



Brussels, 25.7.2018  
C(2018) 5022 final

**COMMISSION IMPLEMENTING DECISION**

**of 25.7.2018**

**on the Annual Action Programme 2018 (part 1) in favour of Ukraine to be financed  
from the general budget of the Union**

## COMMISSION IMPLEMENTING DECISION

of 25.7.2018

### on the Annual Action Programme 2018 (part 1) in favour of Ukraine to be financed from the general budget of the Union

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>1</sup>, and in particular Article 84(2) thereof,

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

Whereas:

- (1) Regulation (EU) No 232/2014 lays down the objectives and main principles for assistance to beneficiaries listed in Annex I to that Regulation.
- (2) The Commission has adopted the Single Support Framework<sup>3</sup> for the period 2018-2020, which prioritises "strengthening institutions and good governance, including the rule of law and security", "economic development and market opportunities, including private sector development and improvement of the business climate", "connectivity, energy efficiency, environment and climate change", "mobility and people-to-people contacts, including social inclusion".
- (4) The objectives pursued by the annual action programme 2018 part 1 to be financed under the European Neighbourhood Instrument (ENI)<sup>4</sup> are to support key reform in the area of energy efficiency, implementation of the EU-Ukraine Association Agreement (AA), including a Deep and Comprehensive Free Trade Area (DCFTA), and progress in the areas of human rights and fundamental freedoms.
- (5) The first action entitled "Energy Efficiency Support Programme for Ukraine" contributes to increase energy efficiency in the Ukrainian residential sector and reduce CO<sub>2</sub> emissions. The action will be implemented under direct management through procurement of services; and under indirect management with the International Financing Corporation (IFC – World Bank Group).
- (6) The second action entitled "Technical Cooperation Facility 2018" contributes to support Ukraine in the implementation of Association Agreement and DCFTA and to

---

<sup>1</sup> OJ L 298, 26.10.2012, p. 1.

<sup>2</sup> OJ L 77, 15.3.2014, p. 95.

<sup>3</sup> Commission Decision C(2017)8264 of 11.12.2017.

<sup>4</sup> Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27).

help Ukrainian institutions to strengthen the respect for democratic principles, human rights and fundamental freedoms. The action will be implemented under direct management through service, supply and grant contracts; and under indirect management with the Council of Europe and the Ministry for Foreign Affairs of Finland.

- (7) It is necessary to adopt a financing decision the detailed rules of which are set out in Article 94 of Commission Delegated Regulation (EU) No 1268/2012<sup>5</sup>.
- (8) The envisaged assistance to Ukraine is deemed to follow the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU.
- (9) It is necessary to adopt a work programme for grants in accordance with Article 128(1) of Regulation (EU, Euratom) No 966/2012 and Article 188(1) of Delegated Regulation (EU) No 1268/2012. The work programme is set out in the Annex 2.
- (10) The Commission should entrust budget-implementation tasks under indirect management to the entities specified in the Annexes to this Decision, subject to the conclusion of delegation agreements. In accordance with Article 60(1)(c) and (2) of Regulation (EU, Euratom) No 966/2012, the authorising officer responsible needs to ensure that these entities guarantee a level of protection of the financial interests of the Union equivalent to that required when the Commission manages Union funds. These entities comply with the conditions set out in points (a) to (d) of the first subparagraph of Article 60(2) of Regulation (EU, Euratom) No 966/2012 and the supervisory and support measures are in place as necessary.
- (11) The authorising officer responsible should be able to award grants without a call for proposals only in the exceptional cases set out in Article 190 of Delegated Regulation (EU) No 1268/2012.
- (12) It is necessary to allow the payment of interest due for late payment on the basis of Article 92 of Regulation (EU, Euratom) No 966/2012 and Article 111(4) of Delegated Regulation (EU) No 1268/2012.
- (14) Pursuant to Article 94(4) of Delegated Regulation (EU) No 1268/2012, any substantial change to a financing decision that has already been adopted should follow the same procedure as the initial decision. It is therefore appropriate that the Commission defines the changes to this Decision that are considered non-substantial in order to ensure that any such changes can be adopted by the authorising officer responsible.
- (15) The measures provided for in this Decision are in accordance with the opinion of the European Neighbourhood Instrument Committee set up by Article 15 of Regulation (EU) No 232/2014,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

#### **Adoption of the programme**

The Annual Action Programme 2018 (part 1) in favour of Ukraine, as set out in the Annexes, is adopted.

The programme shall include the following actions:

---

<sup>5</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- Annex 1: "Energy Efficiency Support Programme for Ukraine";
- Annex 2: "Technical Cooperation Facility 2018".

### *Article 2*

#### **Financial contribution**

The maximum contribution of the European Union for the implementation of the programme referred to in Article 1 is set at EUR 91 million and shall be financed from the following budget lines of the general budget of the Union for 2018:

- budget line 22 04 02 01 for an amount of EUR 37 million;
- budget line 22 04 02 02 for an amount of EUR 4 million;
- budget line 22 04 03 03 for an amount of EUR 50 million.

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

### *Article 3*

#### **Methods of implementation**

Budget-implementation tasks under indirect management may be entrusted to the entities identified in the Annexes 1 and 2, subject to the conclusion of the relevant agreements.

The elements required by Article 94(2) of Delegated Regulation (EU) No 1268/2012 are set out in the Annexes to this Decision.

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

The eligibility of costs related to the part of the action implemented under indirect management with the Ministry of Foreign Affairs of Finland may be authorised as of the dates set out in the Annex 2.

The eligibility of costs related to participation of Ukraine in EU Programme "Horizon 2020" shall be authorised as of the dates set out in the Annex 2.

*Article 4*

**Non-substantial changes**

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

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

Done at Brussels, 25.7.2018

*For the Commission*  
*Johannes HAHN*  
*Member of the Commission*



**ANNEX 1**

of the Commission Implementing Decision on the Annual Action Programme 2018 (part 1) in favour of Ukraine

**Action Document for Energy Efficiency Support Programme for Ukraine – "EE4U-II"**

<b>1. Title/basic act/ CRIS number</b>	Energy Efficiency Support Programme for Ukraine – EE4U-II <sup>1</sup> CRIS number: ENI/2018/041-189 financed under 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>	Single Support Framework for EU support to Ukraine 2018-2020			
<b>4. Sector of concentration/ thematic area</b>	Energy Efficiency	DEV. Aid: YES		
<b>5. Amounts concerned</b>	Total estimated cost: EUR 54 000 000 Total amount of EU budget contribution: EUR 54 000 000			
<b>6. Aid modality(ies) and implementation modality(ies)</b>	Project modality Direct management: Procurement of services Indirect management with the World Bank Group - IFC			
<b>7 a) DAC code(s)</b>	23183 – Energy Conservation and Demand-Side Efficiency			
<b>b) Main Delivery Channel</b>	World Bank – 4400 International Finance Corporation (IFC) – 44004			
<b>8. Markers (from CRIS DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>
	Participation development/good governance	<input type="checkbox"/>	X	<input type="checkbox"/>
	Aid to environment	<input type="checkbox"/>	<input type="checkbox"/>	X

<sup>1</sup> This Action represents the second phase of the Energy Efficiency Programme for Ukraine "EE4U" as stipulated in the European Commission decision (ENI/2017/039-641).

