structure of the implementation unit. This includes a validation of the best implementation modalities including more strategic partnerships with core funding with CSOs, investigative media and business associations and increased use of framework agreements.

##### **c) Need for further institutionalisation of capacity development**

In order to ensure higher impact and sustainability of EUACI interventions, more efforts are needed to embed capacity building within the strategic planning and institutional structures of the AC institutions and other stakeholders. While EUACI Phase I was mainly aimed at

assisting these institutions in their establishment and operationalisation, Phase II should focus more on internalisation and institutionalisation of capacity building processes.

### **3.2 Complementarity, synergy and donor co-ordination**

The current EUACI programme is the leading initiative targeting corruption in Ukraine. It is well coordinated with the EU Advisory Mission (EUAM), other technical assistance programmes and stakeholders active in the area of rule of law and AC. Donors active in this area meet periodically and have a good level of awareness of what others are doing. Beside the general AC donors and implementers meetings, thematic coordination formats (e.g. on the HACC, asset declarations, financing of political parties) are practiced. Beneficiary-led donor coordination covering the whole anti-corruption spectrum is challenging considering the complexity of AC policy, a large number and independent nature of such institutions and related stakeholders (e.g. Parliament, civil society) and tense relations between some of them.

The EUACI Phase II will continue cooperating with all the relevant partners in order to ensure synergy, as well as more local ownership, aid effectiveness and alignment of assistance with the Ukrainian AC policy and strategic priorities. It will aim at maintaining an effective donor coordination platform with other key AC programmes/projects for better programming, implementation and monitoring of AC interventions. In line with the integrated approach, the EUACI Kyiv office will continue being co-located in the EUAM premises and an EUAM adviser shall be embedded in its team to ensure practical cooperation. The new EUACI programme will establish a close partnership with U-LEAD, EU Public Finance Management programmes, other donors' programmes/projects working at the local level, in order to ensure synergies for replication of effective tools and best practices for raising integrity standards at the local level. Equally close coordination will be ensured with other relevant EU programmes, including PRAVO I, PRAVO II and EU4PAR.

The programme will continue to build on best European practices in the AC area and on the involvement of the EU Member States during its implementation.

As regards the civil society and investigative journalism component, the programme will seek to build synergies with the European Endowment for Democracy (EED) in Ukraine, notably at the local level, as the EED provides support to grass-roots activists and independent media that lack access to other donor funding (focus on "support for the unsupported").

Synergies will also be sought with the new wave of EU civil society support projects/programmes implemented at bilateral and regional level as of 2020.

#### **3.2.1 EU Support**

The current EU support to anti-corruption reforms is mainly provided through the **EU Anti-Corruption Initiative** funded by the EU and co-funded and implemented by the Danish Ministry of Foreign Affairs. This 3-year, EUR 16.34 million Programme (EU contribution - EUR 15 million) was launched at the end of 2016 to support the implementation of AC reforms with the aim to reduce corruption. It is focused on (a) the institutional development and capacity building of new AC bodies (NABU, SAPO, NAPC, ARMA, HACC); (b) strengthening policy making and oversight capacities of the Parliament on AC reforms; (c) strengthening capacities of local government, civil society and the media to prevent and fight corruption.

A number of other EU initiatives and EU programmes contain components that are directly or indirectly related to prevention and/or repression of corruption and promotion of integrity. Among these programmes, the most notably are the following:

**EU Advisory Mission (EUAM):** established in December 2014 with the mandate to provide strategic advice and capacity building to Ukraine's civilian security sector, the Mission plays an active role in supporting reforms in the law enforcement agencies, including the police, the Ministry of Internal Affairs, the State Bureau of Investigation and the Public Prosecutor's Office. As a cross-cutting issue, support to anti-corruption efforts is part of EUAM's mandate, and EUAM experts are providing strategic advice and capacity building in this area to Ukrainian law enforcement and judiciary institutions both in Kyiv and in the regions.

**Support to the Rule of Law Reforms in Ukraine PRAVO: Component 1** of this programme with the budget of 15 million is supporting the justice sector reforms and is *inter alia* focusing on enhancement of governance, transparency, accountability and ethics within the judiciary and judicial self-government bodies, as well as selection of competent judges with high degree of integrity. **Component 2** with a budget of EUR 36 million is *inter alia* aimed at improvement of policy making and operational capacities of the Ministry of Interior, the National Police, the Public Prosecutor's Office and the State Bureau of Investigation, while many of these support activities will have a strong anti-corruption focus (reforms in human resource management, ethics and disciplinary responsibility, criminal investigation and prosecution procedures, electronic case management, etc.).

**U-LEAD with Europe:** Over the period of 2016-2019, U-LEAD has been a major vehicle of EU-led multi-donor support to the ongoing decentralisation reform in Ukraine. It focused on the voluntary amalgamation process and the transfer of powers under the sectoral and fiscal decentralisation. Phase II of U-LEAD with the budget of EUR 50 million will continue the support to the amalgamation process and will also embrace a selected number of smaller cities. Assistance will mainly be provided through: (a) comprehensive advice to both central and local government institutions on decentralisation issues and good governance of newly created local self-government bodies; (b) comprehensive capacity building at all levels (local, regional, national) by the central office and 24 regional centres; (c) development of specific solution to local public infrastructure.

**Public Administration Reform - EU4PAR:** This major EU programme with the budget of EUR 104 million is aimed at supporting Ukraine in implementing a comprehensive public administration reform, targeting a number of integrity-related areas, such as policy development and coordination, civil service and human resources management, transparency and accountability of public administration, improvement of administrative service delivery.

**Public Finance Management Support Programme:** this EUR 50 million programme provides a comprehensive support vehicle for the implementation of the Ukrainian government's Public Finance Management Strategy. It focuses on the improvements in the area of (a) budgeting, accounting, control and accountability; (b) efficient budget spending; (c) revenue mobilisation (tax and customs administration) and Financial Investigation Service. Strengthening of public finance management is a priority area in the EU-Ukraine relations, since it is essential for an effective and sustainable economic governance, trade and business environment, as well as for mitigation of various corruption risks. To address PFM reforms at the local level, the EU has also launched a project "**EU for stronger public finance systems**

**of local governments"** aimed at building a more efficient, transparent and accountable local finance management system, which contains components on internal control and PFM oversight by the Ministry of Finance exercised at the local level.

**The EU-Council of Europe Partnership for Good Governance – Strengthening measures to counter money laundering and financing of terrorism:** this project will be implemented by the Council of Europe in the period 2019-2021 with the aim to strengthen legislative and institutional frameworks, as well as practical capacities of relevant law enforcement agencies to counter money laundering and terrorism financing in Ukraine in accordance with the Council of Europe and other international standards and MONEYVAL recommendations issued to Ukraine.

**EU grants** are regularly provided to various civil society organisations through numerous Calls for Proposals with focus on promotion of good governance, the rule of law, fundamental rights, integrity/anti-corruption and government transparency.

### **3.2.2 Other donors' support**

Several other donors are funding their separate actions in the area of anti-corruption with which a continuous close coordination shall be ensured.

**United States of America:** The US assistance to anti-corruption reforms is mainly channelled through the "Support to Anti-Corruption Champion Institutions (SACCI)" Programme, a five-year, USD 18 million corruption prevention initiative launched in 2017 and primarily focused on supporting the Government, selected ministries and local government institutions in introducing integrity tools and strengthening public intolerance to corruption. "Transparency and Accountability in Public Administration & Services (TAPAS)" is another US and UK-funded programme with the budget of USD 18 million related to anti-corruption. It is aimed at promotion of electronic procurement, open data and transparent and efficient electronic public service delivery. In the area of decentralisation, USAID programme "Decentralisation Offering Better Results and Efficiency (DOBRE)" is a USD 50 million initiative aimed at improvement of local government, service delivery and civic engagement at the local level.

**DFID/UK:** beside TAPAS, the UK provides targeted support to NABU and other law enforcement agencies, bilaterally and through the World Bank-implemented project.

**OECD** is planning a project on prevention and repression of corruption in Ukrainian State-Owned Enterprises aimed at implementing recommendations stemming from the 2018 OECD Report on the same subject prepared within the framework of the 4<sup>th</sup> round of monitoring of the Istanbul Anti-Corruption Action Plan.

## **4 DESCRIPTION OF THE ACTION**

### **4.1 Overall objective, specific objective(s), expected outputs and indicative activities**

The **overall objective** of the programme is the reduction of corruption in Ukraine at the national and local level.<sup>3</sup>

The **specific objectives** are to ensure:

- 1) Enhanced independence, effectiveness and resilience of anti-corruption institutions functioning within a sound strategic framework;
- 2) Improved governance, transparency and accountability in targeted Integrity Cities and other sub-national entities as appropriate;
- 3) Citizens, the civil society, including the business sector, are empowered to promote integrity, the rule of law and good governance<sup>4</sup>.

### **Expected outputs (results)**

#### Under Specific Objective 1:

- 1a) Capacities of NACP, NABU, SAPO, HACC, ARMA, and SFMS enhanced to implement their mandate in an independent and effective manner;
- 1b) ICT systems of NACP, NABU, SAPO, HACC, ARMA, and SFMS enhanced to enable effective implementation of their mandate;
- 1c) More effective cooperation and exchange of information between AC institutions enabled through ICT inter-operability solutions;
- 1d) Enhanced capacities of the Parliament Anti-Corruption Committee and the Ministry of Justice to carry out corruption proofing of legislation.

#### Under Specific Objective 2:

- 2a) AC tools and best practices capable of reducing corruption and increasing transparency and accountability are provided to the Integrity Cities (and further sub-national entities - subject to validation during the formulation of the Description of the Action);
- 2b) Standardised AC tools and best practices for reduction of corruption risks at the local level produced and replicated in other cities/sub-regional entities as part of the national decentralisation process by cooperating with U-LEAD and other national and international partners.

#### Under Specific Objective 3:

- 3a) National level CSOs' capacity enhanced to produce AC awareness, advocacy and policy dialogue work;

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<sup>3</sup> Local level is understood as a sub-national territorial level that is below the central government level.

<sup>4</sup> Anti-corruption work within the business sector and in cities/sub-national entities other than the current Integrity Cities would be new areas of intervention under the second phase of the EU Anti-Corruption Initiative. The scope and feasibility of intervention in these areas will be subject to a careful validation during the formulation of the Description of the Action.



3b) Local level (with a particular focus on Integrity Cities) CSOs' capacity enhanced to combat corruption and promote integrity;

3c) Local (with a particular focus on Integrity Cities) and national level journalists deliver high quality investigative journalism on AC;

3d) Local (with a particular focus on Integrity Cities) and national business networks have enhanced capacity to build and maintain integrity among business entities and to combat corruption (subject to validation during the formulation of the Description of the Action).

## **Indicative activities**

### **Component 1: Further support to the institutional development of anti-corruption institutions**

1.1 **Capacity development** activities of NACP, NABU, SAPO, ARMA, SFMS and HACC are expected to include (but not be limited to):

1.1.1 Assistance with the development and implementation of strategic and annual plans for 2020 onwards

1.1.2 Assistance with the development and implementation of upgraded M&E framework

1.1.3 Provision of advisory services and capacity building

1.2 Enhancement of inter-agency cooperation through **inter-operability ICT solutions** between relevant AC institutions and other state institutions and registers

1.3 Automation of business processes and support to procurement of agreed **ICT solutions** for NACP, NABU, SAPO, ARMA, SFMS and HACC

1.4 Strengthening **corruption risk management** and **AC legislation proofing** at the Parliament AC Committee and the Ministry of Justice including (but not necessarily limited to):

1.4.1 Support to needs assessment and identification of concrete legal, institutional, business process and capacity improvements

1.4.2 Assistance to address the identified needs, including introduction of relevant ICT tools

1.4.3 Support to comprehensive capacity building on corruption proofing of legislation

### **Component 2: Improved governance, transparency and accountability at the local level**

2 Deepening and widening of Integrity Cities based on the lessons learned from Phase I and closer cooperation with the EU and other donors' programmes, e.g. U-LEAD

2.1 Continued implementation and consolidation of AC toolbox in the five Integrity cities through structured engagement of local authorities, CSOs, businesses and citizens

2.2 Documentation of lessons learned from the implementation of the toolbox

2.3 Mapping of similar integrity initiatives by the Government, development partners and CSOs for identification and harmonisation of approaches for further replication

2.4 Production of detailed materials/guides of harmonised toolboxes and best practices for replication and transfer of these materials to relevant national and international partners (e.g. U-LEAD, EU4PFM, USAID Dobre programme, Government of Ukraine, CSOs)

**Component 3:** Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance

- 3 Empowerment of **civil society** at the national and local level to promote integrity and engage in corruption monitoring and policy dialogue processes, including through:
  - 3.1.1 Long-term grants for national CSOs for: (i) monitoring of AC situation and performance of institutions, (ii) policy dialogue with government and AC institutions, (iii) awareness raising on AC in particular targeting youth, and (iv) piloting corruption risk assessments and risk management tools in selected public sectors/institutions
  - 3.1.2 Identification and support to CSOs at the national level to build capacity of local level CSOs (in particular in Integrity Cities) for engagement on AC monitoring/advocacy, awareness raising of local communities and policy dialogue with local authorities
- 3.2 Support to **investigative journalism and media initiatives** at the national and local level (Integrity Cities) to investigate specific corruption cases and run programmes for investigative journalism
  - 3.2.1 Long-term support to national level CSOs/media for the development of investigative journalism on AC
  - 3.2.2 Long-term support to national level CSOs/media for the capacity development, financial support, as well as legal assistance to *local level* investigative journalists under increasing pressure (in particular in Integrity Cities)
- 3.3 Support to **business networks** and other private sector stakeholders for building integrity

## 4.2 Intervention Logic

The persistent challenges related to corruption (as outlined above), as well as the fragile status of AC reforms and institutions suggest that support to Ukraine's AC efforts must continue beyond the end of the current programme in mid-2020.

The Programme will capitalise on the work started by the first phase of EUACI. The EUACI Phase II will be designed as a holistic support instrument composed of the following three components:

- 1) Further support to the institutional development of anti-corruption institutions
- 2) Improved governance, transparency and accountability at the local level
- 3) Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance

All three components of the programme will be designed as mutually reinforcing and complementing action pillars, ensuring a holistic approach to AC reforms and contributing to the reduction of corruption in the country. Close coordination and cooperation with other relevant programmes/projects will be ensured to reinforce synergies and impact. The Programme rests on a premise that corruption in Ukraine, as in other transition countries, can

be effectively reduced if beside purely repressive measures, corruption prevention and integrity building measures are taken.

The first two components will work to ensure that the targeted *duty bearers* – represented by the state AC institutions, the Parliament and local authorities - are capacitated to perform their mandate more effectively and with higher integrity. The third component representing the *rights holders* – the civil society, media and the business sector – will be supported in their work with monitoring and demanding better performance of the duty bearers at the national and local level and for fostering the overall culture of integrity.

The Programme will combine both flexible/short-term and longer-term interventions spanning strategic advice, analytical inputs, tailored capacity building and ICT supplies, as well as strategic communication on AC.

The intervention logic is outlined in the following theory of change:

*If* the EU together with Denmark provide funding for the following set of activities:

- 1) Comprehensive support to the strategic planning, operational capacity building, as well as tailored IT infrastructure and inter-operability solutions for the key institutions involved in the chain of anti-corruption efforts in Ukraine (specifically NACP, NABU, SAPO, HACC, SFMS, ARMA and the AC committee in Parliament and the Ministry of Justice)
- 2) Focus on anti-corruption efforts also at the local level by (a) consolidating AC tools and practices at the Integrity Cities; (b) documenting lessons learned from the first phase of Integrity Cities, mapping other partners' experiences and identifying harmonised tools and best practices from a duty bearer perspective (local administrations), as well as a rights holder perspective (local civil society, business community and investigative media) which can be replicated/rolled out to other cities/regions as part of the decentralisation process, (c) providing technical advice and support to the government and other partners in the replication efforts
- 3) Comprehensive capacity development and grant support to the civil society, business networks and investigative media for targeted AC work – awareness raising, monitoring/advocacy and policy dialogue - at the national and local level (in particular in the Integrity Cities).

*Then:*

- 1) The key anti-corruption institutions will have enhanced capacity (in terms of improved institutional structures, strategies and regulations, operational capacities, human resource management skills, automated business processes and inter-operability) to implement their mandate in an independent and effective way, which will include, but not be limited to: AC strategy/policy and regulatory development, prevention of corruption including civic education, corruption investigations, prosecution and trial, asset recovery and management, financial investigations, assessment of legislation from an anti-corruption perspective, as well as strategic communication.
- 2) The targeted cities will have enhanced capacities to reduce corruption by improving business processes, transparency and accountability at the local administrations and in local service delivery, while best practices from the selected city level will feed back to the national level with a view to further replication in other cities/regions through cooperation with U-LEAD programme, the government and other decentralisation partners.

- 3) Civil society at the national and local level will have enhanced capacities to monitoring AC situation, to conduct awareness raising and engage in constructive policy dialogue with authorities, while investigative journalists will be empowered to better investigate corruption risks, document and present corruption cases to the public. The selected business sector organisations at the national and local Integrity City level will have enhanced capacities to support business entities in their integrity and AC efforts and engage in successful policy dialogue with authorities.

