



**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**

**ANNUAL PROGRAMME**

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**

<b>Risks</b>	<b>Risk level (H/M/L)</b>	<b>Mitigating measures</b>
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 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	