	Gender equality (including Women In Development)	<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>Main objective</b>
	Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	<input type="checkbox"/>	<input type="checkbox"/>	X
	Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>
<b>9. Global Public Goods and Challenges (GPGC) thematic flagships</b>	Not applicable			
<b>10. SDGs</b>	Main SDG goals: Goal 7: Ensure access to affordable, reliable, sustainable and modern energy for all Goal 13: Take urgent action to combat climate change and its impact Secondary SGD goals: Goal 11: Make cities inclusive, safe, resilient and sustainable Goal 5: Achieve gender equality and empower all women and girls <sup>2</sup>			

## SUMMARY

Energy Efficiency is a top priority of the Government of Ukrainian including in the framework of the Association Agreement with the EU. Increase of energy savings will strengthen energy independency as well as reduce the burden of increasing energy prices for households and the state budget. The action aims to assist individual households or groups of households (Home-Owners' Associations - HOAs) in undertaking energy efficiency investments in their homes.

This Action is the continuation of the Energy Efficiency Programme for Ukraine "EE4U" (ENI/2017/039-641, EUR 50 000 000) adopted in 2017. Given the need for substantial investment into energy efficiency measures in the residential sector, this new Action seeks to reinforce the existing programme and bring in a new accompanying measure focusing on training of energy auditors. This Action consists of three components:

**1) An additional EU contribution will be provided to a Multi-Donor Trust Fund (MDTF) in order to support the activities of the Ukrainian Energy Efficiency Fund (EEF or the Fund) created to implement country-wide energy efficient programmes.** The International Financial Corporation (IFC) will manage the MDTF. Under this Action, both the MDTF and the EEF envision providing non-repayable grants to households in multi-storage buildings for energy efficiency measures. The funds will be channelled to the final beneficiaries via Ukrainian partnering banks.

<sup>2</sup> Based on 17 SDGs by UN

<http://www.un.org/sustainabledevelopment/sustainable-development-goals/>

2) A complementary action will be aimed at raising awareness and grass-roots civic support for energy efficiency investments at local level, to familiarise about energy saving measures and to promote the support mechanisms of the EEF. This reinforced component will also provide technical support to Homeowners' Association (HOAs) in preparing an application to the EEF with the aim to establish a strong project pipeline.

3) An accompanying measure in training energy auditors is foreseen to prepare specialists to support the implementation of energy efficiency reforms and preparation and verification of activities of the EEF.

## 1 CONTEXT

### 1.1 Energy Efficiency in Ukraine

#### *Recent drastic price increases provide strong incentives for energy efficiency investments*

Ukraine has started major reforms in the energy sector as part of the national security policy aiming to increase energy independence and closer integration into the Energy Union. Energy consumption reduction is one of the means towards this goal. The Ukrainian Coalition Agreement from October 2014 explicitly states that "[...] energy efficiency should be one of the key elements on Ukraine's national agenda".

Ukrainian households in the past had little incentives to save energy and invest in energy efficiency measures due to too low household energy tariffs subsidised by the State. In the framework of the 2015 Extended Fund Facility (EFF) agreement with the IMF, Ukraine committed to reach cost recovery tariffs for households. Thus, since 2015, the Government gradually introduced exceptional gas tariff increase (in total up to 539% for certain categories) to nearly reach 100% import price parity while heat prices increased by nearly 300%. Also, household electricity prices have also been adjusted in regular bi-annual steps (up to 300% increase) but will require further adjustments over the next years<sup>3</sup>.

On the one hand, these tariff increases have reduced past market distortions and created stronger economic incentives for investments in energy efficiency in the residential sector. On the other hand, the price increases had to be cushioned by a costly subsidies system to support a large part of the population. Energy efficiency investments will enable through thermal retrofit of buildings to prevent wasteful use of energy, decrease energy consumption and thus, decrease residents' energy bills as subsequently important budget spendings on social subsidies.

#### *Potential for energy saving in the residential sector*

Ukraine's consumption of thermal energy per square meter of living space remains twice as high as in EU countries with a similar climate.<sup>4</sup> Households account for the largest portion of Ukrainian gas consumption.<sup>5</sup> While there is a strong potential for major energy savings in

<sup>3</sup> Ministry of Regional Development, Construction and Housing, 26 December 2017

<sup>4</sup> UNDP/GEF/NewSEP, 2015. Ranking of Energy Efficiency of Heating Sector.

<sup>5</sup> The population accounts for around 40% according to Naftogaz, Ministry of Energy and State Statistic Service. Available at: <http://m.mignews.com.ua/blog/14169377.html>.



frontier investments as the one proposed by this action, taking the whole country to EU energy efficiency levels will require significantly larger investments, estimated at more than EUR 30 billion.<sup>6</sup> This is because there is a large prevalence of old buildings nationwide (approximately 90% of all multi-storey buildings in Ukraine were built before 1991; 85% before 1981)<sup>7</sup>, while little to no renovation/maintenance works were performed in the past 25 years. Only private investment will not be sufficient to stimulate necessary energy efficiency measures country-wide. Therefore, the Government needs to provide major financial support to facilitate investments by households and to create additional financial product by banks (e.g. loans).

*Housing and utility subsidies protect vulnerable households but reduce individual investment incentives and cause a surge in State budgetary expenses*

In order to protect vulnerable households (and to ensure payments to suppliers), energy tariff increases have been accompanied by a strengthened social subsidy scheme (Household Utility Subsidies - HUS). This scheme is a heavy burden on the state budget which is constantly increasing from UAH 18 billion in 2015 to UAH 48 billion in 2016 (roughly EUR 1.6 billion). Due to a further increase of subsidy recipients (up to 6,5 million households), the total 2017 HUS budget is around UAH 70 billion (EUR 2,1 billion). A similar amount is foreseen for 2018. At the same time, subsidy recipients are not incentivised to invest into energy efficiency measures of their dwellings, as their energy bills are partially compensated by the state.

In this context, within the Government of Ukraine, there is now stable awareness on the need for a wider reform putting emphasis on energy efficiency.

### ***1.1.1 Public Policy Assessment and EU Policy Framework***

The **EU policy framework on energy efficiency** is defined by the strategic objective to improve energy efficiency inside the EU by 20% by 2020 and by at least 27% by 2030. The policy objectives at EU level are defined through a legal system based on four key legal acts with subsequent regulations and secondary acts.<sup>8</sup>

The EU energy efficiency policy and legislation address all sectors including end-use energy consumption, energy generation as well as transmission and distribution – yet, the key focus is on improving energy efficiency in buildings, where cost-effective savings are more easily achievable. To ensure actual progress towards EU energy targets, the EU provides support via a number of implementing measures, including financing instruments.<sup>9</sup>

Prior to political and socio-economic changes in 2014, the Ukrainian national policies on energy efficiency were inexistent and even disincentivising energy savings due to the highly subsidised energy sector. Energy efficiency became a national policy priority since 2014 and is primarily defined by **the EU policy framework in the area of energy efficiency**, namely the Association Agreement<sup>10</sup>; by the Energy Community Treaty<sup>11</sup>; by the Memorandum of Understanding on A

---

<sup>6</sup> Estimates run by the consulting firm

<sup>7</sup> Ministry of Regional Development, Construction and Housing, October 2015.