*Leading to:*

- 1) (a) improved anti-corruption policies, laws and regulations in line with international standards, (b) increased independence and effectiveness in the investigation, prosecution and trial of anti-corruption cases, (c) improved financial investigation, as well as recovery and management of seized and confiscated assets.
- 2) Reduced corruption risks at the Integrity Cities and other targeted cities/sub-national entities through successful replication of AC tools and best practices in these cities/sub-national entities in cooperation with U-LEAD, the government and other partners.
- 3) Higher culture of integrity in the society through increase of demand for effective performance, transparency and accountability of national and local authorities (service providers and duty bearers) from the side of rights holders - citizens, civil society and businesses.

*Eventually contributing to:* reduction of corruption in Ukraine at the national and local level through the empowerment of citizens, the civil society, businesses and state institutions.

### **4.3 Mainstreaming**

*Human Rights Based Approach:* corruption seriously undermines all human rights — civil, political, economic, social and cultural, as well as the right to development. It weakens democratic institutions and principles, which often leads to breaches of civil and political rights and to the erosion of citizens' trust in their governments. Corrupt management of public resources compromises the government's ability to deliver an array of services, including health, educational and welfare services, which are essential for the realisation of economic, social and cultural rights. Corruption creates discrimination in access to public services, whereby economically and politically disadvantaged people tend to suffer the most. The programme through a multi-dimensional anti-corruption action will therefore address some of the root causes of human rights violations in Ukraine. This includes enhanced performance, transparency and accountability of the AC institutions and targeted cities. The programme will also focus on the empowerment of youth, small businesses and other marginalised groups in protection of their rights and legitimate interests which are often damaged by corruption.

*Good governance and rule of law:* this programme will envisage specific measures aimed at improving the fight against corruption, minimising opportunities for misuse of power and public funds, which are key for achieving good governance and the rule of law. This will include increased knowledge of EU standards and best practices in the targeted area stimulating democratic awareness and civic participation. Active involvement of CSOs will enable effective monitoring of the reform progress and prevention of backsliding.

*Gender:* the programme will seek to ensure gender equality and gender mainstreaming in its different components and to avoid reinforcing gender inequalities and stereotypes by implementing a Do No Harm approach. This will include specific attention to women in capacity development activities at national and local level, with regard to state institutions, civil society and journalists, as well as gender-sensitive hiring practices.

*Other issues:* in implementation of this programme attention will be paid to ensuring the commitment of the private sector to promote integrity and fight against corruption as well as to mainstreaming a conflict-sensitive approach wherever relevant.

#### **4.4 Contribution to SDGs**

This intervention is relevant for the Agenda 2030. It contributes primarily to the progressive achievement of SDG targets Nr 16, 16.5, 16.6 and 16.a<sup>5</sup>.

### **5 IMPLEMENTATION**

#### **5.1 Financing agreement**

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country.

#### **5.2 Indicative implementation period**

The indicative operational implementation period of this action, during which the activities described in section 4 will be carried out and the corresponding contracts and agreements implemented, is 60 months from the date of entry into force of the financing agreement.

Extensions of the implementation period may be agreed by the Commission's authorising officer responsible by amending this decision and the relevant contracts and agreements.

#### **5.3 Implementation modalities**

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures<sup>6</sup>.

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<sup>5</sup> Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. Goal 16.5 Substantially reduce corruption and bribery in all their forms. Goal 16.6 Develop effective, accountable and transparent institutions at all levels. Goal 16.a Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.

<sup>6</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu) Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems 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.

### 5.3.1 *Indirect management with an entrusted entity*

This action will be implemented in indirect management with the Ministry of Foreign Affairs of Denmark (Danida). This implementation entails the Action "EU Anti-Corruption Initiative Phase II" as defined in Section 4. The envisaged entity has been selected using the following criteria: 1) the proven expertise in the area of anti-corruption and the rule of law, 2) a track-record of successfully implemented programmes of comparable size and complexity under the indirect management mode and 3) strong management and logistical capacities.

In case the envisaged entity would need to be replaced, the Commission's services may select another entity using the same selection criteria.

If negotiations with the above-mentioned entity fail, that part of this action may be implemented in direct management in accordance with the implementation modalities identified in section 5.3.2.

### 5.3.2 *Changes from indirect to direct management mode due to exceptional circumstances*

Depending on the situation, procurement contract(s) under direct management may be concluded in case exceptional circumstances which are outside the Commission's control make the implementation under indirect management impossible.

The procurement will contribute to the achievement of results in the following areas:

- **Component 1:** Further support to the institutional development of anti-corruption institutions
- **Component 2:** Improved governance, transparency and accountability at the local level
- **Component 3:** Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance

## 5.4 **Scope of geographical eligibility for procurement and grants**

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply.

The Commission's authorising officer responsible may extend the geographical eligibility on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

## 5.5 **Indicative budget**

	<b>EU contribution (amount in EUR)</b>	<b>Indicative third party contribution (amount in</b>

		EUR)
<b>Indirect management with the Ministry of Foreign Affairs of Denmark – for implementation of components 1, 2 and 3 - cf. section 5.3.1</b>	<b>14 500 000</b>	<b>7 900 000</b>
<b>Evaluation</b> - cf. section 5.8 <b>Audit</b> - cf. section 5.9	<b>500 000</b>	
<b>Communication and visibility</b> - cf. section 5.11	N.A. <sup>7</sup>	
<b>Total</b>	<b>15 000 000</b>	<b>7 900 000</b>

## 5.6 Organisational set-up and responsibilities

In order to ensure co-ordination between the action components and the numerous stakeholders, a Steering Committee (SC) will continue to guide action implementation. The EU will provide strategic guidance to the implementation via the SC given that the targeted area is of particular relevance for the EU-Ukraine relations and a number of EU policies apply in this area. The SC will include representatives of the beneficiaries, the implementing partner and the relevant EU services. The implementing partner will ensure the proper functioning of the SC, including preparation of the agenda in consultation with the EU services, sending the invitations, preparation and follow up of the minutes. The SC will meet every six months but can also be convened on an extraordinary basis at the request of the implementer or the EU. A programme implementation unit in Kyiv will ensure the implementation of the Action.

## 5.7 Performance and Results monitoring and reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process, and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the Logframe matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

SDGs indicators and, if applicable, any jointly agreed indicators as for instance per Joint Programming document should be taken into account.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for

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<sup>7</sup> A separate budget line will be foreseen for Communication and Visibility activities in the indirect management agreement

independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

## **5.8 Evaluation**

Having regard to the importance and the nature of the action, a mid-term and a final evaluation will be carried out for this action via independent consultants.

The mid-term evaluation will be carried out for problem solving and learning purposes.

The final evaluation will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that the Action introduces a number of innovative approaches that need to be evaluated.

The Commission shall inform the implementing partner at least 1 month in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

The evaluations shall be carried out through a procurement contract under direct management.

## **5.9 Audit**

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

## **5.10 Communication and visibility**

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated for approval by the Contracting Authority at the start of implementation.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country (for instance, concerning the reforms supported through budget support), contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Requirements for European Union External Action (or any succeeding document) together with the EU Branding Guidelines in Ukraine shall be used to



establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

## APPENDIX - INDICATIVE LOGFRAME MATRIX

	Results chain: Main expected results (maximum 10)	Indicators <sup>8</sup> (at least one indicator per expected result)	Sources of data	Assumptions
<b>Impact (Overall Objective)</b>	<b>Corruption is reduced in Ukraine at the national and local level</b>	<ul style="list-style-type: none"> <li>- Improved scoring/ranking of Ukraine in international integrity rankings</li> <li>- Reduced perception of and experience with corruption by citizens</li> </ul>	Transparency International CPI index, Bertelmann's Transformation Index for Rule of Law, Index of Public Integrity, local perception and experience surveys	<i>Not applicable</i>
<b>Outcome(s) (Specific Objective(s))</b>	<p><b>1) Enhanced independence, effectiveness and resilience of anti-corruption institutions functioning within a sound strategic framework</b></p> <p><b>2) Improved governance, transparency and accountability in targeted Integrity Cities and other sub-national entities</b></p> <p><b>3) Citizens, the civil society and the private sector are empowered to promote integrity, the rule of law and good governance</b></p>	<p>1a) Status of new AC policy/strategy developed by NACP</p> <p>1b) Average duration of NABU proceedings (from case registration until bringing of charges)</p> <p>1c) Number of NABU and SAPO cases brought to court</p> <p>1d) Number of final decisions taken by HACC</p> <p>1e) Number of executed requests to find and trace assets in criminal proceedings and amount of budget revenues generated from the management of seized assets</p> <p>1h) Number of draft laws and bylaws amended based on corruption proofing reports</p> <p>1j) Perception of citizens that AC institutions in Ukraine perform independently and effectively</p>	EUACI reports, Government, local authorities' and AC institutions' reports, CSO and business associations' data, survey results	<ul style="list-style-type: none"> <li>- sufficient political will allows the anti-corruption reform agenda and the anti-corruption institutions to enhance their performance</li> <li>- The anti-corruption institutions are receptive to assistance and have sufficient ownership</li> <li>- local governments are willing to address corruption risks</li> <li>- civil society and</li> </ul>

<sup>8</sup> Adequate baselines and targets will be defined at the Description of the Action and further updated at the phase of implementation of the Action.

		<p>2a) Number of AC tools in integrity cities and replicated in other cities/sub-national entities</p> <p>2b) Survey of perception and experience of corruption among users of local services at the integrity city level</p> <p>3a) Number of compliance certificates issued by business associations/networks</p> <p>3b) Number of activists working on integrity issues at the local level</p> <p>3c) Number of times civil society advocacy work is referred in national media</p>		<p>investigative media have sufficient interest and political space to work at national and local level</p> <p>- business sector is interested in and willing to engage in anti-corruption</p>
<b>Outputs</b>	<p><b>Component 1: Further support to the institutional development of anti-corruption institutions</b></p> <p>1a) Capacities of NACP, NABU, SAPO, HACC, ARMA, and SFMS enhanced to implement their mandate in an independent and effective manner</p> <p>1b) ICT systems of NACP, NABU, SAPO, HACC, ARMA, and SFMS enhanced to enable effective implementation of their mandate</p> <p>1c) More effective cooperation and exchange of information between AC institutions enabled through ICT inter-operability</p> <p>1d) Enhanced capacities of the Parliament Anti-Corruption Committee and the Ministry of Justice to carry out corruption proofing of legislation</p>	<p>1a) Status of institutional development strategies/plans, HR management and communication capacity</p> <p>1b) Level of ICT capacity of AC institutions</p> <p>1c) Level of data exchange between AC institutions and with other relevant entities using inter-operability solutions</p> <p>1d) Number and percentage (out of total) of draft laws and bylaws where corruption risks have been identified</p>	<p>EUACI reports, Government, local authorities' and AC institutions' reports, CSO, media and business associations' data, survey results</p>	<p>See above</p>

	<p><b>Component 2: Improved governance, transparency and accountability at the local level</b></p> <p>2a) AC infrastructure tools and best practices capable of reducing corruption and increasing transparency and accountability are provided to the Integrity Cities (and possibly further sub-national entities targeted by the Programme - subject to validation during the Description of the Action phase)</p> <p>2b) Standardised AC tools and best practices for reduction of corruption risks at the local level produced and replicated in other cities/sub-regional entities as part of the national decentralisation process by cooperating with U-LEAD and other national and international partners</p> <p><b>Component 3: Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance:</b></p> <p>3a) National level CSOs produce AC awareness, advocacy and policy dialogue work</p> <p>3b) Local level CSOs (with focus on Integrity Cities) have enhanced capacity to combat corruption and promote integrity</p> <p>3c) Local (including Integrity Cities) and national level journalists deliver high quality investigative journalism</p> <p>3d) Local (including Integrity Cities) and national business networks have enhanced capacity to build and maintain integrity among business entities and to combat corruption (subject to validation during the Description of the Action phase))</p>	<p>2a) Number of cities with efficient AC tools and best practices</p> <p>2b) Number of new tools and best practice cases for replication produced</p> <p>3a) and 3b) Number of CSO outputs produced related to: (i) policy dialogue initiatives, (ii) awareness raising campaigns, (iii) monitoring/advocacy initiatives, (iv) corruption risk assessments in specific sectors/institutions</p> <p>3c) Number of investigative journalism reports produced nationally by EUACI partners and in Integrity Cities</p> <p>3d) Number of business networks actively promoting integrity/compliance among members</p>		
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## **ANNEX 2**

of the Commission Implementing Decision on the 2019 Annual Action Programme (Part 1) in  
favour of Ukraine

### **Action Document for U-LEAD with Europe: Phase II**

<u><b>ANNUAL PROGRAMME</b></u>		
This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation and action programme/measure in the sense of Articles 2 and 3 of Regulation N° 236/2014.		
<b>1. Title/basic act/ CRIS number</b>	U-LEAD with Europe: Phase II CRIS number: ENI/2019/41-703 financed under the European Neighbourhood Instrument	
<b>2. Zone benefiting from the action/location</b>	Ukraine The action shall be carried out at the following location: Ukraine nationwide with regional offices in all 24 regions; and a central programme unit will be based in Kyiv.	
<b>3. Programming document</b>	Ukraine Single Support Framework 2018-2020	
<b>4. Sustainable Development Goals (SDGs)</b>	SDG 10: Reduce Inequality SDG 11: Sustainable development of cities and communities SDG 16: Peace, justice and strong institutions	
<b>5. Sector of intervention/ thematic area</b>	Strengthening institutions and good governance	DEV. Assistance: YES
<b>6. Amounts concerned</b>	Total estimated cost: EUR 40 000 000 Total amount of European Union (EU) contribution EUR 40 000 000	
<b>7. Aid modality(ies) and implementation modality(ies)</b>	Project Modality <ul style="list-style-type: none"> <li>Indirect management with Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH</li> </ul>	
<b>8 a) DAC code(s)</b>	15112 - Decentralisation and support to subnational government : 100%	

<b>b) Main Delivery Channel</b>	13000 - Third Country Government (Delegated co-operation)			
<b>9. Markers (from CRIS DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	X
	Aid to environment	X	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and Women's and Girl's Empowerment	<input type="checkbox"/>	X	<input type="checkbox"/>
	Trade Development	X	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	X	<input type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>
<b>10. Global Public Goods and Challenges (GPGC) thematic flags</b>	Not applicable			

## SUMMARY

Decentralisation is one of the most successful reforms moved forward by the Government of Ukraine since spring 2014. Important legislation was adopted and changes in the budget code introduced to stimulate the formation of new local governments accountable to citizens. Notwithstanding all achievements and popularity, the reform has not yet become irreversible. There is increasing resistance by stakeholders whose political and financial power is shrinking as the reform progresses. At the same time the new responsibilities and challenges require an unprecedented re-enforcement in administrative capacities at the level of local community (hromada) as well as regional and national administration. This causes further need for tailored efforts to support capacity development. The reform of district (rayon) and regional (oblast) level is under preparation. Its implementation will require substantial ad hoc expertise and analysis to the central government and sub national level on various items appearing within the progress of the reform. It equally needs a significant change in political and administrative culture among elected officials and public servants, so that they are able to adapt to their new roles and responsibilities. Citizens' trust and involvement in policy making at the various levels of governance needs to be strengthened. Finally, this action shall contribute to further advancement of multilevel governance in Ukraine, which is transparent, accountable and responsive to the needs of the population.

The action will focus on better policy-making and enhanced capacity for effective multilevel governance within the decentralisation reform and related regional policy to strengthen its implementation.

## **1 CONTEXT ANALYSIS**

### **1.1 Context Description**

Ukraine has a population of approx. 43.9 million and a total land area of 604 thousand square kilometres. The public administration is organised in a central government and three tiers of sub-national government. The first tier refers to the regional level (oblast), which comprises 24 regions, the Autonomous Republic of Crimea and the cities of Kyiv and Sevastopol. The second tier consists of 490 districts (rayons), 185 cities of oblast subordination and 705 (as of November 2018) amalgamated territorial municipalities. On the lowest administrative level there are towns, settlements and villages.

The Ukrainian Constitution defines the country as a unitary state and guarantees principles of local self-governments to be applied in the country. Prior to the ongoing decentralisation reform, Ukrainian local self-governmental bodies were not able to realize their potential due to years of overcentralized policies and an extremely limited financial autonomy.

After the change of government in spring 2014, the concept on “Reformation of Local Self-Government and Territorial Organisation of Powers” was approved in April 2014, setting the ground for an ambitious reform. In the following years the necessary legislation was adopted, including laws on fiscal decentralisation (Amendments to Budget and Tax Code), on voluntary cooperation and amalgamation of local communities, on state regional policy, and on accession of rural councils to larger cities.

The first stage of the reform, the amalgamation of hromadas, has meanwhile well advanced. Since 2015, almost 4000 village councils have amalgamated into more than 800 new hromadas, covering roughly 20% of the population. At the same time, local budgets have increased. Due to revenues from new locally generated taxes, the reform has also created incentives for local leaders to deliver quality administrative services and foster economic development. A new concept of horizontal fiscal equalization was introduced, reducing the leverage for arbitrary transfers from central government to local governments.

The State Strategy for Regional Development, adopted in 2014, fixes key state priorities for regional development by the year of 2020, in particular, the formation of a single Ukrainian space, enhancement of the competitiveness of the regions and effective governance for regional development. The State Fund for Regional Development has increased from approx 15 million EUR in 2015 to 185 million EUR in 2018 and 240 million EUR in 2019.