<sup>8</sup> The Energy Efficiency Directive (2012/27/EU); the Energy Performance in Buildings Directive (2010/31/EU); the Energy Labelling Directive (2010/30/EU) and the Eco-Design Directive (2009/125/EC).

<sup>9</sup> In the EU Structural and Investment Funds more than €27 billion have been ring-fenced to support the shift towards a low-carbon economy in 2014-2020.

<sup>10</sup> Association Agreement signed in June 2014, provisional application since November 2014; since January 2016 for the DCFTA-related parts.

<sup>11</sup> Ukraine acceded to the Energy Community Treaty in 2011.

Strategic Energy Partnership between Ukraine and the European Commission (November 2016) as well as by the Association Agenda and the Eastern Partnership policy framework, which prioritize energy cooperation issues.

Under these obligations, Ukraine has to undergo numerous reforms in the area of energy efficiency in the residential sector. It was only recently that Ukraine has taken its first steps towards the implementation of energy efficiency policies, notably the adoption of a law to establish Home Owners Associations (HOA) in 2015, the law on metering and billing of heat and water, the law on energy efficiency in buildings<sup>12</sup>, the law on housing and communal services as well as the law on the Energy Efficiency Fund in 2017. Moreover, the monetisation of HUS at the level of utilities was voted by the Cabinet of Ministers in Ukraine in late 2017 and came into effect as of 1 January 2018.

The successful reform process in the sector in 2017 can to a large extent be explained by the fact that four energy efficiency laws were made conditionalities for the initial "EE4U" Programme. Moreover, further legislative measures linked to these laws (secondary legislation), future reforms of the district heating sector and HUS subsidies become part of the policy dialogue on energy efficiency supported by the "EE4U" Programme.<sup>13</sup>

In order to improve energy efficiency in the residential sector in Ukraine and create sustainable financial mechanisms to attract investments in this field, the Government of Ukrainian has decided to create a national **Energy Efficiency Fund**.<sup>14</sup> The policy dialogue between the donors (the EU and Germany) and Ukraine on the launch of the Fund with the perspective to provide substantial financial support to its programmes has been intensively ongoing since two years. Recent progress on this initiative includes:

- The law establishing a legal basis for the EEF adopted by the Parliament and signed by the President in June 2017;
- The 2018 budget adopted by the Rada in December 2016 includes an EEF contribution of UAH 1,6 billion (roughly EUR 50 million)<sup>15</sup>;
- Further secondary legislation required to launch the EEF was adopted in December 2017 and February 2018.

As a follow up of these important steps, the EEF is foreseen to be registered as a state legal entity and become operational in 2018.

### *1.1.2 Stakeholder analysis*

**At the central government level**, the Prime Minister has publicly supported the EEF. The energy efficiency reform (including the EEF) is led by **Deputy Prime Minister (DPM) and Minister for Regional Development, Construction, Housing and Communal Services (MoRD)**. The MoRD and its State Agency of Energy Efficiency (SAEE) are key players in drafting and implementing primary and secondary legislation on energy efficiency, including on

---

<sup>12</sup> Directive 2010/31/EU

<sup>13</sup> Further reform steps will need to include an energy efficiency framework law and the start of the work on implementing measures under the Ecodesign Directive (Directive 2010/30/EU) as well as for the implementation of obligations on labelling (Directive 2012/27/EU)

<sup>14</sup> Ministry of Regional Development, Construction and Housing, 2016. Concept of the Energy Efficiency Fund, Document for Discussion: Available at: [http://www.minregion.gov.ua/wp-content/uploads/2016/06/Fund\\_EE\\_report\\_-ENG.pdf](http://www.minregion.gov.ua/wp-content/uploads/2016/06/Fund_EE_report_-ENG.pdf).

<sup>15</sup> This amount is stipulated under parallel co-financing in represents the first phase of the Energy Efficiency Programme for Ukraine "EE4U" as stipulated in the European Commission decision (ENI/2017/039-641).

municipal utilities and the restructuring of the district heating sector. The DPM has established a high level working group in 2016 and holds regular consultations with civil society organisations, donors and other stakeholders. His office actively participates in regular technical level meetings under the lead of the EU Delegation, along with representatives of the Support Group to Ukraine, German Ministry of Environment, IFC, the World Bank, GIZ, MoRD (in 2017 reinforced by the Reform Support Team and a newly created Directorate General on Energy Efficiency) as well as other experts.

The **Parliament** establishes the general legal framework (the energy reforms in general, energy efficiency laws, reforms of district heating and HUS, etc) and approves the EEF budget on an annual basis.

**Local authorities** are already involved in the discussion on the EEF. Their valuable role shall be strengthened through the activities foreseen under Component 2 of this action. Local authorities shall facilitate the creation and strengthen the role of HOAs. They will also participate in the programme with additional financial support to the HOAs provided from local budget. Also, local authorities will be affected as owners of municipal district heating companies (DHCs).

**Civil society organisations (CSO)** have been closely involved in the drafting process of the energy efficiency legislation as well as in the design of the EEF concept. Moreover, CSOs will play an important role in deploying the awareness-raising campaign under this Action. Strengthening the creation of HOAs and of associations of HOAs is one of the prerequisites for the successful implementation of this Action.

Other stakeholders include the Ministry of Social Policy, Ministry of Finance and the **National Utility and Energy Regulator**, which sets gas and electricity tariffs and approves heat tariffs.

**Ministry of Education and Science, Higher Education Institutions (HEIs) and Vocation and Training (VET) institutions** will play a role in the implementation of Component 3 of this Action aiming at training energy auditors. Moreover, the gender aspect put forward by the same component will have a direct link with the policy processes in this field coordinated by the **Government Coordinator on Gender Policy (Vice Prime Minister for European and Euro Atlantic Coordination)**.

**Private sector:** Partner banks (both private and state-owned) will play an intermediary role in reaching out to the final beneficiaries: Ukrainian households and HOAs by offering them the products of the EEF and combining, if necessary, with loans provided by the banks. Moreover, the Action will reinforce the professional skills and create job opportunities for energy auditors. DHC and other utility service providers as well as energy equipment producers, construction companies and other interest groups should also be informed and involved in the Action.

**International donors and IFIs** active in Ukraine in the field of energy efficiency are described in section 3.2.

### ***1.1.3 Priority areas for support/problem analysis***

The proposed action aims to create effective incentives for investments in energy efficiency and to raise Ukrainian citizens' awareness on the need, benefits and opportunities of energy savings in their houses. The main problems addressed by the action are:

### *1. Costly and inefficient HUS scheme*

The HUS scheme fulfils important social protection functions for vulnerable households. However, apart from being very costly to the budget, it does not incentivise energy efficiency investments as it is carried out through direct payments to utility companies. Households receiving subsidies for their energy bills have therefore little incentive to carry out energy efficiency investments and may even oppose such measures in multi-apartment buildings. As lower income households have reduced financial means to access loans or carry out investments with their savings, the Fund will foresee special incentives for this group of beneficiaries, which may include higher grant components in the financial packages offered them.