The reforms of school education and the health care system, adopted in 2017, are further changing the profile of local governments. Primary health care has no longer to be provided by local governments, while management of primary schools became more autonomous. Both allow municipalities and cities to focus on their core tasks, namely provision of public services like waste management, clean water, etc.

Those new opportunities for local self-governance foster a consensus-based policy making at the local level, close to the preferences of citizens and are well recognized by citizens.

According to surveys<sup>1</sup>, the decentralisation reform is one of the most popular reforms among Ukrainian citizens.

However, notwithstanding this progress and popularity, the reform has not yet reached the point of no return. The reform is facing resistance of those administrative tiers which would significantly lose power if the decentralisation reform was finalized. In particular increasing resistance can be observed at a systemic level from:

a) District ("rayon") councils and administrations. Districts are managed by an administration subordinated to the President and Government of Ukraine and elected district councils. Most of the administrative functions of districts are taken over by newly amalgamated hromadas. In result, both district councils and administration duplicate the work of newly amalgamated hromadas, risking becoming redundant. As a result, some district councils and administrations are increasingly worried about their future within a further progressing reform, .

b) Regional administration and councils: similar to the district level, the oblast administrations are part of the national administration, and combined with an elected regional council. Administrative and political powers of both decreases with an increasing number of newly amalgamated hromadas in the regions. Although oblast administrations will continue to play a relevant role, this function might be down-scaled. Thus, a number of oblast councils and administrations have shown reluctance to the decentralisation reform.

Amendments to the Constitution which would turn the achieved changes irreversible will therefore be a priority for the future of the reform.

Over 2016-2019, U-LEAD with Europe has supported the voluntary amalgamation process and the transfer of powers under sector and fiscal decentralisation. Despite the volatile environment, U-LEAD has built a nationwide and flexible infrastructure since 2016, comprising a programme unit on the national level and 24 regional centres (one in each oblast, including Luhansk and Donetsk). Alongside the programme unit on national level, these regional centres provide support both to municipalities and regional state administration and contribute to capacity development and improving multi-level governance, helping to consolidate Ukraine's decentralisation reform and related regional policy. At the same time, the regional centres developed into an important regional outreach and contact points for information on EU and other EU funded projects.

Continuation and follow-up of support of the overall reform process and to new local governments across the country via an extension of "U-LEAD with Europe" is crucial to ensuring progress and sustainability of the decentralisation reform.

## 1.2 Policy Framework (Global, EU)

The Association Agenda to prepare and facilitate the implementation of the Association Agreement, as endorsed by the EU-Ukraine Association Council on 16 March 2015, states the commitment of Ukraine and EU to "(...) *strengthening of the functioning of local and regional self-government, and legal status of the service in local self-government bodies,*

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<sup>1</sup> See e.g. <http://www.slg-coe.org.ua/wp-content/uploads/2015/12/AReport-Decentralization-f-en-.pdf> or <http://www.slg-coe.org.ua/wp-content/uploads/2016/12/Analitical-Report-Decentralization-Wave-2-ENG.pdf> or <https://www.iri.org/resource/ukraine-poll-shows-rising-economic-optimism-continuing-satisfaction-local-level>



*including through a decentralisation reform devolving substantial competences and related financial allocations to them, in line with the relevant standards contained in the European Charter on Local Self -Government.*"<sup>2</sup> Chapter 27 "Cross-border cooperation and Regional Cooperation" in the EU-Ukraine Association Agreement promotes *"mutual understanding and bilateral cooperation in the field of regional policy, on methods of formulation and implementation of regional policies, including multi-level governance and partnership, with special emphasis on the development of disadvantaged areas and territorial cooperation (...)"*. A recent Communication from the European Commission emphasizes the crucial role of Local Authorities for enhanced governance and more effective development outcomes.<sup>3</sup>

### **1.3 Public Policy Analysis of the partner country/region**

One major obstacle to a successful decentralisation process in Ukraine is the fragmentation of sub-national governments. Too many territorial units are too small to perform the delivery of basic service functions effectively.<sup>4</sup> To overcome this fragmented structure and increase efficiency, the Government of Ukraine launched an ambitious territorial reform. The reform aims to reduce the number of territorial entities at community level, from more than 12,000 to approximately 1,200-1,500 *hromadas* (local communities). At the intermediate level, there are plans to reduce the 490 *rayons* (districts) to around 100-120. The number and territories of *oblasts* (regions) is currently not subject to discussions.

The reform sets incentives for amalgamations of local communities using a "carrot approach": amalgamations are voluntary but only bigger cities and newly amalgamated communities immediately benefit from the reform having access to increased budgets and more autonomy. Smaller, less competitive communities receive fewer subsidies and benefit only in case of amalgamation with others. As of November 2018, 828 new *hromadas* were formed, covering roughly 7 million habitants, or approximately 20% of the population of Ukraine.

Amendments to the Constitution of Ukraine were developed by a Constitutional Commission and submitted by the President to the Verkhovna Rada. The Verkhovna Rada adopted the amendments in the 1<sup>st</sup> reading on 31 August 2015, after a positive judgement of the Constitutional Court. The amendments introduce the principle of subsidiarity and seek to support the establishment of a modern municipal government in accordance with the principles and the spirit of the European Charter of Local Self-Government. In summer 2015 the process of introducing constitutional amendments was replaced by a reform legislation taking a step by step approach.

One of these steps was a law which optimised administrative service provision. The law allows delegating powers to provide administrative services to local self-government bodies of respective level: individuals registration at the place of residence, issuance of national identity documents, state registration of legal entities and individuals, entrepreneurs,

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<sup>2</sup> Source: [http://eeas.europa.eu/ukraine/docs/st06978\\_15\\_en.pdf](http://eeas.europa.eu/ukraine/docs/st06978_15_en.pdf)

<sup>3</sup> The communication encourages *"to promote enhanced political, administrative and fiscal autonomy of Local Authorities through decentralisation reforms, capacity and institutional development."* See [https://ec.europa.eu/europeaid/sites/devco/files/communication-local-authorities-in-partner-countries-com2013280-20130515\\_en\\_4.pdf](https://ec.europa.eu/europeaid/sites/devco/files/communication-local-authorities-in-partner-countries-com2013280-20130515_en_4.pdf)

<sup>4</sup> See further: OECD Territorial Reviews: Ukraine 2013 and OECD-Report "Maintaining the Momentum of Decentralisation in Ukraine" 2018

associations of citizens, civil registration, registration of proprietary rights, dealing with land issues, etc.

The latest law, adopted on 3 April 2018, set the legal ground for including cities of oblast significance to the amalgamation process. In addition, the Government developed further draft laws for the decentralisation reform. Attempts to formulate a new legal base for civil service in Local Self-Government Bodies were not successful so far, but are continuously pursued with increasing support from the international community.

On 8 November 2018 the Prime Minister called in a new initiative to enshrine amendments into the constitution that would provide a clear definition of tasks and territorial-administrative functions of all administrative tiers of the state and making the decentralisation reform process irreversible<sup>5</sup>.

#### **1.4 Stakeholder analysis**

The progress made and emerging consensus of most of political parties on the need for continuation of the decentralisation reform create momentum for a further improvement of multilevel governance in Ukraine which is both effective and close to the citizens. However, the practical realisation and implementation of the reform agenda remain a major challenge. As a comprehensive public administration reform is in the making, there are still severe capacity constraints on all level of governance in Ukraine. Many regional and local authorities lack the knowledge and understanding to cope with widened responsibilities and are unable to take advantage of new possibilities. Newly formed hromadas face numerous legal, financial and governance challenges. The necessary re-organisation of district and oblast level creates further demand for capacity building.

##### **Main Stakeholders:**

- Central Government: Cabinet of Ministers, Ministry of Regional Development, Construction, Housing and Communal Services, Ministry of Health, Ministry of Education (lead ministries), Ministry of Economic Development and Trade, Ministry of Finance, Presidential Administration, etc.
- Regional and local authorities at oblast, rayon and hromada level, national and regional associations of local municipalities.
- Other national & local stakeholders: Business and other economic and social partners or associations, civil society representatives including non-governmental organisations, education institutions, think tanks, etc.
- Donors and international organisations: Canada, Council of Europe, European Bank for Reconstruction and Development (EBRD), European Investment Bank (EIB), European Union, EU Member States, Switzerland, United Nations Development Programme, United States of America, World Bank, etc.

#### **1.5 Problem analysis/priority areas for support**

With an increasing number of amalgamated hromadas, rayon and oblast administrations get concerned about their own future role. In consequence, the formation of new hromadas is a

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<sup>5</sup> See <https://decentralization.gov.ua/en/news/10049>

threat to the future existence of rayon and oblast administrations. As amalgamated hromadas receive their budget directly from the Ministry of Finance, oblast and rayon administrations lose influence over villages. Likewise, Members of Parliament (MP), who previously could lobby budgets from the central government to villages in their constituencies, are also losing influence. In addition, amalgamated hromadas are entitled to a significant share in local tax revenues. Interested in increasing their own revenues, they are encouraging local business to leave the shadow economy and to become tax compliant.

As a result, rayon and oblast administrations, their councils, as well as businesses operating in the shadow, are putting obstacles to the emergence of bigger, financially independent amalgamated hromadas across Ukraine.

The speed of Ukraine's reform agenda risks leaving the amalgamated hromadas struggling to keep up. With the first wave of amalgamations less than four years old, subsequent waves since, and further waves expected through 2019, these hromadas are in their infancy. The task of forming new organisations, and forging new democratic relationships with a larger constituency of local citizens, would be challenging even in a stable policy environment. Instead, amalgamation has been accompanied by sector and fiscal decentralisation, in parallel with policy transformation, making the reform context both comprehensive and complex.

In the area of education, for example, the concept of the 'New Ukrainian School', which came into force in September 2018, not only modernizes teaching, but focuses on developing the skills and motivation to learn, not just the ability to repeat facts. It will also fundamentally change the relationship between parents, children, schools, local self-government and higher levels of the state. Similar radical reforms can be found in healthcare. In both sectors, there are changes to funding formulas that will generate both opportunities and dilemmas for amalgamated hromadas as they seek to optimise their school and primary healthcare networks.

At the same time, the overall framework for public/municipal finance is evolving, with the adoption of programme budgeting and gender-responsive budgeting soon to be followed by multi-annual budgeting. Hence, amalgamated hromadas have new freedoms to allocate their funding to local priorities, offset by emerging responsibilities, all within an ever-changing fiscal environment.

This context provides a strong rationale for further 'hand-holding' support to hromadas, as they adjust to new circumstances and embed new ways of working.

The shake-up at the hromada level has not been matched at the other levels of government, however. There are consequences for rayons, oblasts and central government of the amalgamation and decentralisation processes that are not yet fully reflected in the assignment of both functions and finance. Furthermore, there is increasingly an overlap with the territorial boundaries of amalgamated hromadas, which raises questions about the *raison d'être* of the rayons. While these territorial-administrative reforms remain incomplete and multi-level governance is work-in-progress, analysis and expert advice to central government will continue to be a priority.

At the same time, there is an ever-present risk that reform fatigue will take hold before the full benefits are realised, given the heady pace of progress. So far, amalgamation and decentralisation have proven to be popular policies. While amalgamated hromadas do not command universal approval in every territory of Ukraine, the majority of the public has seen the benefits through better maintained roads, improved street lighting, refurbished

kindergartens, etc. They have also started to feel the less visible effects of engaging more in civic life, sharing in the decision-making authority that hromadas lacked in the past. Ultimately, however, the gains from decentralisation will only come to fruition when people experience a better quality of life, through more accessible and higher quality municipal services, which also stimulate economic development to the advantage of local society. Unless citizens see public investment improving their local services concretely, there is a risk that the momentum of amalgamation will stall.

## 2 RISKS AND ASSUMPTIONS

Risks	Risk level (H/M/L)	Mitigating measures
Reform process blocked by vested interests and potential discontinuation of decentralisation reform as a result of national elections in 2019.	H	Continuous policy dialogue at all levels. Mobilise relevant stakeholders (national and regional associations of new local governments, citizens, opinion leaders) to sustainably support the reforms.
Local governments cannot adapt to the speed of reforms and struggles to handle new tasks and functions.	M	Focus on capacity building at level of local governments in close coordination with central government, institutions of education and training of local civil service. Capacity will be strengthened through intensive trainings. Provide constant feedback from local governments to central level on local capacities to implement reforms.
No clear distribution of task, functions, and territorial-administrative structure of higher tiers of administration.	M	Lobbying at all levels for a comprehensive reform of the territorial-administrative organisation.
<b>Assumptions</b>		
<ul style="list-style-type: none"> <li>Government of Ukraine remains committed to the decentralisation reform.</li> <li>International donors remain committed to unite and coordinate efforts to support the decentralisation process and regional development in Ukraine.</li> </ul>		

## 3 LESSONS LEARNT AND COMPLEMENTARITY

### 3.1 Lessons learnt

The EEAS's most recent *Association Implementation Report on Ukraine - Joint Staff Working Document* (November 2017) summarised the state-of-play, noting important legislative developments that had taken place, the progress with amalgamation, and "the active role of civil society in the promotion, design and oversight of reforms", especially in the area of decentralisation among others. It concluded that: "In order to attract the investment necessary for sustainable economic development and for an improvement in standards of living across

the country, including for the most vulnerable segments of the population, the authorities are being urged by civil society and international partners to redouble their efforts in the pursuit of meaningful reform”.

The *ROM report* on the GIZ component (C1) of U-LEAD with Europe (December 2017) reached a positive assessment regarding its relevance and effectiveness. It found that: “The decentralisation reform poses a major challenge to administrative staff because their current skills and expertise are insufficient to adapt to the changing reality, especially at the local level”. In this context, the ROM concluded that the programme is “highly relevant to the needs of the target groups and end beneficiaries and is well adapted to the capacities of the key stakeholders at the national (Ministry of Regional Development), regional (Oblast State Administration and Councils) and local levels (amalgamated hromadas). All key stakeholders are committed to the reform except for the rayon level, whose competencies and resources are deeply affected by decentralisation”. Furthermore, “the implementation mechanism chosen for the programme, despite the component’s large size and complexity, is efficient and conducive to achieving the expected results”.

The Chatham House study on *Rebuilding Ukraine: An Assessment of EU Assistance* (financed by Horizon 2020 and published in August 2018) commended the EU’s post-2014 paradigm shift towards longer and larger technical cooperation programmes under the Support Group to Ukraine (SGUA), and its sector-focused approach, which “allows for a comprehensive strategy – from capacity-building to policy implementation”, which is “more effective than isolated and sporadic interventions aimed at single state institutions or policy measures”. The study draws attention to the merits of delegated agreements as innovative, due to “the more proactive way in which they enable the identification and deployment of member states’ relevant expertise, and how they support more flexible, needs-based implementation. The agreements demonstrate how the EU and its member states’ assistance portfolio can be adapted to new methods of implementation”, specifically citing U-LEAD with Europe as an example.

### **3.2 Complementarity, synergy and donor co-ordination**

U-LEAD with Europe is an innovation in terms of coordination between Member States and EU. The ongoing programme receives funding or contributions in kind from Denmark, Estonia, Germany, Poland and Sweden. The possibility of active involvement of Member States is also foreseen for the extension of the Programme.

International donors provide multifaceted support to the decentralisation reform and made significant funds available for its implementation throughout the country since the reform started in 2015.<sup>6</sup> With the increasing number of programmes and projects on decentralisation the EU initiated the formulation of a Common Results Framework in 2016. To create a platform for regular exchanges on strategic issues, to ensure complementarity and to avoid duplication of donor’s actions the EU subsequently set up in close coordination with other donors and the Ministry of Regional Development, Construction, Housing and Communal Services of Ukraine a Donor Board on Decentralisation Reform in Ukraine in 2017<sup>7</sup>. The

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<sup>6</sup> For an overview on all programmes please see <https://donors.decentralization.gov.ua/en/projects>

<sup>7</sup> See [https://donors.decentralization.gov.ua/en/donor\\_board](https://donors.decentralization.gov.ua/en/donor_board)

Donor Board meets regularly and stimulates a wide range of synergies among all donor-funded programmes

The plan to extend U-LEAD with Europe has been communicated to other donors to enable them to orient their own planning on support for the next years. The second biggest support programme after U-LEAD with Europe, the USAID funded programme on “Decentralisation Offering Better Results and Efficiency” (DOBRE, 50 Mio. USD, lasting until 07.06.2021) is expected to be continued as well. In the current setting DOBRE is focusing support to only 75 selected new hromadas. Tailor made solutions are developed for each of them to provide high quality public service and economic development at local level. DOBRE and ULEAD are coordinating actions to disseminate positive examples from hromadas covered by DOBRE across Ukraine via the large support structure of ULEAD with Europe.

The extension of U-LEAD with Europe will also seek synergies with other EU funded projects in other sectors. The extension of European Union Anti-Corruption Initiative (EUACI) provides the chance to include tools for anti-corruption policies at subnational level, developed by EUACI, into the work of ULEAD with Europe with new hromadas and cities of oblast significance. In addition synergies are sought for the activities in a variety of sectors which are supported to increase the citizen-oriented delivery of municipal services in the areas such as health, education, energy efficiency, transport and mobility, waste management, water, public safety etc.

Another large programme of EU – the support to the East of Ukraine – Recovery, Peacebuilding and Governance, 2018-2022 covering 25 million Euros, financed through the SM 2017 "EU support to the East of Ukraine" is thought to ensure synergies with ULEAD. As the multi-year programme to the East focuses among others on gender-responsive decentralisation and local governance, and structural adjustments in health, education and public infrastructure the two programmes complement each other naturally. An extension of ULEAD would provide necessary background information and guidance within the ongoing decentralisation reform for the implementation of these parts of the support to the East of Ukraine – Recovery, Peacebuilding and Governance, 2018-2022.

## **4 DESCRIPTION OF THE ACTION**

### **4.1 Overall objective, specific objective(s), expected outputs and indicative activities**

The **overall objective** of the action is to contribute to further advancement of multilevel governance in Ukraine, which is transparent, accountable and responsive to the needs of the population.

The following **specific objective** is envisaged:

To enhance the capacities of key actors at national, regional and local levels to further implement Ukraine's decentralisation and related regional policy are enhanced, and to contribute to define the functions for each level of government within specific policy areas.

The **expected results** are:

- R1 Selected sector reforms are better aligned with the overall decentralisation process;
- R2 Increased awareness of all citizens of multilevel governance, decentralisation reform and regional policy;

R3 Relevant actors and public officials at different levels of government have acquired or strengthened competences appropriate to their roles in the decentralisation process and regional policy;

R4 Vertical and horizontal coordination mechanisms for shaping the decentralisation reform and related regional policy are enhanced.

### **Main components and activities**

#### **Better policy-making and enhanced capacity for effective multilevel governance and strengthening the implementation of the decentralisation reform (advice and development, designed and delivered in a gender-responsive manner)**

A1 Support to the Cabinet of Ministers of Ukraine (CMU), Ministry of Regional Development, and ministries responsible for the steering and monitoring of the decentralisation reforms in Ukraine;

A2 Demand-driven thematic advice on a wide range of topics related to multilevel governance, such as functional mapping and assignment, municipal amalgamation, decentralisation, municipal service delivery and local and regional development, tailor-made to the needs of the level of government (state-level, *oblast*, *rayon*, *hromada* level) requesting the thematic support;

A3 Support to awareness-raising, communication and consultative dialogue with citizens and other stakeholders (economic and social partners, civil society, think tanks, associations, universities, etc.) in policy design and implementation.

A4 Capacity development of the State administration at central and regional levels, through expert consultations, training, workshops, study visits, summer schools, mentoring, coaching and/or other forms of knowledge transfer and development;

A5 Training and other forms of capacity development to support professional education (e.g. expert consultations, training, workshops, study visits, summer schools, mentoring, coaching and/or other forms of knowledge transfer and development) for relevant actors and local authorities pre- and post-amalgamation on relevant themes (e.g. strategic planning, managing human resources and municipal finances, gender-responsive planning and budgeting, communicating and engaging with citizens, managing education and healthcare at the local level, stimulating economic development and social cohesion, etc.) also using package solutions and blended learning solutions where and if appropriate;

A6 Support to platforms for horizontal exchanges, networking and learning between practitioners, including facilitation of contacts to EU local administrations and actors.

### **4.2 Intervention Logic**

The project design is divided in two main components in line with the specific objectives. The first and second component will cover the coordination and capacity building efforts at both vertical and horizontal levels from the central body/decentralisation secretariat including Cabinet of Ministers of Ukraine (CMU) and ministries responsible for the strategic planning, steering and monitoring of the decentralisation reforms and related regional policy in Ukraine and other line ministries down to the *oblast*, *rayon* and *hromada* levels. The geographical coverage will be all 24 regions of the Republic of Ukraine.

The general **operational coordination** of the project will be ensured by one of the implementing partners and will include overall representation (incl. visibility measures) and coordination of the activities with an aim to ensure efficiency and coherence of the overall approach of the action. It is envisaged that the **political oversight** and coordination with other international donors and decentralisation stakeholders will be done through a Steering Committee taking into account the recommendations of a central body/decentralisation secretariat including representatives from the Ukrainian government, EU, Member States, international donors, international organisations, and representatives of local self-government bodies.

### **4.3 Mainstreaming**

The action addresses important cross-cutting issues which include contributions focused upon the effects of the Ukrainian decentralisation on minority communities as well as the strengthening of gender equality. As concerns minority communities, the situations of national minorities within the context of the amalgamation process for municipalities are assessed and the action will use targeted information materials as well as training measures for local self-government officials from these localities to ensure that these communities are not 'left behind' by the reform.

With regards to the strengthening of gender equality, gender relevant, sex-disaggregated, data will be collected and gender-related aspects will be integrated in the capacity development measures of the action. Training participants will be selected with a gender-equality focus. Strengthening gender equality will also be ensured in the improvement of administrative services and the development of the further legislative framework of the reform. Gender-responsive budgeting in trainings for municipal finance experts and the implementation of modules focusing on empowering female leadership in municipalities will ensure the sustainable promotion of gender equality and integration of more women into local politics. The programme will also seek to avoid reinforcing gender inequalities and stereotypes by implementing a Do No Harm approach.

Through offering grant agreements to civil society organisations, the action will facilitate citizen participation in community development to foster the promotion of good governance. This includes a specific focus on women and youth involvement in community decision-making. The action shall continue to work in conflict-affected regions, in order to develop and promote constructive relationships between society and the government in these regions. Each Regional Centre, which directly supports the amalgamation process in their respective regions, identifies the special needs of internally displaced persons, supported by other EU projects, and the deployment of an approach sensitive to the ongoing conflict.

### **4.4 Contribution to SDGs**

This intervention is relevant for the 2030 Agenda. The intervention contributes to the fulfilment of a broad range of SDGs and specific SDG indicators of Ukraine. The most relevant SDGs are:

#### *SDG 10: Reduce Inequality*

##### *10.3 Ensure access to social services*

Through a series of seminars on intermunicipal cooperation and the sharing of good practices (e. g. better service provision and access to medical services), the action actively promotes



inter-municipal cooperation between municipalities of Ukraine, ensuring regular exchanges on the topic, which includes better social service provision. Furthermore, contributions strengthening capacities of local self-governments and local primary healthcare providers enable the optimisation of facility networks and improvement of access to quality primary healthcare, especially in rural areas.

#### *SDG 11: Sustainable development of cities and communities*

##### *11.2 Ensure development of settlements and territories exclusively based on integrated planning and participatory management*

Through conferences and seminars the action will contribute to this SDG by focusing on investment opportunities in rural areas and through cross-border initiatives where participants shared ideas for agriculture, tourism, energy efficiency, human resource management and infrastructure development. Direct support will be provided by the action to the topics of integrated planning and participatory management, including the participation of CSOs and citizens in the development of their communities.

#### *SDG 16: Peace, justice and strong institutions*

##### *16.6 Increase the efficiency of government bodies and local self-government*

The action promotes the active participation of citizens in local decision-making as well as orienting the work of local administrations towards the needs and demands of its citizens. Targeted interventions in the areas of public financial management, evidence-based policymaking, accessing international funds, and public engagement will promote transparency and accountability in local governance. These include ethics trainings and the promotion of transparent public procurement processes. In sum, all capacity development measures of the action aim to increase the efficiency of government bodies and local self-government with regard to their internal procedures and services to the public.

## **5 IMPLEMENTATION**

### **5.1 Financing agreement**

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country.

### **5.2 Indicative implementation period**

The indicative operational implementation period of this action, during which the activities described in section 4 will be carried out and the corresponding contracts and agreements implemented, is **54 months** from the date of entry into force of the financing agreement.

Extensions of the implementation period may be agreed by the Commission's responsible authorising officer by amending this Decision and the relevant contracts and agreements.

### **5.3 Implementation modalities**

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures<sup>8</sup>.

#### **5.3.1 Indirect management with an entrusted entity**

A part of this action may be implemented in indirect management with GIZ. This implementation entails component 1 of this programme. The envisaged entity has been selected using the following criteria:

Well-established record of experience on a global scale, in the Eastern Partnership region and in Ukraine in successfully working on all aspects of decentralisation, regional development, local self-government and public finance management including local taxation; significant experience on the regional and local level all over Ukraine, and network with many employees in the country; Experience in implementation of similar actions under the indirect management mode; Management and logistical capacities.

As a Member State agency GIZ is apt to a prudent cooperation with trusted partners and to facilitating policy dialogue with a particular view to the political sensitivities of the decentralisation reform and to alignment with European standards for local self-government. GIZ has a recognised technical and financial management capacity to lead the reform process.

In case the envisaged entity would need to be replaced, the Commission's services may select another entity using the same selection criteria.

#### **5.3.2. Changes from indirect to direct management mode due to exceptional circumstances**

If due to exceptional circumstances outside of the Commission's control negotiations with the above entrusted entities fail, that part of this action may be implemented in direct management through procurement

Procurement would contribute to achieving the outstanding specific objectives and outputs described in section 4.1.

### **5.4 Scope of geographical eligibility for procurement and grants**

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased

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<sup>8</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu) Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems 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.

as established in the basic act and set out in the relevant contractual documents shall apply, subject to the following provisions.

The Commission's authorising officer responsible may extend the geographical eligibility on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

## 5.5 Indicative budget

	<b>EU contribution (amount in EUR)</b>	<b>Indicative third party contribution, in currency identified</b>
<b>Indirect management with GIZ</b> (cf. section 5.3.1)	39 800 000	
<b>Evaluation</b> (cf. section 5.8)	200 000	
<b>Audit/ Expenditure verification</b> (cf. section 5.9)		
<b>Total</b>	<b>40 000 000</b>	

## 5.6 Organisational set-up and responsibilities

The implementation of the programme will be carried out by GIZ. It will include periodic assessment of progress and delivery of specified project results towards achievement of action objectives.

In order to ensure co-ordination between the action components and the numerous stakeholders, a Steering Committee (SC) will be established to guide action implementation. The SC will include representatives of the beneficiaries, the implementing partners and the European Union. The SC will meet at least twice per year.

## 5.7 Performance and Results monitoring and reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the logframe matrix (for project modality) or the list of result indicators (for budget support). The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the

action. The final report, narrative and financial, will cover the entire period of the action implementation.

SDGs indicators and, if applicable, any jointly agreed indicators as for instance per Joint Programming document should be taken into account.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

## **5.8 Evaluation**

Having regard to the importance of the action, mid-term and final evaluations will be carried out for this action or its components contracted by the Commission. The mid-term evaluation will be carried out for learning purposes, in particular with respect to possible improvements in the implementation of the foreseen activities.

The Commission shall inform the implementing partner at least one month in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

Evaluation services may be contracted under a framework contract.

## **5.9 Audit**

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

It is foreseen that audit services may be contracted under a framework contract.

## **5.10 Communication and visibility**

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country (for instance, concerning the reforms supported through budget support), contractors, grant beneficiaries and/or

entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Requirements for European Union External Action (or any succeeding document) shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

## APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY)

	Results chain: Main expected results (maximum 10)	Indicators (at least one indicator per expected result)	Sources of data	Assumptions
<b>Impact (Overall Objective)</b>	To contribute to further advancement of multilevel governance in Ukraine, which is transparent, accountable and responsive to the needs of the population	<p>Level of satisfaction/rating of local authorities' management.</p> <p>Ukraine scoring in international rankings (not exhaustive list):</p> <ul style="list-style-type: none"> <li>- Doing business index;</li> <li>- Transparency international.</li> </ul> <p>EU- Association Implementation Reports assessment of the progress of the decentralisation reform, and Council of Europe-Opinions on quality of draft decentralization legislation.</p>	<p>Sociological surveys.</p> <p>National Reform Council assessment</p>	<i>Not applicable</i>
<b>Outcome(s) (Specific Objective(s))</b>	SO1: To enhance the capacities of key actors at national, regional and local levels to further implement Ukraine's' decentralisation and related regional policy are enhanced, and to contribute to define the functions for each level of government within specific policy areas.	<p><u>SO1 indicators:</u></p> <p><i>Legal Framework indicator:</i> Number and quality of (existing or new) legislative and normative documents regarding tasks/ functions/ structure of national, regional and local institutions with regard to decentralisation adopted.</p> <p><i>Vertical co-ordination indicator:</i> Number of measures resulting from vertical co-ordination mechanisms implemented by the Ministry in charge of decentralisation.</p> <p><i>Horizontal co-ordination indicator</i> Number of measures implemented from inter-ministerial (horizontal) co-ordination mechanisms on national level on selected sectoral aspects of the reform.</p> <p><i>Institutional CD of municipalities indicator:</i></p> <ul style="list-style-type: none"> <li>- Number of municipalities able to identify at least one specific example of how policies, strategies, plans, systems, processes or procedures have been introduced or enhanced, following management or specialist staff participation in training measures of the programme.</li> </ul>	<p>Passed laws and directives</p> <p>Ministry reports</p> <p>Protocols of CabMin</p> <p>User feedback reports</p> <p>Civil society reports</p>	<p>Government of Ukraine remains committed to the decentralisation reform in line with the European Charter for Local Self-Government</p> <p>The conflict in the East will not further destabilize or spread to other regions.</p> <p>International donors remain committed to unite and coordinate efforts to support the decentralisation process and</p>

		- Number of municipalities that have determined their own internal administrative structures according to Article 6 of the European Charter for Local Self-Governance in order to ensure effective management.		regional development in Ukraine.
<b>Outputs SO1</b>	<p>R1 Selected sector reforms are better aligned with the overall decentralisation process.</p> <p>R2 Increased awareness of citizens of multilevel governance, decentralisation reform and regional policy.</p> <p>R3 Relevant actors and public officials at different levels of government have acquired or strengthened competences appropriate to their roles in the decentralisation process and regional policy.</p> <p>R4 Vertical and horizontal coordination mechanisms for shaping the decentralisation reform are enhanced.</p>	<p>Quality and Number of (existing) legislative and normative documents regarding decentralisation reform were harmonized with selected sector reforms. <i>(and, if necessary, also harmonized with the requirements of the EU Association Agreement)</i></p> <p>Number of dialogue events with civil society, supported by the project, organised at national, regional and local level – the results of which were used for the decentralisation process.</p> <p>Level of participants' satisfaction of the dialogue events on the shaping of the decentralisation reform.</p> <p>Percentage of training participants at local, regional and national levels training measures reporting that the obtained knowledge has contributed to better fulfil their tasks.</p> <p>Number of municipalities attending events organised with support from the programme to share best practices on implementation of municipal tasks.</p> <p>Number of forums for dialogue with relevant national and regional decision-makers organised by the municipalities.</p> <p>Number of inter-ministerial coordination mechanisms per year.</p>	<p>Ministry reports</p> <p>Experts assessment</p> <p>Civil society reports Media survey Sociological survey</p> <p>Project records</p> <p>Training Records</p> <p>Sociological survey</p>	



### **ANNEX 3**

of the Commission Implementing Decision on the 2019 Annual Action Programme (Part 1)  
in favour of Ukraine

#### **Action Document for Support to civil society and culture**

<b><u>ANNUAL PROGRAMME</u></b>		
This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation and action programme/measure in the sense of Articles 2 and 3 of Regulation N° 236/2014.		
<b>1. Title/basic act/ CRIS number</b>	Support to civil society and culture CRIS number: 2019 / 041-724 financed under the European Neighbourhood Instrument	
<b>2. Zone benefiting from the action/location</b>	Ukraine The action shall be carried out at the following location: Ukraine	
<b>3. Programming document</b>	2019 Annual Action Programme for Ukraine (Part 1)	
<b>4. Sustainable Development Goals (SDGs)</b>	Main SDG(s) on the basis of section 4.4 <ul style="list-style-type: none"> <li>• SDG 8Decent work and economic growth</li> <li>• SDG 16Peace, justice and strong institutions</li> </ul> Other significant SDG(s) on the basis of section 4.4 <ul style="list-style-type: none"> <li>• SDG 9Industry, Innovation, and Infrastructure</li> <li>• SDG 5 Gender equality</li> <li>• SDG 17Partnerships for the goals</li> </ul>	
<b>5. Sector of intervention/ thematic area</b>	Complementary support to civil society	DEV. Assistance: YES
<b>6. Amounts concerned</b>	Total estimated cost: EUR 10 000 000 Total amount of European Union (EU) contribution: EUR 10 000 000	



7. Aid modality(ies) and implementation modality(ies)	Project Modality <b>Direct management</b> through: - Grants - Procurement			
8 a) DAC code(s)	Main DAC code: 16061 - Culture and recreation 15150 - Democratic participation and civil society			
b) Main Delivery Channels	20000 - Non Governmental Organisations (NGOs) and Civil Society 60000 - Private sector institutions			
9. Markers (from CRIS DAC form)	General policy objective	Not targeted	Significant objective	Principal objective
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	X
	Aid to environment	X	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and Women’s and Girl’s Empowerment	<input type="checkbox"/>	X	<input type="checkbox"/>
	Trade Development	<input type="checkbox"/>	X	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	X	<input type="checkbox"/>	<input type="checkbox"/>
	RIO Convention markers	Not targeted	Significant objective	Principal objective
	Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>
10. Global Public Goods and Challenges (GPGC) thematic flagships	Human development			

#### SUMMARY

Continuous EU support to CSOs in Ukraine will help to foster the further democratisation and modernisation of the state through reforms monitoring, thematic support and expertise provision. The cultural sector has the potential to promote critical thinking and challenge hostile and/or overly-simplistic narratives as part of Ukraine's current nation-building process, including the embedding of democratic values into its national identity. The cultural and creative industries are, as well, valuable as a source of employment and economic growth. These two areas (CSOs and culture) are substantially interlinked, both functionally and operationally and face similar challenges, being dependant on external funding sources and policy context. This programme will be complemented by a contribution of 5 000 000 EUR from the bilateral envelope for Ukraine to the Eastern Partnership Civil Society Facility.