### *2. Insufficient heat metering*

Another major obstacle to investments is the absence of individual heat meters and the scant number of heat meters in multi-family buildings: in December 2017, around 78% of the buildings connected to district heating had a meter.<sup>16</sup> As a consequence, in the buildings not equipped with a meter, heat billing is carried out on a norm-based approach (per square meter of living space), a system providing no incentive whatsoever towards energy savings. The law on commercial metering and billing voted in June 2017 (see section 1.1.1), if implemented correctly, should enable consumers to receive utility bills based on real energy consumption.

### *3. Inadequate Energy Performance of Buildings rules*

The Energy Performance in Buildings Directive, an obligation under the Energy Community Treaty, has not been fully transposed.<sup>17</sup> Investments in energy efficiency would be valorised through energy performance certificates which will become mandatory in case of sale or renting of houses or apartments<sup>18</sup>.

### *4. Insufficient number of energy auditors and lack of technical capacity*

As an energy audit ensuring cost-effectiveness and substantial energy savings in an energy efficiency project, submission of a high quality energy audit is a pre-requisite to the approval of an application to the EEF. Therefore, successful implementation of this Action largely depends on the availability and professional skills of energy auditors in Ukraine. However, currently the country experiences an acute lack of locally available and trusted qualified energy auditors. This leads to high travelling costs, delays in deliveries and insufficient geographical coverage by energy audits. One of the components of this Action seeks to train qualified energy auditors. Such training could be facilitated throughout Ukrainian regions, increasing the number of auditors and reducing the costs of audits without losing out on quality.

### *5. Difficult Access to Finance*

The Ukrainian capital market is currently unfavourable to household investments in energy efficiency because of the high interest rates (between 19% and 40%) and the generally low creditworthiness of private households. It is only very recently that, in the context of existing support schemes, banks have begun identifying and launching products aimed at energy

---

<sup>16</sup> Ministry of Regional Development, Construction and Housing, 26 December 2017. Increase of 13 percentage point since 13 February 2017.

<sup>17</sup> Covert opposition to this law could be expected, notably by construction and real estate companies, who may fear additional costs and shrinking profits in the industry.

<sup>18</sup> The current version of the law on energy efficiency in buildings include energy performance certificates for public buildings, new buildings and those that receive state support (as in case of the EEF programmes). This provision should be completed and extended to all buildings at a later stage.

efficiency investments. The action aims to create investment incentives by working with local banks in easing requirements for access to credit.

### 6. State-reliance mentality

Recent polls show significant awareness deficits among Ukrainians regarding issues relating to residential energy consumption and energy tariff structures.<sup>19</sup> Also, there is an undeveloped culture of individual apartment owners taking responsibility for managing common property in buildings and reliance on the state. One of the components of the proposed action aims at tackling these obstacles, raising residents' responsibility for their property by facilitating people to people communication via the IFC network of energy advisors and Civil Society Organisations (CSOs).

### 7. Difficulty of creation of Home Owners' Associations (HOAs)

Legal changes related to ownership rights in multi-apartment buildings only took place in mid-2015 (law on HOAs), while other regulations are still on their way. In December 2017, only around 16% of multi-family buildings had already established HOAs.<sup>20</sup> HOAs are an important step in gaining access to information and financing for energy efficiency measures in multi-storey buildings. Again, one of the components of the proposed action aims at tackling these obstacles by facilitating people to people communication via the IFC network of energy advisors and CSOs.

## 2 RISKS AND ASSUMPTIONS

Table 1: Risks and assumptions

Risks	Risk level (H/M/L)	Mitigating measures
The Government of Ukraine postpones the establishment of the EEF beyond 2018. The primary and secondary legislation of the law on the EEF is not properly implemented. The Supervisory and Management Boards fails to be selected.	M	The EU Delegation has stepped up policy dialogue with Government of Ukraine, in particular the responsible Vice-Prime Minister and his services. The EU Delegation will continue requiring re-assurances and concrete steps notably through the Reform Support Team established in the Ministry of Regional Development. Notably, the EU Delegation will provide support in finalising the legislation and recruiting the core management of the EEF.
The Government of Ukraine and/or the Parliament fails to provide annual allocations from the State budget or the allocations are not sufficient for a successful functioning of the EEF.	M	Donors are making clear to all the Ukrainian counterparts that the disbursement of their further funds is conditional upon regular financial disbursements from the Government of Ukraine side.

<sup>19</sup> The National Ecological Centre of Ukraine (NECU), Friedrich Ebert Foundation in Ukraine, Kiev International Institute of Sociology, 2015. Attitude of Ukrainians to energy saving. Results of a nation-wide a sociological survey.

<sup>20</sup> Ministry of Regional Development, Construction and Housing, 26 December 2017. Increase of 1 percentage point since 13 February 2017.

Administrative hindrances and/or incompetences in management of the EEF prevent the EEF from disbursing grants.	M	IFC (the MDTF manager) contributes to the efficient management of the distribution mechanisms of the programmes of the Fund, the MDTF and the banks.
Insufficient or slow grant uptake due to low level of awareness among HOAs and their inability to agree on energy efficiency measures.	M-H	The action will provide additional reinforcement to the existing IFC network of energy advisors to widen awareness-raising activities. IFC will work closely with HOAs to generate a sustainable pipeline of projects for EEF operations and support HOAs in preparing the application to the EEF and accompany them during the whole project cycle.
Fiduciary risks – including corruption and fraud	M-H	IFI participation significantly reduces fiduciary risks. The implementing body will abide to the highest corporate governance standards under close donors' supervision and subject to internal and external auditing. The project will include specific anticorruption and fraud prevention measures such as monitoring and verification mechanisms. Using commercial banks as the only entry point to the programme for the beneficiary will reduce the risk of public-sector corruption/misallocations.
Newly trained energy auditors have difficulties in establishing contacts and making arrangements with the clients (HOAs).	L	The EEF intends to establish a website with the contacts of energy auditors all over the country, to make it easier for HOAs to contact energy auditors. Energy auditors will be in contact with the network of regional technical advisors (IFC) and the local civil society network (UNDP), who both will be working with residents of multi-apartment buildings. Ultimately, energy auditors will be trained to promote their services, e.g. through direct contacts with potential clients.
Quality of energy audits after the training remains low.	L-M	The EEF will carry out sampling of the quality of the energy audits. Auditors producing poor quality will be deleted from the website of the EEF on qualified energy auditors or even flagged. It is expected that members of the Associations of HOAs will exchange information on the quality of the services provided by energy auditors, which will be a self-cleaning instrument promoting good quality and flagging the ones providing poor quality.
Energy audit becomes a gender-segregated sub-sector in the energy field, with continued obstacles for women to enter other careers in the sector and low pay.	H	Women working as energy auditors will be involved in a network of career ambassadors reaching out to other women as well as employers, local and central authorities to ensure more diversity in the energy sector at large, including in high-level positions. The EEF will ensure that this measure is aligned with other outreach and training components for energy auditors. Women's careers and remuneration in the energy sector will be part of policy dialogue between the EU and the Ukrainian authorities.
<b>Assumptions</b>		
The Government of Ukraine maintains its commitment to pursue reforms in energy efficiency and remains committed to the EEF, namely implements the law on commercial metering and billing, the law on energy efficiency in buildings, the general law on energy efficiency, etc. and necessary secondary legislation.		