The overall objective of the action is to increase the viability and capacities of CSOs and cultural operators to contribute to the development of accountable, transparent and democratic institutions, social and economic development and the prevention of violent conflicts.

The following specific objectives could be set:

1. To increase the capacity of Ukrainian CSOs to perform their roles as independent actors in the sectors determined by the Single Support Framework, the Roadmap for Engagement with Civil Society in Ukraine for the period 2018-2020;
2. To enhance the Ukrainian creative and cultural sector's capacity and foster the development of the creative and cultural operators;
3. To ensure sustainability of the culture and creativity sector in Ukraine through equal and transparent access to public funding disbursed through Ukrainian Cultural Fund.

## 1.1 Context Description

The overall environment for Ukrainian **civil society organisations** (CSOs) can be characterised as rather favourable, with a satisfactory legal framework and vibrant and diverse civil society actors, especially in such sectors as elections, European integration, human rights protection and environment/green society. There are approximately 20,000 active CSOs operating in a wide diversity of areas and this CSO activity is not limited to the capital city Kyiv: only a quarter of these organisations is based in the capital and active CSOs can be found in great numbers in the regions (most notably in Odesa, Lviv, Dnipropetrovsk and Kharkiv). In addition to traditional CSOs, a growing number of entities are searching for new forms of mobilisation and inclusion of citizens, experimenting with new forms of association, such as group initiatives, hubs and social enterprises. This seems to be particularly relevant in the spheres of art and culture, digital communication, education, new service provision, and community development.

Since 2014, significant changes have taken place in the general environment for CSO activity. The legislative framework has been modernised and there is now a stronger engagement of civil society in the design and implementation of public policies. Since 2013, a significant increase in civil society activity has been observed in Ukraine, and the interest of the citizens and their willingness to volunteer in CSO activities has seemingly grown. CSOs are perceived as playing an important role in the development of a new political and administrative culture in post-Maidan Ukraine, in particular with regard to promoting transparency and accountability in public life. Yearly monitoring carried out by the Institute of Sociology of the National Academy of Sciences showed that the level of trust in CSOs and charity organisations has increased almost threefold from 2014 to 2017, from 13% to 37%. Still, the level of individual engagement and civic activism remains rather low with less than 20% of Ukrainians being members of CSOs.

The development of thematic civil society networks and platforms, in particular the National Platform of the Eastern Partnership Civil Society Forum, has had a consolidating impact and strengthened capacity among civil society. The importance of working in coalitions and creating synergies between the activities of different CSOs is now widely understood.

The violent conflict in the East of Ukraine has strongly affected CSOs in the affected region. The 2017 State of Civil Society report by Civicus states that: "The ongoing conflict in Ukraine is having a significant impact on the rights to freedom of expression, association and peaceful assembly. Independent and pro-Ukrainian media, as well as activists, are unable to

operate freely in Non-Government Controlled Areas of Donetsk and Luhansk (NGCA), where censorship is widespread. The LGBTI community has been prevented from freely exercising the right to peaceful assembly. Despite all of the challenges, civil society in Ukraine still plays a crucial role in attempts to build a functional democracy, uphold the rule of law and promote and protect human rights". Indeed, many local CSOs, in particular those focusing on the defence of human rights, have been forced to close down their activities or to be relocated. The CSOs that have remained in the NGCA focus at present mainly on humanitarian work. In other areas of eastern Ukraine, there is vivid network of CSOs, including human rights ones, providing essential humanitarian and protection assistance to conflict affected population and the estimated 1.5 million internally displaced.

Funding opportunities have increased in the last four years. The major source of support comes from international donor organisations, with modest but growing local and private sources of funding (enterprises and organisations) and limited crowd funding. Also the Ukrainian state has developed instruments for CSO funding with the aim of making the sectors of culture, social services, science, and regional development more competitive. The amount of the state budget funds provided for civil society continues to increase: approx. EUR 11 mio 2018 compared to EUR 7.9 mio in 2017.<sup>1</sup> This trend is important for the establishment of productive and mutually reinforcing of state-civil society cooperation. However, the outdated by-laws and administrative requirements make it difficult to use public funding effectively. Some international organisations are attempting to introduce models for public funding, including a specific national fund or pooling them with international funds, but the current legislative environment does not provide any basis for concrete and sustained success.

While the formal organisational aspects of CSOs have improved, the following factors still hamper the functioning of civil society in Ukraine:

- Continuous pressure and numerous attacks targeting CSOs activists, followed by the lack of proper investigation;
- Legislative, administrative, fiscal and judicial pressure on CSO activities. Despite numerous appeals of the donor community, the e-declarations introduced for anti-corruption organisations in 2017 remain in place.

**The cultural sector** currently represents 4% of Ukraine's GDP (and employs around 3% of the working population), which makes it comparable to the mining, construction and financial services sectors. Cultural institutions often operate in outdated management models and lack contemporary evidence-based management, efficient planning and programming, fundraising campaigns, building of new relationships with audiences/users as well as with the overall creative community.

The ongoing and successful decentralisation process provides a welcome opportunity to renovate the country's cultural sector fabric throughout the entire territory, notably regarding infrastructure and management models. However, policy makers, particularly at local level, have not acknowledged the need for new venues and the capacity of the creative community

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<sup>1</sup>

[http://texty.org.ua/pg/article/hohobi/read/86189/Derzhava\\_vydilyla\\_gromadskym\\_organizacijam\\_368\\_miljoniv\\_gryven](http://texty.org.ua/pg/article/hohobi/read/86189/Derzhava_vydilyla_gromadskym_organizacijam_368_miljoniv_gryven)

to regenerate city areas. Therefore, cultural and creative operators face difficulties in accessing resources due to financial and administrative barriers.

The cultural and creative industries (CCIs) are not only valuable as a source of employment and economic growth. Culture provides an unrivalled space for the discussion and articulation of community and national identities, offering the potential to reinforce empathy and understanding, trust and tolerance. The sector has the potential to promote critical thinking and challenge hostile and/or overly-simplistic narratives as part of Ukraine's current nation-building process, including the embedding of democratic values into its national identity. It can also help strengthening social cohesion and proactively endorse values of equality, diversity and inclusion, for example through addressing issues of disability, language ethnicity, women's and LGBTI rights, as well as by working with internally displaced populations. They operate in a similar domain and reinforce the efforts of the CSOs in the above-mentioned domains.

Public funding for culture, similar to the state support to civil society, needs greater clarity and better criteria in relation to the transparency of selection processes, regularity of support and sustainable development. The recently created Ukrainian Cultural Fund pioneers the introduction of transparent and fair procedures for grants distribution. However, it faces a wide array of obstacles, such as a lack of training and certification for experts, assessing grant proposals, gaps and shortcomings in by-laws, regulating project evaluation and implementation, as well as outdated paper-based procedures of evaluation, which substantially increase the workload related to the evaluation stage.

These obstacles are common for all existing Ukrainian instruments and institutions dealing with public funding distribution through grant schemes. CCIs need more information, contacts and skills to finalise the sectoral modernisation, as well as resources to invest in long-term planning requirements. Some alternative and interesting funding endeavours are being developed, among them crowdfunding platforms, but structural improvement is needed in the public systems and legislation to ease access and diversify funding alternatives for the sector.

The think-tank sector, belonging to the civil society, has been similarly vitalised after Maidan, with think-tanks forging alliances and producing analysis that informs domestic reform processes as well as the strategies of Ukraine's partners. However, Ukrainian think-tanks are lacking stable EU support and access to Brussels- and Member-States-based decision making processes which reduces their contributions to ad-hoc input. This limits the voice of Ukraine's civil society and analyst community as well as information flows relevant for Brussels- and Member-States-based decision making with regard to Ukraine.

## 1.2 Policy Framework

The communication of the Commission "**The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations,**" is unambiguous about the role of civil society as critical governance actor. "It represents and fosters pluralism and can contribute to more effective policies, equitable and sustainable development and inclusive growth. It is an important player in fostering peace and in conflict resolution."

The Joint Communication "**Towards an EU strategy for international cultural relations**" underlines the role of culture in the promotion of "the EU's fundamental values, such as

human rights, gender equality, democracy, freedom of expression and the rule of law, as well as cultural and linguistic diversity", and explains how "inter-cultural dialogue can contribute to addressing major global challenges – such as conflict prevention and resolution, integrating refugees, countering violent extremism, and protecting cultural heritage".

The "**Eastern Partnership – Focusing on key priorities and deliverables**" Staff Working Document aims not only at civil society engagement in all priority sectors of cooperation between the EU and partner countries, but also sets targets for the outreach of capacity development programmes in partner countries.

The **EU-Ukraine Association Agreement** refers to a reinforced dialogue in the sector of culture, promotion of cultural cooperation and diversity, as well as encourages the involvement of "civil society organisations in Ukraine's policy reforms".

### 1.3 Public Policy Analysis of the partner country/region

The **Long-term strategy for Culture development - strategy of reforms** was adopted by the Ukrainian Government in 2016. It envisages, inter alia, the sector modernisation as well as support to innovations and creative industries. The Strategy has been further complemented by the **Law on Ukrainian Cultural Fund** which entered into force in 2017. The law stipulates that the Fund is entitled to support the development of modern cultural practices and the production of competitive national cultural products. The Fund became operational in 2018 and receives substantial budgetary support.

The Government also adopted the **Strategy for civil society development in Ukraine for 2016-2020** and established a Coordination Council for civil society development, which has not achieved any tangible results up to date. The strategy focuses on establishing effective procedures for public participation and engagement into national and local policy formulation; wider participation of the CSO in the social and economic development of Ukraine; creating favourable conditions for inter-sectoral cooperation.

### 1.4 Stakeholder analysis

**Civil society organisations, activists and platforms** are the key stakeholders directly involved in the implementation of the action, benefitting from the financial support, but also for the establishment of sustainable, effective and transparent budgetary support mechanisms in the long term.

**Cultural and creative sector operators**, both public and private, will be beneficiaries of EU grants but will also benefit from the improved access to public funding. They will gain skills and experience and increase their capacity to provide cultural services and create competitive cultural and creative products.

The **Presidential Administration** positions itself as a lead counterpart in the dialogue with civil society of Ukraine. It will benefit from the enhanced capacities of the CSOs who will be more enabled to provide thematic support, meaningful dialogue and public oversight of reforms implementation in Ukraine.

The **Ministry of Culture** oversees the formulation and implementation of the cultural policies and is directly interested in the optimisation of the limited budgetary funds in the

area of culture. The Ministry is undergoing a reorganisation and learning process in order to become capable to respond to the emerging needs of the creative industries.

The **Ukrainian Cultural Foundation** is the most advanced governmental institution dealing with public funding available through grant schemes. Nevertheless, its capacity is limited by outdated procedures, by-laws and the absence of modern evaluation and management tools.

**Other governmental bodies in charge of grant schemes** will benefit from the establishment of a modern grant evaluation and management system in the longer perspective through the opportunity to appropriate the expertise, practices and software to their own areas of operation.

**Local authorities** are among the stakeholders of the action directly benefitting from the grant implementation both in the cultural and civil society domain. They will be able to pick up the best practices of public finance management and delegating certain functions (such as social and cultural services to CSOs and cultural operators), thus ensuring local development and citizens' well-being.

The final beneficiaries are the **citizens of Ukraine**. They will benefit from CSO work on advocacy for better reforms and development, monitoring of governance and direct implementation of aid by CSOs. They will also benefit from better information about governmental policies and will be better represented and have a greater say in their definition and implementation. They will benefit as well from the enhanced cultural sector of Ukraine, contributing to their economic well-being, social cohesion and security.

## 1.5 Problem analysis/priority areas for support

The intervention seeks to address the challenges faced by the stakeholders in the areas of culture and civil society. Further sectors to be supported through grants provision to CSOs will be established on the basis of the main priorities in Ukraine at the time of the publication of the Call for Proposals, thus ensuring a timely and flexible response to the internal policy challenges. Such an action design will allow selecting the calls' priorities without a traditional time lag, intrinsic to technical assistance life-cycles. Further flexibility is achieved through the division of the CSOs assistance envelope between the national and regional actions.

The priorities of the cultural component will remain cultural dialogue and value orientation, thus contributing to social cohesion and peace-building measures. A rights based approach will allow involving marginalised and vulnerable groups, thus further contributing to social cohesion.

Public funding for culture, similar to the state support to civil society, needs greater clarity and better criteria in relation to the transparency of selection processes, regularity of support and sustainable development.

## 2 RISKS AND ASSUMPTIONS

Risks	Risk level (H/M/L)	Mitigating measures
The Government of Ukraine changes	M	Both a bilateral and multilateral dialogue

its political course after the presidential and parliamentary elections of 2019, limiting space for participatory democratic processes and equal access to public funding by cultural operators.		with the Government of Ukraine have proved to be an effective mitigation tool and early-response mechanism to cope with political attacks against civil society.
The conflict in the East of Ukraine deteriorates or turns into an active phase.	M	The on-going political dialogue and continued economic pressure ensure the security status quo.
The macro-economic situation deteriorates due to internal or external economic factors, thus influencing the public financing provided to the cultural sector and viability of culture and creative industries operators.	M	The minimum co-financing requirements established in the action do not add pressure to the potential applicants' financial standing, while streamlining the grants distribution procedures de facto contribute to the budgetary savings.
<b>Assumptions</b>		
<ul style="list-style-type: none"> <li>• The Government and the new President of Ukraine will keep the pro-European and democratic policy direction.</li> <li>• The economy will continue to grow with an increasing share of CCI sectors and adequate budgetary support provided on competitive basis.</li> <li>• The Ukrainian Cultural Fund continues to exist as per legislation in force and to distribute grants to cultural operators.</li> </ul>		

### 3 LESSONS LEARNT AND COMPLEMENTARITY

#### 3.1 Lessons learnt

EU-Ukraine cooperation since 2014 has been evolving along three main axes: stronger economy, stronger governance and stronger society. Within the latter, emphasis has been made on the re-enforcement of civil society and free and diverse media, improved respect for Human Rights, electoral and parliamentary reforms and support to cope with the consequences of the conflict in eastern Ukraine, including massive displacement of population..

The Single Support Framework stipulates that participation of civil society will be mainstreamed into all focal sectors. Civil society organisations are expected to play a more direct role in the implementation of activities, holding the government to account, monitoring reform and being a genuine partner for the government. An up to 5% complementary envelope is foreseen for targeted support in order to ensure a stable source of funding for civil society organisations and target their capacity development, including for those working outside the focal sectors.

Since the revolution of dignity, the demand for efficient public spending has grown in Ukraine. First of all, the plan of government priorities to be implemented by 2020 lists the increased effectiveness of budget programs as a component of the system of government finance management. Second, the demand for increased efficiency of public spending has grown due to the economic crisis and the deficit of budget funds.

Despite the rapid evolution of the cultural and creative sectors in Ukraine in the last years, the capacity and skills of the operators remain limited, especially of those in the public domain. Used to stable though scarce governmental support, they still need to adjust to competitive environment and do not trust the existing support schemes, mainly due to a lack of transparency and expertise on the management side.

### **3.2 Complementarity, synergy and donor co-ordination**

Complementarity and synergies will be sought with other civil society and culture support programmes currently running or planned for Ukraine. EU reform support programmes which mainstream civil society involvement, such as EUACI, Energy Efficiency etc as well as coordination in the area of policy support provided by other donors will be ensured.

The programme will mainly build upon the experience of the on-going **EIDHR** and **Support to Civil Society national programmes** with relevant adjustment of the priorities and specific objectives of the planned call to cover the most up-to-date developments in the policy and political environment of Ukraine.

The **Creative Europe (2014-2020)** programme provides support through a number of schemes and initiatives, most of which require multiple partnerships and substantial co-financing to finance cultural cooperation projects and initiatives.

The **Cross-border cooperation programmes** Poland-Belarus-Ukraine, Romania-Ukraine and Hungary-Slovakia-Romania-Ukraine include people-to-people components and support trans-border cultural projects, mainly targeting cultural heritage issues of the participating countries' border regions. Only a limited number of Ukrainian oblasts are eligible for participation.

The **Eastern Partnership Civil Society Facility 2019 – 2020** will include EUR 5 000 000 from the bilateral allocation for Ukraine as part of the new approach to civil society support. The overall objective of the instrument is to strengthen and promote CSOs role as critical actors of governance and socio-economic development in the EU's wider Eastern Neighbourhood. The implementation of the programme through Strategic Partnership Agreements will complement the CSO grant component of this action document. The Rapid Response Mechanism will allow complementing the action with flexible support measures if the necessity arises.

**Eastern Partnership, Culture. III.** The third phase of the regional programme will primarily focus on cultural heritage promotion and tackling regional cultural challenges. The programme is at its early identification stage.

The **Culture Bridges** programme has paved the way to the current action's cultural components through the identification of the needs and capacities of cultural operators in Ukraine. The grant component of the programme is currently highly popular and attracts numerous applications substantially exceeding the existing funding. The sub-granting component will phase out by the time of the current action implementation start.