The Government of Ukraine and the Parliament are willing to commit sufficient financial resources to make the EEF operational and sustainable.
The EU shares a common understanding on the Ukrainian EEF, MDTF and reforms needed to reduce energy consumption in Ukraine with possible other donors.
IFC (creates the MDTF and) remains committed as the MDTF manager and provider of technical assistance to the EEF and implementation of its programmes.
The market for energy efficiency measures is developing; the demand for such measures by HOAs is increasing.
The expansion of energy efficiency measures financed by the EEF offers rapidly growing job opportunities for energy auditors.
Women express continued interest towards professions in the energy sector in general and notably the profession of energy auditor, in particular those who are already active in HOAs as well as graduates from universities and VET institutions with technical background.

### **3 LESSONS LEARNT, COMPLEMENTARITY AND CROSS-CUTTING ISSUES**

#### **3.1 Lessons learnt**

Past and ongoing projects and policy dialogue led to the following lessons learnt:

- After 17 years of pilot and demonstration projects financed by donors (e.g. the Covenant of Mayors initiative) and moderately successful donor activities in the district heating sector (Eastern Europe Energy Efficiency and Environment Partnership - E5P) with limited ownership of the Government of Ukraine, the country needs systemic solutions with a strong involvement of the government which, albeit inherently more complex, can nonetheless lead to more sustainable changes all around the country and entail stronger ownership by the Ukrainian authorities;
- The achievable energy savings in the residential sector are much higher than in public buildings where a strong focus has been placed (e.g. E5P and Covenant of Mayors initiative);
- Both multi-apartment buildings and individual houses have huge energy saving potential: 15-20% energy savings are achievable with fairly basic measures. In order to assess the achieved results (i.e. the impact on the energy savings as well as on the heating bills), there is a need to put in place a number of instruments such as initial energy audit, monitoring and verification of the measures and results achieved. These result-oriented components are currently lacking in the programme of Warm Loans (see section 3.2) and will be made compulsory for the successful implementation of the programmes of the EEF.
- Existing projects in this sector ("Warm Loans" and IQ Energy - see section 3.2) disproportionately focus on individual houses and inefficient investments in individual apartments and do not offer comprehensive solutions for multi-apartment buildings which are dependent on functioning HOAs. Focus on awareness-raising of the homeowners and efficiently provided support to HOAs encourages the latter to apply for financing and conduct coherent energy efficiency measures at the level of the multi-storey buildings (IFC);

- In the residential sector, the traditional donor-grant / IFI-loan (in hard currency) cooperation model is not viable due to the difficulty of IFIs to reach out directly to households and to the high cost of loans for Ukrainian consumers. Instead, donor funds should aim at mobilising household savings, while allowing borrowing in Hryvnia and supporting sustainable budgetary financing;
- A large number of ongoing donor projects have contributed to increased institutional capacity and a strengthened Ukrainian know-how on technical standards, project management (e.g. Covenant of Mayors initiative), energy audits, and establishment of HOAs (UNDP Community Based Approach and IFC).
- Experience of EU countries (e.g. Poland) shows that opening the market for energy auditors can increase availability and significantly reduce the costs of the energy audits without necessarily reducing the quality of such services. Energy auditors can become a self-sustainable and very effective instrument to promote energy efficiency funds as these people are usually local and thus better trusted by the local residents.

Based on the lessons learned, the EEF will focus on comprehensive energy efficiency measures in the residential sector and more specifically on multi-storey buildings (which is not the priority target group of other programmes). The EEF will introduce specific requirements for energy audits, project monitoring and verification. Also, compared to the existing programmes, this EEF will be result-oriented by providing analysis of energy savings achieved by the projects. Moreover, this Action will offer professional training to energy auditors to ensure high quality energy audits to the HOAs willing to apply to the EEF. This will contribute to further opening of business opportunities as well as development and expansion of the profession, more specifically among women.

When it comes to political commitments, this Action will notably reinforce the ownership of the EEF by the Ukrainian authorities and assist them in making the EEF sustainable. In addition to contributing EEF activities, this Action intends to create a platform for political dialogue between the EU and the Government of Ukraine, aimed at supporting larger energy efficiency reforms, which the current programmes do not provide. Furthermore, women's careers and remuneration in the energy sector will be part of the policy dialogue between the EU and the Ukrainian authorities.

### **3.2 Complementarity, synergy and donor coordination**

Complementarity and synergies will be sought with other energy efficiency programmes currently running in Ukraine as well as coordination in the area of policy support provided by other donors will be ensured.

The EEF will mainly build upon the experience of two programmes - "Warm Loans" and "IQ Energy" - combining best practices and addressing weaknesses with regards to policy dialogue, target groups, energy saving requirements and sustainability (see section 3.1). The information campaign and capacity building of HOAs (Component 2) will also benefit the existing programmes as its general objective is to raise the awareness of the population on the need to conduct energy efficiency measures in their dwellings.

#### ***Governmental support programme***

In late 2014, the SAEE launched the "Warm Loans" programme, a scheme providing 20% to 70% grant components to low-interest rate loans made available by State-owned banks



(Oshadbank, Ukrgasbank and Privatbank) aimed at financing energy efficiency investments in residential buildings. By end of December 2017, the programme supported around 273,000 individual household loans (also within multi-storey buildings) and 1,248 HOAs loans which shows preferential targeting of the first group of beneficiaries<sup>21</sup>.

After the launch of the EEF, Ukrainian officials expect that the current "Warm Loans" programme will be specifically targeted to single-family buildings.

## ***EU programmes***

### *E5P and IQ Energy*

The EU has contributed EUR 40 million to the Ukraine window of the E5P Fund, a multi-donor initiative established in 2010 for Eastern Neighbourhood countries.<sup>22</sup> In 2016, the EBRD launched the **IQ Energy** initiative (EUR 15 million of E5P grants, plus EUR 5 million for technical assistance) with the intention to provide grant components to commercial loans offered by Ukrainian private banks (OTP Bank, Ukrsib Bank and RZB Aval Bank) to households undertaking financing for energy efficiency investments (goods and services). The EEF will be able to build on the IQ Energy databases, e-platform for applying to IQ Energy programmes and its experience in disbursing funds and carrying out due diligence processes.<sup>23</sup> Finally, in order to ensure complementarity between the two programmes, it is envisaged that IQ Energy will keep addressing single-family buildings while the EEF will have a strong focus on comprehensive projects in multi-storey buildings at least during the first years of operations.

### *Community Based Approach (CBA)*

Even though not primarily targeting energy efficiency, the CBA programme financed by the EU and carried out by UNDP, turned out to have a very strong focus on energy efficiency measures. This initiative has promoted sustainable socio-economic development at local level by strengthening participatory governance and encouraging community-based initiatives (also via HOAs). CBA Phase III (EUR 23.8 million, 2014-2017) has been finalised recently. The programme has developed a strong experience namely in the area of public awareness on energy efficiency and in creation and strengthening of HOAs.

### *EU4Energy*

The programme EU4Energy (2017-2021, EUR 20 million)<sup>24</sup> is implemented in Ukraine via the Energy Community Secretariat and the International Energy Agency (IAE). Complementarities between this Action and EU4Energy will be ensured on communication and visibility campaigns (Component 2).

## ***Other donors***

### *World Bank Group*

---

<sup>21</sup> During 2014-2017 (by the end of December 2017), around EUR 57.7 million (UAH 1903 Million) were disbursed in the framework of this program (approximately 89% for energy efficiency materials and 6% for non-gas / non-electric boilers for individual households, 5% for HOAs). In total, 273,414 loans for a total amount of EUR 146.7 Million (UAH 4841.6 million) were issued to individual households through this State support mechanism. As to HOAs, they received EUR 6.4 million (UAH 210.5 Million) through about 1,248 loans.

<sup>22</sup> The fund account value of the E5P Ukrainian window was EUR 106 Million in December 2016. The E5P Ukraine has so far approved 59 projects for a total value of EUR 92.5 Million.

<sup>23</sup> IQ Energy technology data base available at: [http://www.igenergy.org.ua/en/technologies?\\_from\\_store=ua](http://www.igenergy.org.ua/en/technologies?_from_store=ua)

<sup>24</sup> This amount is allocated to the whole regional programme.

Very active in the area of residential energy efficiency, IFC has implemented the Ukraine Residential Energy Efficiency Project (UREEP) funded by the Swiss Confederation (2010-2018, around EUR 6 million). The key objective was to enable financing of energy efficient modernization projects of multifamily buildings. IFC experience in the mentioned activities is a valuable source of added value for the implementation of this Action.

As to the creation of the EEF is concerned, the International Bank for Reconstruction and Development (IBRD) has been providing support for the initial design and operational procedures of the EEF (2017-2021, around USD 0,8 mln, financed by Danish Trust Funds). It consists in drafting technical documentations, typical contracts, establishing the links between the EEF and the MDTF, etc. One component of this support package includes a pilot project in one Ukrainian municipality with the purpose to test the whole project management cycle and make necessary adjustments to the functioning of the EEF.

### *Germany*

As of 2018, Germany has committed funds both as capital contribution and as technical assistance for EEF capacity building over a 4 year period. Germany envisages contributing EUR 10 million to the programmes of the EEF (via the MDTF) and EUR 5 million for the technical assistance<sup>25</sup>. The technical assistance (via GIZ) will include a training component of around 100 energy auditors in 2018. However, this project is unlikely to cover the needs of the country. Therefore, Component 3 of this Action will complement the efforts by Germany and provide training at a larger scale aiming to reach 2000 energy auditors.

Further donor contributions to the EEF may be expected over time. The most likely candidates would be EU Member States and other non-EU E5P Fund contributors.

### Donor coordination

Donors show increased interest in energy efficiency in Ukraine and there is wide scope for their action in this area. Coordination among donors is essential for effective policy dialogue and programmes implementation.

Currently there are several donor coordination mechanisms on energy efficiency. While the EU Delegation is in charge of an energy donor coordination group since 2014, an energy efficiency donor coordination group is chaired by Germany. In addition, IFC regularly calls donor coordination meetings on energy efficiency in the residential sector. All three groups include the main donors and IFIs active in Ukraine.

As far as the creation of the EEF is concerned, since 2015 the EU Delegation has been leading an informal working group on the EEF concept. It meets bi-monthly and is attended by the advisors to the VPM responsible for the launch of the Fund, the Ministry of Regional Development, Germany, IFC, World Bank and other experts. This working group is the main platform for the alignment of the donor and IFIs efforts to support the activities of the Fund. For instance, the EU provided consultancy for preparing the concept of the Fund, Germany enabled legal support to the drafting of necessary legislation while the World Bank experts provide

---

<sup>25</sup> This amount is stipulated under joint co-financing in represents the first phase of the Energy Efficiency Programme for Ukraine "EE4U" as stipulated in the European Commission decision (ENI/2017/039-641).

technical assistance to the future EEF (e.g. operational manuals, a typical contract between a HOA and the EEF, technical requirement to energy audits) to ease the operations of the EEF.

Finally, the Reform Support Team established within the Ministry of Regional Development and financed by the EU as well as the newly created Directorate General for Energy Efficiency within the same ministry are tasked to provide assistance in preparing the secondary legislation in energy efficiency (including on the EEF) and launching the EEF.

### 3.3 Cross-cutting issues

Environment, social and economic benefits, regional development, good governance and civil society involvement are the targeted cross-cutting issues of this Action.

The Action will include **gender aspects** by, inter alia, setting affirmative measures to encourage enhanced women's participation in the training programme for energy auditors (Component 3). Political and policy dialogue on women's participation in the energy sector will be continued and enhanced. Also women will be involved in the implementation of the awareness raising campaign via women's NGOs. Finally, as energy poverty affects women more than men, women are expected to enjoy comparatively higher gains from this Action.<sup>26</sup> The programme will ensure the collection of sex-disaggregated data where appropriate. For more details, please see the assessment of cross-cutting issues.

The action would also have positive **social and economic effects**: the financial EU contribution alone could assist the EEF in the creation of 9,500 additional jobs and the collection of EUR 19 million of extra taxes in the first five years of operation.<sup>27</sup> According to initial estimates, the activities of the Fund would lead to a reduction in annual subsidies up to UAH 2 billion (EUR 66 million) each year,<sup>28</sup> thus contributing to lower energy poverty among the Ukrainian population.<sup>29</sup>

**Participation development/good governance** is another objective of this Action and will be pursued by putting emphasis on fight against corruption and empowerment of Ukrainian civil society organizations. More precisely, this crosscutting issue will be addressed as follows:

a) **Strengthening of civil society organisations (CSOs)** will be ensured by training active NGOs on how to raise public awareness on the potential of energy efficiency measures and on the existence of advantageous financing opportunities. Trained CSOs will act as implementing agents of the awareness-raising campaign and thus contribute to a more successful mobilisation of homeowners to create HOAs as well as to promotion of energy efficiency measures and products of the EEF. These activities will enable the NGOs to get more experience in and eventually to be specialised in the area of energy efficiency which is getting an increased attention in the society. Positive results of the programme will increase the visibility of NGOs and enable them to gain more trust of the population. Most importantly, the establishment of the

---

<sup>26</sup> The payment of utility bills falls more often under the household budget responsibility of women. For more gender specific impact analysis please see the supporting document "Gender equality assessment for identification and formulation phases for Project Modality and Budget Support".

<sup>27</sup> Assumptions: i) 50% grant/loan ratio; ii) 60% of disbursed funds will contribute in generating new jobs; iii) minimum Ukrainian salary as of 1 January 2017 around UAH 3,500; iv) activities generated through the fund will be taxed at an average rate of 20%.

<sup>28</sup> Indexed taken into account available funding. Calculations are based on the methodology used by Ministry of Regional Development, 2016. Concept of Energy Efficiency Fund, Document for Discussion.

<sup>29</sup> Ministry of Regional Development, 2016. Concept of Energy Efficiency Fund, Document for Discussion, p.9.