**House of Europe.** This action will complement the House of Europe initiative which includes enhanced cultural, intellectual and artistic exchanges within Ukraine and between Ukraine and the EU including (i) the partial reimbursement of the annual entry ticket for the participation in the Creative Europe programme and (ii) a cultural dialogue programme to support mutual understanding and cultural diversity within Ukraine and between Ukraine and other European countries through mobility and project initiatives.



## **4 DESCRIPTION OF THE ACTION**

### **4.1 Overall objective, specific objective(s), expected outputs and indicative activities**

The **overall objective** of the action is to increase the viability and capacities of CSOs and cultural operators to contribute to the development of accountable, transparent and democratic institutions, social and economic development and the prevention of violent conflicts.

The following **specific objectives** are envisaged:

1. To increase the capacity of Ukrainian CSOs to perform their roles as independent actors in the sectors determined by the SSF, the Roadmap for Engagement with Civil Society in Ukraine for the period 2018-2020;
2. To enhance the Ukrainian creative and cultural sector's capacity and foster the development of the creative and cultural operators;
3. To ensure sustainability of the culture and creativity sector in Ukraine through equal and transparent access to public funding disbursed through Ukrainian Cultural Fund.

**Expected results** (outputs under direct control of the Programme) are:

1. CSOs are involved regularly into policy making and implementation of the overall reform process;
2. Capacity of cultural operators to contribute to social and economic development is raised;
3. Knowledge and capacities of the governmental stakeholders to distribute grants from the state budget to civil society and cultural actors increased, transparent procedures for public support established on the basis of the pilot action with the Ukrainian Cultural Fund, equal access to public funding secured, flexible response to civil society needs and priorities through public finance instituted.

**Main components and activities:**

1. Component 1. Call for proposals to CSOs. The programme will provide grants to promote and safeguard a meaningful and structured participation of CSOs in domestic policies of Ukraine, in the EU programming cycle and in international processes including, where relevant, where it comes to civil society monitoring of the investigation of attacks against activists and assisting activists at risk. The specific priority sectors for the Call to be established on the basis of existing policy instruments and the specific political situation upon the finalisation of the elections in Ukraine. A separate lot will provide a grant scheme for systemically supporting Ukrainian think-tanks in contributing to Brussels- and Member States-based decision making processes via a dedicated interface.
2. Component 2 Call for cultural operators. The programme will provide grants to Ukrainian cultural operators to carry out cooperation projects in Ukraine. Projects should address at least one of the following objectives:
  - Exploring diversity and promoting intercultural dialogue through cultural activity;
  - Stimulating greater participation in cultural activities by the general public;

- Encouraging cooperation between civil society organisations, public sector organisations and private sector organisations operating in the cultural and creative sectors;
  - Developing the knowledge and capacity of operators working in the cultural and creative sectors;
  - Support protection and revitalisation of cultural heritage sites;
  - Promote mobility and co-creation with European cultural operators;
  - Engaging under-represented or marginalised groups, including internally displaced and conflict affected populations in cultural activity
  - Content creation to promote critical thinking, peace-building, community reconciliation and democratic values.
3. Component 3. Support to UCF. The component related to the support to the state-funded Ukrainian Cultural Fund will cover three major strands of activities:
- Legislative review of existing procedures to identify bottlenecks in the provision of grants from the state budget;
  - Development of a single platform for public funding (grants) provision, evaluation and management for all the existing governmental schemes and instruments;
  - Training and certification of evaluation experts.

## 4.2 Intervention Logic

The Programme will capitalise on the work started by earlier initiatives and ongoing support in the sectors of civil society and culture, which focuses on the implementation of the Association Agreement articles related to continuous support to civil society in its traditional role of major reforms watchdog and catalyst, as well as to culture.

The establishment of a transparent selection mechanism for distributing grants with funding from the state budget through the Ukrainian Cultural Fund will both establish a best practice precedent in the country for the distributing of grants by the state and simultaneously stimulate the development of the cultural sector. This experience may be replicated for other state funds on the basis of the experience of this pilot. On the longer term perspective, it will contribute to CSO sustainability, competitive social services provision, and establish better links between local authorities and civil society in tackling common challenges.

The implementation of the action will allow to address the sectoral problems of civil society and cultural and several levels through complementarity to the programmes listed above.

## 4.3 Mainstreaming

Gender and children rights, social and economic rights, resilience and conflict sensitivity, human rights and other relevant cross-cutting issues are integrated in the design of the action.

The Action will include **gender aspects** by, inter alia, setting women's and children's rights as a cross-cutting issue for the CSO call for proposals. Support measures directed at the cultural sector shall positively affect women who represent the majority of its workforce. The Action will also seek to avoid reinforcing gender inequalities and stereotypes by implementing a Do No Harm approach. The Action will aim at piloting multi-actor processes for achieving inclusive, sustainable economic development in the country. It will also strive to promote inclusiveness when it comes to internally displaced and conflict affected

populations with a community reconciliation purposes. It will support the mobilisation of different local actors for joint efforts for **inclusive and sustainable growth**.

The rights based approach will be used during the design of the specific calls for proposals.

#### **4.4 Contribution to SDGs**

This intervention is relevant to the 2030 Agenda. It contributes primarily to the progressive achievement of SDG(s) "Decent work and economic growth" and "Peace, justice and strong institutions", while also contributing to "Industry, Innovation, and Infrastructure", "Gender equality", "Partnerships for the goals".

### **5 IMPLEMENTATION**

#### **5.1 Financing agreement**

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country.

#### **5.2 Indicative implementation period**

The indicative operational implementation period of this action, during which the activities described in section 4 will be carried out and the corresponding contracts and agreements implemented, is **60** months from the date of where a financing agreement is concluded.

Extensions of the implementation period may be agreed by the Commission's responsible authorising officer by amending this Decision and the relevant contracts and agreements.

#### **5.3 Implementation modalities**

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures.

##### **5.3.1 Grants: (*direct management*)**

(a) Purpose of the grant(s)

- Grants to promote a meaningful and structured participation of CSOs in domestic policies of Ukraine;
- Grants for systemic support to Ukrainian think-tanks;
- Grants for capacity building of cultural operators.

(b) Type of applicants targeted

The call will target legal persons, falling under the following categories:

- civil society organisations;
- public operators;
- local authorities;
- think-tanks;
- educational institutions.

### 5.3.2 Procurement (direct management)

Procurement will contribute to achieving the specific objective and results described in section 4.1 under component 3, including the establishment of grants evaluation and management system for Ukrainian cultural fund.

### 5.4 Scope of geographical eligibility for procurement and grants

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply.

### 5.5 Indicative budget

	<b>EU contribution (amount in EUR)</b>	<b>Indicative third party contribution, in currency identified</b>
<b>Component 1 – Grants to CSOs</b> (cf. section 5.3.1)	<b>5 500 000</b>	
<b>Component 2 – Grants for cultural operators</b> (cf. section 5.3.1)	<b>3 000 000</b>	
<b>Component 3 – Procurement</b> (cf. section 5.3.2)	<b>1 000 000</b>	
<b>Evaluation</b> (cf. section 5.9)	<b>200 000</b>	
<b>Audit/ Expenditure verification</b> (cf. section 5.10)		
<b>Communication and visibility</b> (cf. section 5.11)	<b>300 000</b>	
<b>Total</b>	<b>10 000 000</b>	

### 5.6 Organisational set-up and responsibilities

The grant component will not require any additional organisational set up while the support project for Ukrainian cultural fund will be further streamlined by a Steering committee in charge of the supervision of the project.

### 5.7 Performance and Results monitoring and reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process, and part of the implementing partner's responsibilities. To this aim, the implementing partner in charge of the technical assistance component shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes)

as measured by corresponding indicators, using as reference the Logframe matrix (for project modality) or the partner's strategy, policy or reform action plan list (for budget support).

SDGs indicators and, if applicable, any jointly agreed indicators as for instance per Joint Programming document should be taken into account.

The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

## **5.8 Evaluation**

Having regard to the importance of the action, a final evaluation will be carried out for this action or its components via independent consultants contracted by the Commission.

It will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that the grant evaluation and management platform for Ukrainian cultural fund is expected to serve as a pilot action, expected to be further extended to other public funding grants distribution instruments in Ukraine.

The Commission shall inform the implementing partner at least 14 days in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

Evaluation services may be contracted under a framework contract.

## **5.9 Audit**

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

It is foreseen that audit services may be contracted under a framework contract.

## **5.10 Communication and visibility**

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country (for instance, concerning the reforms supported through budget support), contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Requirements for European Union External Action (or any succeeding document) shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

## APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY)

	<b>Results chain: Main expected results (maximum 10)</b>	<b>Indicators (at least one indicator per expected result)</b>	<b>Sources of data</b>	<b>Assumptions</b>
<b>Impact (Overall Objective)</b>	To increase the viability and capacities of CSOs and cultural operators to contribute to the development of accountable, transparent and democratic institutions, social and economic development and the prevention of violent conflicts.	<p><i>CSOs sustainability index (baseline value for 2017: 3.3 and final target for 2021: 3.1)</i></p> <p>Democracy Index (Economist Intelligence Unit's) <i>(baseline value for 2017: 5.69 and final target for 2021: 6)</i></p>	<p>Sustainability index (USAID)</p> <p>Economist Intelligence Unit</p>	
<b>Outcomes (Specific Objectives)</b>	<p>S.O.1 To increase the capacity of Ukrainian CSOs to perform their roles as independent actors in the sectors determined by the SSF, the Roadmap for Engagement with Civil Society in Ukraine for the period 2018-2020;</p> <p>S.O. 2 To enhance the Ukrainian creative and cultural sector's capacity and foster the development of the creative and cultural operators;</p> <p>S.O. 3 To ensure sustainability of the culture and creativity sector in Ukraine through equal and transparent access to public funding disbursed through Ukrainian Cultural Fund.</p>	<p><u>For S.O. 1</u></p> <p>Number of proposals received matching minimum quality requirements;</p> <p>Level of trust to CSOs by the population in accordance with local sociological survey.</p> <p><u>For S.O. 2</u></p> <p>Share of GDP related to Culture and Creative Industries (baseline value for 2017: 4% and final target for 2021: 5%).</p> <p><u>For S.O. 3</u></p> <p>Number of proposals received;</p> <p>Number and type of complaints by unsuccessful applicants (e.g. on unfair selection and quality of assessment).</p>	<p>CfP results in the Delegation's reporting</p> <p>Yearly monitoring by the national institute of sociology</p> <p>National statistics on culture sector growth</p> <p>Statistic on cultural services provision</p> <p>Yearly reports of the Ukrainian Cultural Fund</p>	

<b>Outputs</b>	<p>O.1 CSOs are involved continuously into policy making and implementation of the overall reform process;</p> <p>O.2 Capacity of cultural operators to contribute to social and economic development is raised;</p> <p>O.3 Knowledge and capacities of the governmental stakeholders to distribute grants from the state budget to civil society and cultural actors increased, transparent procedures for public support established on the basis of the pilot action with the Ukrainian Cultural Fund, equal access to public funding secured, flexible response to civil society needs and priorities through public finance instituted.</p>	<p><u>For O.1</u> Level of implementation of the national Strategy for civil society (baseline value for 2017: 45% and final target for 2021: 80%).</p> <p><u>For O. 2</u> Number of cultural operators receiving grants from the Ukrainian Cultural Fund. Number of trainings delivered.</p> <p><u>For O.3</u> Number of proposals evaluated online through automatic procedures (baseline value for 2017: 0 and final target for 2021: 100%).</p>	<p><u>For O.1</u> USAID reports in the framework of "Citizens in action"<sup>2</sup></p> <p><u>For. O 2</u> Ukrainian Cultural Fund reports</p> <p><u>For O.3</u> Ukrainian Cultural Fund reports</p>	
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<sup>2</sup> <http://dif.org.ua/article/gromadski-eksperti-nazvali-problemi-ta-uspikhi-derzhavnoi-politiki-spriyannya-rozvitku-gromadyanskogo-suspilstva>





#### **ANNEX 4**

of the Commission Implementing Decision on the Annual Action Programme 2019 (part 1) in  
favour of Ukraine

#### **Action Document for Technical Cooperation Facility 2019**

<b><u>ANNUAL PROGRAMME</u></b>		
This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation and action programme/measure in the sense of Articles 2 and 3 of Regulation N° 236/2014.		
<b>1. Title/basic act/ CRIS number</b>	<b>Technical Cooperation Facility 2019</b> CRIS number: ENI/2019/041-718 financed under the European Neighbourhood Instrument	
<b>2. Zone benefiting from the action/location</b>	Ukraine The action shall be carried out at the following location: country wide	
<b>3. Programming document</b>	Single Support Framework for EU support to Ukraine 2018-2020	
<b>4. Sustainable Development Goals (SDGs)</b>	Main SDG Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels Other significant SDG Goals: Goal 8: Promote inclusive and sustainable economic growth, employment and decent work for all Goal 13: Take urgent action to combat climate change and its impacts	
<b>5. Sector of intervention/ thematic area</b>	Complementary support for capacity development	DEV. Assistance: YES
<b>6. Amounts concerned</b>	Total estimated cost: EUR 44 million Total amount of European Union (EU) contribution EUR 44 million	
<b>7. Aid modality(ies)</b>	Project Modality	

<b>and implementation modality(ies)</b>	<b>Direct management</b> through: - Grants - Procurement <b>Indirect management</b> with European Bank for Reconstruction and Development (EBRD), International Labour Organisation (ILO), World Bank, International Centre for Migration Policy Development (ICMPD)			
<b>8 a) DAC code(s)</b>	15110 - Public Sector Policy and Administrative Management – 65% 33120 Trade facilitation- 16% 25010 Business support services and institutions – 12% 23110 Energy policy and administrative management – 7%			
<b>b) Main Delivery Channel</b>	Private sector institutions – 60000, other public entities in donor country – 11004, WB – 44001, ILO – 41302, EBRD - 46015			
<b>9. Markers (from CRIS DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Aid to environment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Gender equality and Women's and Girl's Empowerment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Trade Development	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Biological diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>10. Global Public Goods and Challenges (GPGC) thematic flagships</b>	n/a			

## SUMMARY

This Action aims at supporting Ukraine in implementing key reforms and the EU-Ukraine Association Agreement, including its Deep and Comprehensive Free Trade Area.

The Action will provide policy advice, advice on legal approximation process with the EU, and capacity building in priority reform areas, in particular in improvement of business and investment climate, trade facilitation and economic development, public procurement, energy, agriculture, environment, transport, as well as Government strategic communication.

## 1 CONTEXT ANALYSIS

### 1.1 Context Description

EU-Ukraine Association Agreement (AA), which includes a Deep and Comprehensive Free Trade Area (DCFTA), was signed in 2014 and entered into force as of 1 September 2017. AA provisions regarding the respect for human rights, fundamental freedoms and rule of law, political dialogue and reform, economic and financial cooperation have already been provisionally applied as of 1 November 2014 and the DCFTA as of 1 January 2016.

According to the Association Implementation Report on Ukraine 2018<sup>1</sup>, Ukraine has further advanced in its reform process, which is closely connected to the implementation of the AA/DCFTA. Ukraine continued to set up inter-institutional mechanisms to further AA/DCFTA implementation and demonstrated additional efforts to streamline the process. The alignment of Ukraine's Government and Parliament was underpinned by their joint Roadmap for implementation of the AA adopted in February 2018 and updated in September 2018.

Ukraine's economy has continued the recovery started in 2016 and GDP grew by 2.5% in 2017 and is projected to grow by 3.3% in 2018. The economic stabilisation has been supported by prudent macroeconomic policies and significant international financial and technical assistance, including the macro-financial assistance programme provided by the EU. Ukraine has improved its business environment ranking 76th under World Bank's Doing Business survey in 2018, which is an improvement from 80th in 2017, and 142nd in 2010.

According to Social Institutions and Gender Index 2014 Edition, Ukraine has low levels of discrimination against women in social institutions. It has lower discrimination in restricted access to resources and assets and higher discrimination in restricted civil liberties. The 2017 country's Human Development Index (HDI) score is 0.751, placing Ukraine in 88th place out of a total of 189 countries. The Gender Inequality Index is 0.285, placing it in 61st place (out of 160 countries). The 2017 female HDI value for Ukraine is 0.746 in contrast with 0.751 for males, resulting in a GDI value of 0.993, placing it into Group 1.

One key source of inequality is the gap in opportunities, achievements and empowerment between women and men. While women are only marginally less active than men in labour and entrepreneurial activity by 13% and 8% respectively, women representation at managerial positions in the government and business organisations is only about 30%. Some of the

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<sup>1</sup> SWD(2018) 462 final; Association Implementation Report on Ukraine

examples of systemic gender inequality in Ukraine include low level of participation by Ukrainian women in political and civic processes, especially in higher positions. Women make up 12.1% in the Parliament; 12.5 % of the Cabinet of Ministers and 16.7% of senior governmental officials. The root causes can be found in patriarchal attitudes and deeply entrenched stereotypes, as well as in systemic gaps, including weak rule of law, low capacity of the institutional mechanisms for gender equality and lack of political will.

Ukraine has adopted a comprehensive legislation on climate change and environment in 2017-2018: ratified the Paris Agreement on Climate Change, adopted Environmental Impact Assessment Law and Law on Strategic Environmental Assessment.

The **security situation** in eastern Ukraine remains very tense and volatile. Despite a series of renewed commitments to the ceasefire, the situation continues to be marked by daily ceasefire violations on both sides, use of heavy weapons, destruction of critical civilian infrastructure and major mine contamination. Organisation for Security and Cooperation in Europe Special Monitoring Mission working in Eastern Ukraine continues to face obstacles, mainly in NGCA, in particular close to the Russian border.

The **Minsk process** remains stalled and no tangible progress has been achieved on the security and political tracks of conflict resolution efforts. Ukraine is challenging Russia's illegal annexation of the Crimean peninsula inter alia under the United Nations Convention on the Law of the Sea.

## **1.2 Policy Framework (Global, EU)**

This Action contributes to the implementation of the Single Support Framework for Ukraine 2018-2020 pursuing the aims of the European Neighbourhood Review of November 2015, the EU Global Strategy and the EU Gender Action Plan 2016-2020 through support to the strengthening of a stable, secure, resilient, democratic and prosperous society and Ukrainian state that contributes positively to national and regional security and economic growth. To achieve this goal it is crucial to implement a long-term and comprehensive reform programme rooted in the AA/DCFTA, prioritising democracy and the rule of law, strengthening institutions, economic growth, social cohesion and respect for human rights.

This Action contributes to a number of Eastern Partnership priorities set in the "20 Deliverables for 2020"<sup>2</sup>, notably Deliverable 3 on *Strategic communication*, Deliverable 4 *Regulatory environment and SMEs development*, Deliverable 8 *Trade and DCFTA implementation*, Deliverable 11 *Implementation of public administration reform*, Priority III deliverables 13-16 related to *Connectivity, energy efficiency, environment and climate change*.

## **1.3 Public Policy Analysis of the partner country/region**

The AA/DCFTA sets out the foundation for political association and enhanced economic cooperation between EU and Ukraine since 2014. The Government of Ukraine re-affirmed commitment to the implementation of profound reforms entailed in AA/DCFTA in the Medium-Term Government Action Plan till 2020 adopted in 2017. The plan establishes five key priorities elaborated into 85 interventions through 2017-2020, which aim at implementing coherent and comprehensive reforms. The main priorities are economic growth, effective

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<sup>2</sup> European Commission/HRVP - Joint Staff Working Document of 15 December 2016 "Eastern partnership – Focusing on key priorities and deliverables" – SWD(2016) 467 final

governance, human capital development, establishment of the rule of law and fight against corruption, and security and defence.

The AA/DCFTA provides for implementation of EU acquis in more than 24 chapters. Up to 30 executive bodies are involved in the process of legal approximation of EU acquis in UA. Vice Prime Minister for EU Integration ensures high-level political leadership and coordination of AA/DCFTA implementation. The Government Office for European Integration ensures horizontal coordination, interinstitutional cooperation, monitoring and communication activities.

In spring 2018, the Government presented its annual AA implementation report, setting out the state of play of the AA implementation sector by sector, with progress level ranging from 4% to 100%. Association Implementation Report on Ukraine 2018 marked progress in implementation of certain sectoral commitments under the AA, related to sanitary and phytosanitary issues, competition, trade remedies, transparency, public procurement, technical barriers to trade, environment, climate action, energy (including energy efficiency), financial services, intellectual property rights, customs, accounting and auditing. In line with Ukraine's European integration communication strategy, a first Government communication campaign "Power of Opportunities" and a dedicated web portal<sup>3</sup> were launched in May 2018.

SIGMA Baseline Measurement Report on Principles of Public Administration published in June 2018 made a number of recommendations for the Government in the areas of quality of policy planning, Government capability for aligning national legislation with the EU acquis, ensuring consistent use of inclusive and evidence-based policy. Following on these recommendations, the Government started improving policy making and legislative procedures by adopting new Rules of Procedures in 2019. The new Rules of Procedures set the basis for evidence-based decision-making and more robust consultations within the government and with civil society. Further adoption of a new Law on Cabinet of Ministers and Central Executive Bodies, which is planned for 2019, is expected to set a clear division of responsibilities between different ministries and allow streamlining the policy-making process and increasing its transparency.

At sector level, National Export Roadmap and SME development strategy 2020 were approved by the Cabinet of Ministers, and respective Action Plan of the Strategy for the development of Small and Medium Enterprises was adopted in 2018. The Action Plan indicates specific support measures for SMEs to address ongoing challenges in access to finance, access to markets, business support infrastructure and weak problematic or outdated regulatory framework. New SME policies are aligned with the Small Business Act for Europe and integrate the "Think Small First" principle into the ongoing regulatory environment update upgrade. In the area of competition law, Vertical Block Exemption Regulation (Competition law) largely inspired by EU law was adopted in October 2017. A comparative analysis of Ukrainian competition law and EU law is ongoing, which will lead to identifying priority issues for further approximation and a roadmap to address them.

Ukraine has continued working on the 2016 EU-Ukraine Memorandum of Understanding on a Strategic Energy Partnership, and the parties approved a new Annual Work Plan in April 2018. A new Energy Strategy 2035 was adopted in August 2017, to be complemented by a long-term implementation plan. The Government adopted a new National Transport Strategy in May 2018 with the aim of improving the functioning of the Ukrainian transport sector and

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<sup>3</sup> <https://eu-ua.org/>

enhancing connectivity with the EU through the extended indicative trans-European Transport Network. The State Road Fund started operations in 2018 and includes a road safety component. Key draft laws on market opening, including on road, railway and inland waterways, which shall be instrumental in harmonising Ukrainian transport legislation with that of the EU, to be adopted. Drafting and adoption of sanitary and phytosanitary legislation has noticeably accelerated in 2017/18, resulting in 17 EU legal acts adopted and more than 140 being in the process (out of 250 acts in total). The law on State Control for food, feed, animal health and animal welfare entered into force in April 2018. The Law on Food Safety and Hygiene was adopted in January 2018 and should enter into force in January 2020. A review of the legislation in the areas of undeclared labour and occupational safety and health was undertaken in spring 2018 with support of an EU-funded project, but AA implementation in this area faces delays.

Ukraine takes necessary steps to comply with its commitments in ensuring gender equality in line with AA and its international agreements. Ukraine's policy and legislative framework on gender equality also includes the Human Rights Strategy and Action Plan adopted in 2015, which aims to ensure equal rights and opportunities for women and men in all areas of public life. In December 2017, the Parliament adopted amendments to the Criminal Code and the Criminal Procedural Code related to sexual and gender-based violence. A new law on domestic violence was adopted at the same time and is largely in line with the Istanbul Convention, which is still to be ratified. The Government Commissioner for Gender Equality Policy was officially nominated in early 2018. In 2018, a State Social Programme on Equal Rights and Opportunities for 2018-2021 was approved aiming at strengthening the institutional mechanisms and an integrated approach for enhancing gender equality in all areas of public life in Ukraine.

Ukraine made good progress in the area of environment and climate change. In 2018, the Cabinet of Ministers endorsed an updated National Environmental Strategy 2030. Following the adoption of the Law on Environmental Impact Assessment in 2017, a single Environmental Impact Assessment Registry has been established, along with a relevant set of secondary legislation. A new Law on Strategic Environmental Assessment was also adopted 2018. Ukraine has also launched first steps towards transition to a circular economy: after the adoption of a National Waste Management Strategy by 2030 in November 2017, the Government developed a new Draft Law on Waste and other draft legislation in this area in line with EU Directives. Ukraine's main priority is to prevent generation of waste through re-use, material processing or energy utilization. If none of these options are possible, the disposal of waste in landfills should comply with environmental standards.

Ukraine was among 10 first States, which ratified the Paris Agreement on Climate Change and submitted its Nationally Determined Contribution. In December 2017, the Concept for the implementation of the state policy in the field of climate change for the period up to 2030 and the respective Action Plan were approved. Ukraine formally communicated its Low Emission Development Strategy to the UNFCCC in July 2018. Legislation for the establishment of an emissions Monitoring, Reporting and Verification system is under preparation. In September 2018, a draft Law On Ozone Depleting Substances and Fluorinated Greenhouse Gases was registered in the Parliament, envisaging the gradual phasing out of these substances.

#### **1.4 Stakeholder analysis**

This Action will primarily target the public authorities responsible for the implementation of the AA/DCFTA, which will be direct beneficiaries of the Action:

- Cabinet of Ministers and selected Ministries will benefit from the **reform support architecture for Ukraine** and **Government strategic communication**. Part of action on the strategic communication is aimed at regional authorities level.
- Selected ministries will benefit from **capacity-building activities**: Ministry of Energy and Coal Industry Ukraine, National Commission for State Energy and Public Utilities Regulation, State Agency on Energy Efficiency, National Securities and Stock Market Commission (energy), Ministry of Agrarian Policy, State Service of Ukraine on Food Safety and Consumers Protection (agriculture), Ministry of Social Policy of Ukraine, State Labour Service (labour), Ministry of Infrastructure, State Agency of Transport Safety (transport), National Bank of Ukraine, Constitutional Court of Ukraine.
- Ministry of Economic Development and Trade is the beneficiary of activities in the areas of **improvement of business and investment climate** and **public procurement**, Antimonopoly Committee is the beneficiary of activities in **competition** and **public procurement**; also the State Audit Service (as main controller), the Accounting Chamber (supreme control body), judiciary, and public authorities which do public procurement through Prozorro system will benefit from the activities in the area of **public procurement**;
- Ministry of Economic Development and Trade, Ministry of Finance, State Agency of Aviation, State Agency of Maritime and River Transport, State Border Guards and State Fiscal Service will benefit from the activities related to **trade facilitation and economic development** through logistics system development and integrated border management;
- Ministry for Regional Development, Building and Housing, Ministry of Ecology and Natural Resources, Ministry of Infrastructure; Ministry of Agrarian Policy and Food of Ukraine local and regional authorities in the area of implementation of EU **environmental and climate change** legislation;

Coordination with the Government Office for European and Euroatlantic Integration in charge of horizontal coordination on AA/DCFTA implementation and Verkhovna Rada of Ukraine to be ensured to adopt relevant legislation by the Government and the Parliament. Enhanced cooperation with relevant Parliamentary Committees will be foreseen under targeted activities at sector level.

Businesses are the target group of the activities related to improvement of business and investment climate, logistics services, competition and public procurement. At the same time, government enforcement of environmental legislation and labour safety requirements may be perceived having negative effect for business, requiring additional awareness raising measures in these areas to ensure acceptance and compliance.

Civil society organisations will be involved in the consultation on activities as well as associated in sector policy dialogue with the government. This interaction can be enhanced via improvement of existing government structure for public consultation of draft legislation and monitoring of government activities.

Ukrainian citizens are the target group of all activities to benefit from better governance, rule of law, better service deliver, better use of public resources by the government, as well as reap benefits from economic development, better competition, access to public finances and better health and safety standards.

## 1.5 Problem analysis/priority areas for support

Ukrainian Government has made significant progress in some reform areas and Stabilisation and Sustainable Growth Multi-Donor Account established in July 2014 and managed by EBRD proved itself as a useful and visible tool to support the Government in delivering on a number of target reforms. The **reform support architecture for Ukraine** consisting of a high-level strategic advisory group, Reform Delivery Office, led by the Minister of Cabinet of Ministers and reporting directly to the Prime Minister, delivers on the priorities indicated in the Government Action Plan. Significant contribution in implementation of priority reforms at sector level is provided by reform support teams in selected priority ministries, agencies and other eligible public institutions, which also help transforming management within these institutions in line with the 2016-2020 PAR Strategy. Continuation of this type of support is crucial for further progress on reforms. It will continue delivering on priority reforms by engaging all the stakeholders across the board of Ukrainian leadership more substantially in the reforms process, increasing ownership of reforms implementation across these stakeholders, improving coordination and oversight, and providing the advisory services of experienced international and local experts.

In this context, effective communication about successful reforms is important to ensure public awareness and understanding of reform process and EU contribution to it. Strategic government communication is particularly important in view of persisting disinformation efforts and countering hybrid threats. The EU is in the process of stepping up its dialogue and more structured cooperation with Ukraine in the strategic communications through the Informal Working Group on strategic communications. A targeted support for **Government strategic communication** is needed to improve the competence of civil servants working in this area across government authorities at central and regional level.

Reform implementation and further legal approximation to AA/DCFTA require continued support to **institution building and capacity development** for Ukrainian public authorities. Targeted support and specialised expertise are required in a number of sectors, namely in agriculture, transport, energy, competition, central banking, judiciary, labour. This support will include both further legal approximation as well as improving institutional capacities of the relevant public authorities and professional development of those involved in developing, implementing and enforcing legislation and controls in the form of technical assistance or twinning.

**Public procurement** is one of the areas where significant results have been achieved through adoption of the Public Procurement Law in 2016 and implementation of the Prozorro e-procurement system, which increased transparency, allowed active involvement of civil society in the monitoring of public procurement, as well as provided more opportunities for businesses to compete at public tenders. To fully comply with EU Directives, further improvement of the Public Procurement Law is needed. At the same time, capacity of public authorities to use Prozorro is one of the persisting problems, despite some progress achieved in building capacity of users to launch tenders, evaluate bids, sign and implement the resulting contracts and implementation the pilot Centralized Procurement Body "Professional procurement". Judges appointed as a result of the judicial reform also need to be trained to have deep knowledge and understanding of Public Procurement legislation. Internal operational control to prevent violations of public procurement rules, as well as external



monitoring and control by the State Audit Service and Accounting Chamber have to be strengthened.

**Improvement of business and investment climate** is one of the key reform priorities of the government and AA/DCFTA, which is actively pursued by deregulating entrepreneurial activity, protecting property rights, preventing pressure on business, better state property management and privatisation. Since 2016, more than 700 outdated or excessive regulatory acts were abolished. The reform of state control and inspection bodies was initiated to decrease the number and duration of inspections on businesses. In October 2018 SME development office has been set up as a mandated body to implement the SME action plan and support entrepreneurship development in the country. Further support is needed to consolidate the policy developments aimed at better regulation and business environment, especially for SMEs, finalization of the inspections reform, and full-fledged implementation of the SME action plan, as well as aligning Ukrainian competition law with EU competition law, and strengthening capacities for improving enforcement and case handling.

**Trade facilitation and economic development:** with the aim of boosting trade competitiveness and economic growth by connecting firms to domestic, regional and global markets, this Action will also support development of **efficient logistics and transport services** and **integrated border management system**. Ukraine's transport system is in poor shape following many years of underinvestment in rehabilitation and maintenance in all modes of transport. Logistics and transport services and the tariff system should be improved to match with international and regional competitors and to attract private sector investment in the sector. Improved handling of passenger and goods at the border will also be indispensable for Ukraine's economic development and international trade, particularly with the EU. Integrated border management systems are also important for improving security at Ukrainian borders (irregular migration, organized crime, weapons and drug smuggling).

Ukraine has made good progress in adopting important **environmental** legislation in the area of environmental impact assessment and water and has prepared a new, water and waste strategy. However, implementation of new legislation and standards at regional and local levels will be very challenging. Local and regional authorities, as well as business and civil society require capacity building in implementation of legislation for example in the areas of environmental impact assessments and, waste management, and climate change,. This will help preparing the preparation of bankable infrastructure projects in line with European standards, including in the area of waste.

## 2 RISKS AND ASSUMPTIONS

Risks	Risk level (H/M/L)	Mitigating measures
Change of government may cause staff turnovers in ministries and loss of trained professionals	H	Ongoing PAR reform aiming to enhance stability of senior and middle level civil servants and reduce staff turnover, particularly with regards to political nominations

Limited capacity of the Government to effectively perform functions of policy coordination, policy analysis (regulatory, fiscal, etc.) impact assessments, inter-ministerial coordination and public consultations.	M	Policy dialogue and EU support on Public Administration and Public Finance Management reforms to ensure strengthening of policy coordination function and improve evidence-based policy and legislative development and organisation of public consultations.
Priorities of the Government are not supported by sufficient budget resources leading to inability of competent state bodies to implement relevant reforms.	H	Monitoring of key focal sectors by the EU and its partners. Intensive policy dialogue EU support on public finance management reform.
Non-adoption or inconsistent legislation, as well as deviation from the declared policy objectives during actual implementation.	H	Intensive policy dialogue, especially, in the area of democratic governance and economic policy.
Public policy making is undermined by conflicts of interest. Quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation are weak and undermined by political influence. Capacity in the sector is undermined by unclear and overlapping policy responsibilities among institutions (especially ministries and agencies)	M	Policy dialogue and at all levels with Ukrainian counterparts, and indirectly through support to civil society and the media enabling them to act as watchdogs and raise these issues. EU support on Public Administration and Public Finance Management reforms to contribute to a rational structure of state administration. Support to concerned institutions to improve supervision and reporting obligations.
<b>Assumptions</b>		
<ul style="list-style-type: none"> <li>• Ukraine remains committed to fundamental values of democracy, rule of law and human rights</li> <li>• Ukraine pursues its objective of effective implementation of the EU-Ukraine AA/DCFTA</li> <li>• Ukraine continues the reforms in the key sectors such as rule of law, public administration, public finance management in line with the best international and EU practices</li> <li>• Ukraine is committed in the legal approximation process to inclusive and evidence-based legislative process, in line with the commitments made under public administration reform</li> <li>• Government enhances its donor coordination effort and supports improvement of decision-making processes in line with European principles</li> <li>• There is sufficient institutional and absorption capacity in beneficiary institutions to receive and benefit from the proposed actions</li> </ul>		

### **3 LESSONS LEARNT AND COMPLEMENTARITY**

#### **3.1 Lessons learnt**

The programme is designed based on the lessons learnt from the implementation of the Framework Programmes to support EU-Ukraine Agreements in 2008-2013 and Technical Cooperation Facilities 2015-2017. One of the main lessons learnt from previous EU support is the need for the political support at a high level to the reform agenda and AA/DCFTA by the Government and the Parliament.