EEF will enhance the creation of HOAs and Associations of HOAs upon citizens' initiative. This will have a positive impact on the living together and joint decision-making by residents in Ukrainian towns beyond the question of energy efficiency.

b) The EEF will contribute to **local and regional development**, as it will finance energy efficiency projects in all regions of Ukraine. Capacity building in the regions should be assured over the mid-term through the expansion of awareness-raising campaign and provision of technical expertise on energy efficiency in the regions mainly through the IFC network of energy advisors.

c) Special attention will be paid to **fighting corruption** and ensuring a transparent and efficient management of the funds with a close follow-up of individual projects, while keeping administrative barriers to a minimum. The EU contribution will not be directly injected in the EEF, but channelled via the MDTF and the partnering banks selected by the MDTF manager (IFC) that will limit the contacts between the Fund and the final beneficiaries and thus reduce corruption risks. Another means to ensure transparency is the use of an e-platform for processing, approving and verifying the grants, which will be made accessible to the banks, the EEF and the MDTF. Both the EEF and the MDTF will ensure that grant disbursement to final beneficiaries is duly justified and conduct independent projects monitoring and verification from the technical and financial perspective. To this effect, standardised verification criteria will be developed and become part of the grant disbursement mechanisms. Finally, the European Commission may contract independent auditors to control the use of resources and expenditures.

Finally, this Action will be implemented following a **rights-based approach**, encompassing all human rights. The five working principles below will be applied at all stages of implementation: i) Legality, universality and indivisibility of human rights; ii) Participation and access to the decision-making process; iii) Non-discrimination and equal access; iv) Accountability and access to the rule of law; v) Transparency and access to information.

## 4 DESCRIPTION OF THE ACTION

### 4.1 Objectives/results

This programme is relevant for the Agenda 2030. It contributes primarily to the progressive achievement of SDG Goal(s) - Goal 7: Ensure access to affordable, reliable, sustainable and modern energy for all and Goal 13: Take urgent action to combat climate change and its impact, but also promotes progress towards Goal 11: Make cities inclusive, safe, resilient and sustainable and Goal 5: Achieve gender equality and empower all women and girls<sup>30</sup>. This does not imply a commitment by Ukraine benefiting from this programme.

The overall objectives of the Action are i) to contribute to reducing the national energy consumption and greenhouse gas emissions ii) and to contribute to diminishing foreign purchases of energy sources and increasing energy security of Ukraine.

Specific objectives of the Action are:

1. Implement energy saving measures and contribute to efficient use of energy resources by Ukrainian residents, leading to reduction of energy consumption at the level of multi-apartment buildings.

---

<sup>30</sup> Based on [17 SDGs by UN](#)

2. Increase access to energy efficiency investment opportunities and attract private investments in energy efficiency measures in the residential sector in Ukraine. Contribute to creation of specific financial products (loans) destined to HOAs by Ukrainian banks.
3. Contribute to improve the quality of energy audits by Ukrainian energy auditors leading to successful applications to the EEF programmes.

Expected results of the Action are:

1. The overall framework for the establishment and operations of the MDTF and EEF is available and functional. Financial support for energy efficiency renovation is available.
2. The Ukrainian residential sector is informed about the advantages of energy efficiency investments. Homeowners (including vulnerable population) are made aware of opportunities for energy efficiency investments and access financial products offered by the EEF. A comprehensive approach to energy efficiency measures in the residential sector is promoted. People to people approach to communication is enhanced.
3. Homeowners (including vulnerable population) apply to receive support of the EEF and implement energy efficiency measures.
4. The regional coverage of qualified energy auditors including women is increased. The capacity of qualified energy auditors is strengthened.
5. Women's presence in the energy audit market sector is promoted and increased. Partnership with relevant stakeholders such as local authorities and employers are established.

## **4.2 Main activities**

### ***4.2.1 Component 1: Financial Contribution to the activities of the Energy Efficiency Fund***

The main objective of this component is to direct an EU additional financial contribution to energy efficiency measures sponsored by the Government of Ukraine via the Energy Efficiency Fund (EEF).

The establishment of the **Ukrainian Energy Efficiency Fund** is part of the overall effort by the Government of Ukraine to increase the country's energy efficiency, lessen its dependency upon energy imports and reduce CO<sub>2</sub> emissions. The Fund is envisioned to provide non-repayable grants to homeowners (primarily HOAs in multi-storey buildings) via private and State-owned banks to perform energy efficiency retrofits in their dwellings.

The Ukrainian EEF will be capitalised via annual contributions from the State budget of Ukraine. The Fund activities will be additionally financed, at least during an initial phase, via international donors' grants channelled to a Multi-Donor Trust Fund. Although the two sources of contribution will remain separate, the EEF will be presented to the public as a single structure to ensure proper visibility.

Main activities are:

**a)** Donor funding is pooled into a grant distribution facility via the **Multi-Donor Trust Fund (MTDF)** managed by an entrusted entity (IFC) and grants are channelled to the final beneficiaries (homeowners) through partnering banks. The MDTF manager administers MDTF ongoing operations and plays a financial intermediary role, whereby the MTDF processes the release of grant money to partnering banks upon ensuring that all grant disbursement criteria have been met.

**b) The MDTF manager develops an overall framework for the establishment and operations of the MDTF** (e.g. core principles for MDTF operations; legal agreements between the MDTF and the donors and the MDTF and the partnering banks; grant policy and distribution criteria; project verification requirements; reporting requirements on the MDTF operations to the donors, etc.)

It is envisioned that cooperation between the EEF and MDTF will be based on the following principles:

- The partnering banks process all grant applications according to technical guidelines and submit them to the EEF for evaluation and to the MDTF for concurrence;
- The funds from both entities – EEF and MDTF – are comingled at the level of the partnering banks;
- The MDTF and the EEF perform verification of the use of grant proceeds.

**c) State-owned and private banks** will become the main actors to promote the products of the EEF. They will receive grant application by prospective beneficiaries via an e-platform, further examine and forward them to the EEF. Upon the approval of the projects by the EEF and the MDTF, the banks will sign grant agreements with final beneficiaries, receive and distribute the funds after verifications performed by the MDTF and the EEF. Funds will be disbursed to selected building renovation projects either as stand-alone grants or as grant complemented with a loan, thus substantially alleviating the high interest rates charged by Ukrainian banks. The grant component will be disbursed on the completion of the project upon financial and technical verification. It is expected that grants will mobilise savings from the households and possibly incentivize the creation of other types of financial products by the banks. The MDTF manager in coordination with the EEF will make an initial selection of two state-owned and two private banks operating in Ukraine, according to pre-established criteria, subject to IFC integrity due diligence.

#### ***4.2.2 Component 2: Regional Outreach of the Energy Efficiency Fund and Technical Support to Home Owners Associations***

This component will focus on awareness-raising activities aimed at creating of an appropriate market environment for energy efficiency measures and facilitating technical support to the project implementation in residential energy efficiency in Ukraine.

This element of the Action will extend the existing outreach activities under the current "EE4U" Programme<sup>31</sup>.

In order to guarantee a sustainable pipeline of EEF projects, the Action seeks to foster energy efficiency awareness at local and regional level, support the creation of HOAs and provide technical advice on energy efficiency investments. This component will support local and regional promotion activities to reach the general Ukrainian public via a network of regional advisors and civil society organizations.

The activities under this component are subdivided into three main groups:

---

<sup>31</sup> This top-up under the second phase of the programme will enable IFC to scale up the activities related to awareness-raising and the existence of the network of energy advisors into the 5<sup>th</sup> year of the programme. Under the existing "EE4U" Programme (see European Commission decision ENI/2017/039-641), IFC foresees such activities only during the first four years of the programme.