The implementation of capacity-building activities with beneficiary institutions is dependent on successful implementation of public administration reform in terms of ensuring strategic management, stability of senior and middle level civil servants, clear division of tasks and sufficient budget allocations.

A general lesson learnt, applying to all sectors, is that policy and legislative development needs to be evidence-based, costed and subject to appropriate internal and external stakeholder consultations at the right time of the legislative and policy-making process. This is a key in ensuring implementation and enforcement of adopted policies and legislation.

This action will therefore promote a strategic approach to providing assistance, meaning that each assistance project shall be directly linked to clearly identified reform strategy and well-designed and budgeted implementation plan. In the areas involving several of institutions, it is essential to establish mechanisms of enhanced coordination.

One of the lessons learnt from the recent European Neighbourhood Policy review is a need of greater flexibility, to enable the EU and its partners to respond to changing needs and circumstances. For this reason, under this action, the specific amounts for specific activities can be adjusted if necessary in view of the latest developments and updated needs assessment.

#### **3.2 Complementarity, synergy and donor co-ordination**

The action will complement the ongoing Special Measures adopted in 2015-2017 and programmes designed under the focal sectors of the SSF in 2018. It continues the support to the implementation of EU-Ukraine Agreements provided through the Framework Programmes 2008-2013 and Technical Cooperation Facilities 2015-2018.

It also complements and will comply with commitments made under the ongoing comprehensive support programmes in the area of good governance, such as *Support to Comprehensive Reform of Public Administration*, *Support to Public Finance Management Reform*, *EU Anti-Corruption Initiative*, and *Support to Rule of Law Reforms*. Particularly, support to reform architecture is fully aligned and contributes to public administration reform implementation in the short- or mid-term. Through the process of functional and salary reviews launched by PAR, budget funding is gradually expected to be released to convert temporary support teams into civil service posts, thus transitioning from a donor-funded structure to an appropriately budget-funded public administration in due course.

This action is also complementary to the EU macro-financial assistance (MFA) programme, which incentivises reforms in Ukraine through disbursements linked to reform implementation. Under the current EU MFA IV programme, up to EUR 1 billion is available for the Ukrainian budget in low-interest loans if the relevant conditions are fulfilled. These conditions cover the areas of fight against corruption, public finance management, governance of state-owned companies, financial sector, energy and social policies.

The action, particularly in the areas of business development and environment, complements to the ongoing support to decentralization process through *U-LEAD: Ukraine – Local Empowerment, Accountability and Development Programme*, as refers to the activities at regional and local level.

The action is also complementary to the ongoing and planned programmes to support civil society development, which will provide grant support to non-government organization to reinforce civic actors and enhance monitoring and dialogue on reform implementation.

Government-donor coordination mechanism will be used for the coordination of this action, including National Donor Coordination Forum launched in 2018 by Prime Minister to strengthen the dialogue on strategic issues with donor community, as envisaged in the Government's Medium Term Government Priority Action Plan 2020. Coordination of assistance is led by the Ministry of Economic Development and Trade. Donor coordination in specific thematic areas is led by public authorities in relevant sectors.

## **4 DESCRIPTION OF THE ACTION**

### **4.1 Overall objective, specific objective(s), expected outputs and indicative activities**

The **overall objective** of the Action is to support Ukraine in the implementation of the key reforms and AA/DCFTA.

The **specific objective** of the Action is to enhance the capacity of Ukrainian public authorities in selected priority areas to implement key reforms, carry out legal approximation with the EU and implement the AA/DCFTA.

The expected output of the Action is strengthened institutional and administrative capacities of the Ukrainian public authorities to implement reforms and provisions of the AA/DCFTA and transpose EU acquis in Ukrainian legislation.

The main activities are as follows:

- Under **reform support architecture**, provide expert advice and analytical support in development, coordination and monitoring of the implementation of Government reforms plans at the level of the Cabinet of Ministers, as well as targeted temporary expert support to ministries in the design and implementation of priority sector reforms, as well as the transformation of the ministries in the context of public administration reform.
- **Government strategic communications**: developing communications capacity of key government stakeholders at central and regional level by providing strategic communications training, supporting peer exchange with the EU Member States and strengthening the coordination on strategic communication and on countering disinformation.
- **Capacity-building for AA/DCFTA implementation**: enhanced cooperation and knowledge sharing with EU Member States in EU acquis transposition and implementation in selected areas through Twinning facility: indicatively in transport, banking, judiciary, competition and agriculture. Additionally, in **agriculture**, strengthening institutional capacities is planned for agriculture and rural development policy, including in the field of control of seed production, protection of plant variety rights, and genetically modified organisms, strategic management, programming and implementation structures, and implementing medium-term budgeting and expenditure

framework. In **energy**, support in developing legal, regulatory and operational framework in the gas, electricity, coal, energy efficiency and renewable sectors is foreseen, as well as developing a framework for the energy commodity market in Ukraine. In the area of **labour**, activities to reach further legal harmonization with the EU and ILO international labour standards and best practices on labour relations, occupational safety and health and undeclared work will be pursued.

- **Public procurement:** support in further legal harmonization with EU legislation in line with AA/DCFTA, and support to its implementation, capacity building of main state bodies involved in public procurement, improvement of user support services in e-procurement, improving understanding of judiciary in public procurement legislation and principles.
- **Improvement of business and investment climate:** support in further implementation of deregulation activities and inspection reform, implementation of SME strategy and action plan, enforcement of competition law and improvement of case handling.
- **Trade facilitation and economic development:** implementation of the logistics action plan with focus on improved logistic capacity, connectivity and interoperability of different transport modes, increased efficiency and utilization rate of existing capacities, reduced cost of transport service, and trade facilitation; strengthening institutional capacity in strategy development and implementation, reengineering and integration of business processes, data exchange and training for integrated border management.
- **Environment:** enhance regulatory convergence in the areas of environment, and strengthen the capacity of local and regional administrations, civil society and businesses to implement new environmental legislation on environmental impact assessments and waste, and to support the development of bankable infrastructure projects in line with European standards.

## 4.2 Intervention Logic

The action aims at creating necessary conditions for the effective implementation of the EU-Ukraine AA/DCFTA through different modalities of technical assistance and policy advice by contributing to the legal approximation process in the selected priority areas and capacity development and institution building in relevant state authorities. *Acquis* alignment and policy development is ensured in line with the inclusive and evidence-based approach to public governance: draft legal and policy proposals should be based on evidence, the cost of their implementation should be calculated and budgeted and they should be consulted at the right time of the process with internal and external stakeholders.

## 4.3 Mainstreaming

All activities under this programme will be designed and implemented in accordance with principles of good governance, human rights based approach, gender equality and environmental sustainability. Socially or economically deprived groups, including minorities, should be of consideration wherever these issues are of particular relevance to the institutions to be assisted. Support to mainstreaming gender issues into the legislative processes under the activities for the implementation of AA will also be provided when applicable. Particular attention will be given to mainstreaming environmental aspects into other areas (such as energy and transport) and to compliance with EU environmental standards.

All activities will ensure the respect to key Principles of Public Administration and will support the Government in implementing key recommendations of SIGMA Baseline Measurement Report of June 2018 aimed at improving the quality of policy planning, Government capability for aligning national legislation with the EU acquis and ensuring consistent use of inclusive and evidence-based policy and legislative development and impact assessment across ministries.

This action will be implemented following a rights-based approach, particularly through ensuring in all activities participation and access to the decision-making process; non-discrimination and equal access; accountability and access to the rule of law; transparency and access to information.

#### **4.4 Contribution to SDGs**

This intervention is relevant for the 2030 Agenda. It contributes primarily to the progressive achievement of SDG Goal 16: *Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels* through all foreseen activities supporting Government capacity building, increasing efficiency and transparency of public administration. Activities aimed at improving of business and investment climate and trade facilitation, as well as targeted support on improving labour legislation will contribute to Goal 8: *Promote inclusive and sustainable economic growth, employment and decent work for all*, while activities in the area of environment will support Goal 13: *Take urgent action to combat climate change and its impacts*.

### **5 IMPLEMENTATION**

#### **5.1 Financing agreement**

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country.

#### **5.2 Indicative implementation period**

The indicative operational implementation period of this action, during which the activities described in section 4 will be carried out and the corresponding contracts and agreements implemented, is 60 months from the date of entry into force of the financing agreement.

Extensions of the implementation period may be agreed by the Commission's responsible authorising officer by amending this Decision and the relevant contracts and agreements.

#### **5.3 Implementation modalities**

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures<sup>4</sup>.

##### **5.3.1 Grants: (direct management)**

###### **(a) Purpose of the grant(s)**

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<sup>4</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu) Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems 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.

Indicatively 5 Calls for proposals for Twinning projects will be launched for capacity building activities in the areas of agriculture, transport, banking, judiciary and competition in line with the specific objective and results described in section 4.1. Calls for Proposals for Twinning Lights may also be launched in key reform areas.

(b) Type of applicants targeted

In line with Article 4(10)(b) of Regulation (EU) No 236/2014, participation in Twinning calls for proposals is limited to public administrations of the EU Member States, being understood as central or regional authorities of a Member State as well as their bodies and administrative structures and private law bodies entrusted with a public service mission under their control provided they act for the account and under the responsibility of that Member State.

### **5.3.2 Procurement (direct management)**

Procurement will contribute to achieving the specific objective and results described in section 4.1, strategic communication, environment, energy, agriculture, improvement of business and investment climate, public procurement.

### **5.3.3 Indirect management with entrusted entities**

A part of this action related to **reform support architecture** may be implemented in indirect management with the **European Bank for Reconstruction and Development (EBRD)**. This implementation entails a contribution to the EBRD-Ukraine Stabilisation and Sustainable Growth Multi-Donor Account (MDA). EBRD is the manager of the MDA, which was established in 2014 to provide support for critical sectoral and horizontal reforms to stabilise Ukrainian economy. To date, the MDA received €37.1 million in contributions from 13 contributors, including €18.7 million contribution from the EU. EBRD would carry out the following budget-implementation tasks: procurement and grant award procedures and management of corresponding contracts and payments. The envisaged entity has been selected using the following criteria: specific sector expertise, strong management and operational capacity, transparency in operation, absence of conflict of interest.

A part of this action related to **labour legislation** may be implemented in indirect management with the **International Labour Organisation (ILO)**. This implementation entails capacity building and institutional support for the State Labour Service. ILO possesses unmatched expertise in the topic of labour, work safety and labour relations and promotes labour standards, develops policies and devises programmes promoting decent work. ILO has extensive experience of providing technical assistance to the governments and social partners in the field, including Ukraine. The entrusted entity would carry out the following budget-implementation tasks: procurement and grant award procedures and management of corresponding contracts and payments. The envisaged entity has been selected using the following criteria: specific sector expertise, specific international expertise, previous experience in the country, management and operational capacity, transparency in operation, absence of conflict of interest.

A part of this action related to **transport logistics** may be implemented in indirect management with the **World Bank**. This implementation entails support to the development of greener and more efficient logistics to boost Ukraine's economic competitiveness. The World Bank is involved in the preparation of the logistics strategy in Ukraine and participates

in the policy dialogue in the area. The reliance on the World Bank's country specific knowledge and significant technical expertise in this area worldwide is crucially important for the implementation of these activities. The World Bank would carry out the following budget-implementation tasks: procurement and grant award procedures and management of corresponding contracts and payments. The envisaged entity has been selected using the following criteria: specific expertise, previous experience in the country, management and operational capacity, transparency in operation, absence of conflict of interest.

A part of this action related to **integrated border management** may be implemented in indirect management with the **International Centre of Migration Policy Development (ICMPD)**. This implementation entails support to the implementation of integrated border management, review of existing regulatory framework and developing new procedures in view of enhancing inter-agency cooperation, conducting training as well as assessment of human resource system and support to its development. Former experience of the entity in the area of integrated border management provides value added to the implementation of these activities and synergy in a combination of experience. The agency also has necessary capacities to implement these activities. ICMPD would carry out the following budget-implementation tasks: procurement and grant award procedures and management of corresponding contracts and payments. The envisaged entity has been selected using the following criteria: specific expertise, experience of cooperation with EU Member States, management and operational capacity, transparency in operation, absence of conflict of interest.

#### ***5.3.4 Changes from indirect to direct management mode due to exceptional circumstances***

If due to exceptional circumstances outside of the Commission's control negotiations with the above entrusted entities fail, that part of this action may be implemented in direct management through procurement or a call for proposals for twinning, as described in paragraphs 5.3.1 and 5.3.2.

In case of EBRD activities would alternatively be implemented through grants.

In case of the World Bank activities would alternatively be implemented through grants.

In case of ILO activities would alternatively be implemented through procurement.

In case of ICMPD activities would be alternatively implemented through grants.

### **5.4 Scope of geographical eligibility for procurement and grants**

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply.

The Commission's authorising officer responsible may extend the geographical eligibility on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

### **5.5 Indicative budget**

	<b>EU</b>	<b>Indicative third party</b>
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	<b>contribution (amount in EUR)</b>	<b>contribution, in currency identified</b>
<b>Activities on Reform support architecture composed of:</b>		
- Indirect management with EBRD - cf. section 5.3.3	10 000 000	
<b>Activities on strategic communications, capacity-building for AA/DCFTA implementation, improvement of business and investment climate, public procurement, environment composed of:</b>		
- Grants (direct management) – cf. section 5.3.1	6 000 000	
- Procurement (direct management) - cf. section 5.3.2	18 500 000	
- Indirect management with ILO on labour - cf. section 5.3.3	2 000 000	
<b>Activities on Trade facilitation and economic development composed of:</b>		
- Indirect management with WB on logistics - cf. section 5.3.3	2 000 000	
- Indirect management with ICMPD and FRONTEX on integrated border management - cf. section 5.3.3	5 000 000	
<b>Evaluation</b> (cf. section 5.8)	200 000	N.A.
<b>Audit/ Expenditure verification</b> (cf. section 5.9)		
<b>Communication and visibility</b> (cf. section 5.10)	300 000	N.A.
<b>Total</b>	<b>44 000 000</b>	

## 5.6 Organisational set-up and responsibilities

EU Delegation will be responsible for the management of the programme and will monitor its overall implementation.

On the Ukrainian side, this action will be coordinated by the Ministry of Economic Development and Trade acting as National Coordinating Unit for the EU assistance. The Government office for European Integration will ensure overall coherence and monitoring of activities in the areas related to the implementation of the AA/DCFTA. Detailed terms of reference/description of the action will be developed for each individual activity, including the management structure, the experts' team, composition of the Steering Committee in charge of the supervision of the project. Organisational set-up for Stabilisation and Sustainable Growth Multi-Donor Account will follow the established format.

## **5.7 Performance and Results monitoring and reporting**

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the logframe matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

## **5.8 Evaluation**

Having regard to the nature of the action, a final evaluation(s) will be carried out for this action or its components via independent consultants contracted by the Commission. It will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that this action is a set of sub-actions under the over-arching objective to support the implementation of the AA/DCFTA.

The Commission shall inform the implementing partner at least one month in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

Evaluation services may be contracted under a framework contract.

## **5.9 Audit**

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

It is foreseen that audit services may be contracted under a framework contract.

## **5.10 Communication and visibility**

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country (for instance, concerning the reforms supported through budget support), contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Requirements for European Union External Action (or any succeeding document) shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

**[APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY)]**

	<b>Results chain: Main expected results (maximum 10)</b>	<b>Indicators (at least one indicator per expected result)</b>	<b>Sources of data</b>	<b>Assumptions</b>
<b>Impact (Overall Objective)</b>	To support Ukraine in the implementation of the key reforms and AA/DCFTA	Progress in reform process and implementation of AA/DCFTA in selected areas targeted by this Action	Association Council, Association Committee and relevant Sub-committees operational conclusions  Official AA Implementation reports by the Government and the EU (including monitoring tool 'Pulse of the Agreement')	<i>Not applicable</i>
<b>Outcome(s) (Specific Objective(s))</b>	To enhance the capacity of Ukrainian public authorities to implement key reforms, carry out legal approximation with the EU and implement the AA/DCFTA in selected priority areas (such as business and investment climate, trade facilitation and economic development, public procurement, energy, agriculture, environment, transport, strategic communication)	Number of measures implemented and number of EU acquis transposed in the Ukrainian legislation in selected areas	Official AA Implementation reports by the Government and the EU  Government decisions, policies and programmes  Adapted legal acts	
<b>Outputs</b>	Strengthened institutional and administrative capacities of the Ukrainian public authorities to implement reforms and provisions of the AA/DCFTA and transpose EU acquis in Ukrainian legislation under each activity	To be completed at later stage for individual contracts financed under this decision	Sub-Committees and project Steering Committees Reports	