- 1) To generate a sustainable pipeline of projects for the EEF, the Action will implement a multi-audience campaign for the population via field-based regional advisors and conducting training events for the network of partner NGOs, PFIs, equipment manufacturers, and other channels.
- 2) The Action will provide tailored support for HOAs to facilitate their application to the EEF and PFIs to obtain grant and loan financing.
- 3) In parallel to HOA-specific activities, the programme will prepare and implement a substantial amount of communication activities using many different distributions channels – radio, printed and electronic press, web sites, and publication of information materials.

The main intermediaries of the above activities (1 and 2) will be local NGOs and the expanded IFC network of regional energy advisors that will operate nationwide.

- NGOs will act as intermediaries of the programme, highly trusted in the society. They will spearhead the information campaign, advocate for energy efficiency and generate public interest in EEF products. NGOs capacity will be strengthened through a "train the trainers" programme will be provided to them, addressing issues such as basic information on energy efficiency measures, promotion of EEF products, increased EEF visibility as well as guidance on how to reach homeowners/HOAs.
- The advisors will be located in regional centres and will provide support to HOAs. The advisors will undergo trainings based on existing materials and methodologies and will be operational within three months from their engagement. The advisors will receive regular trainings on technical, financial and legal matters and a knowledge-sharing mechanism will facilitate the exchange of best practices among them<sup>32</sup>.

#### **4.2.3 Component 3: Energy Audit Training Programme**

This new component will focus on training energy auditors with the purpose to create sufficient number of qualified specialists that will deliver high quality energy audits of residential buildings, which is the prerequisite to apply for an EEF grant and implement sound energy efficiency measures.

The activities under this component will be specifically targeted at women, and it is estimated that 60% of participants in the training programme will be women.

This component will focus the following activities:

- Delivery of training and certification for energy auditors, specifically targeted at women (aim: 2000 qualified energy auditors available in all regions of Ukraine – one in every community of over 4000 inhabitants – 60% of them women) via training programmes, both full-time and part-time (after work), some in cooperation with Ukrainian universities and/or vocational education and training (VET) institutions;
- Conducting of theoretical and practical exams, followed by a certification process;
- Provision of basic business, communication and marketing skills;

---

<sup>32</sup> The regional network of advisors will be built based on existing experience of IFC Residential Energy Efficiency Project, which has been supporting operation of the regional network of advisors in nine regions over the last twelve months. It is suggested that one advisor is recruited in each region for a total of 24. However, based on demand, this could be expanded to up to 36 Advisors with two Advisors in larger regions.

- Advocacy and outreach towards local authorities and partners (joint workshops, roundtables, etc. with trainers, future and current energy auditors);
- Provision of assistance to female energy auditors to act as career ambassadors for women in the energy sector via assisting the establishment and operationalisation of a corresponding network, support on advocacy and outreach towards employers, local and central authorities, higher education institutions, VET institutions and other stakeholders;
- Women's participation, careers and remuneration in the energy sector will be continuously addressed in the political and policy dialogue between the EU and the Ukrainian authorities.

### 4.3 Intervention logic

This Action aims at supporting the implementation of energy efficiency measures in Ukraine through the creation of an EEF. The primary goal is to decrease energy consumption in the residential sector and, as a result, overall CO<sub>2</sub> emissions. These will lead to decrease national energy consumption, to reduced foreign purchases of natural gas and increase energy security of the country. Also, the programme will contribute to make Ukrainian cities more resilient and sustainable. As a side effect, investments in energy efficiency will reduce utility costs for Ukrainian households and contribute to savings in the state budget via the reduction of HUS subsidies. Finally, EEF-financed activities will create business opportunities for Ukrainian companies across several industries (banking, construction, manufacturers and retailers of energy efficiency products, etc.).

The logic behind the three components is the following:

1) **Component 1** consists of an EU contribution to the activities of the EEF for the residential sector and capital funding of the multi-donor trust fund supporting the operations of the EEF. Ukraine's per capita energy consumption is among the highest in Europe – yet, low disposable income among private households and limited public budget resources prevent the country from investing towards energy efficiency in the residential sector. On the other side, Ukrainian banking sector has a number of national and international groups being eager to partner with publicly-sponsored initiatives in order to increase their private loans portfolio. EU grants should be seen as instrumental in leveraging both households' saving and commercial banks' credits to the benefit of macroeconomic and environmental sustainability.

2) **Component 2** will foster demand for EEF's products by raising general awareness of the benefits of energy efficiency measures and the newly-available financing opportunities for energy efficiency investments. The awareness-raising campaign is also meant to support households in their applications to the EEF. Finally, people to people contact will be promoted through this Action by giving an important role to NGOs in the awareness-raising activities.

3) **Component 3** envisages an accompanying measure in the area of energy efficiency. It is meant to provide professional training to energy auditors while also enhancing women's careers in the energy sector. Activities under this component will be key to achieve high-quality energy audits in all regions. This is necessary to improve quality of applications to the EEF and more globally for the implementation of Component 1 of this Action.



## 5 IMPLEMENTATION

### 5.1 Financing agreement

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of Regulation (EU, Euratom) No 966/2012]

### 5.2 Indicative implementation period

The indicative operational implementation period of this action, during which the activities described in section 4.2 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; such amendments to this decision constitute technical amendments in the sense of point (i) of Article 2(3)(c) of Regulation (EU) No 236/2014.

### 5.3 Implementation modalities

The envisaged assistance to Ukraine is deemed to follow the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU<sup>33</sup>.

#### *5.3.1.1 Financial contribution to the activities of the Energy Efficiency Fund*

##### *Indirect management with IFC*

A part of this action may be implemented in indirect management with the International Finance Corporation (IFC - World Bank Group) in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012. This implementation entails the management of the MDTF account which will be used to finance the non-Ukrainian part of grants to final beneficiaries (HOAs) (see section 4.2.1). These activities will be executed by the participating finance institutions pre-selected by IFC.

This implementation modality is justified because IFC has significant capacity and expertise in developing financial products, partnering with commercial banks, managing donors' assistance in energy efficiency as well as promoting products and programmes in the energy efficiency field in Ukraine (i.e. "Warm Loans" programme).

The entrusted entity would carry out the following budget implementation tasks: award of grants, acting as a contracting authority concluding, monitoring and managing contracts, carrying out payments to grant-recipients (partner banks).

If negotiations with the above mentioned entity fail, this component may be implemented in indirect management with the European Bank for Reconstruction and Development (EBRD). The implementation by this alternative entrusted entity is justified because the EBRD has capacity and experience in managing EU/OECD donors' funds in Ukraine and specifically in the area of energy efficiency. EBRD could also manage contributions to EEF activities by establishing a new window in the E5P Programme.)

---

<sup>33</sup> EU restrictive measures are a tool of the EU Common Foreign and Security Policy (CFSP), adopted by Council Decision based of Article 29 TEU and related Implementing Regulations pursuant to Article 215 TFEU. There are currently more than 30 EU restrictive measures regimes in place.  
[https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_en)

*5.3.1.2 Component 2: Technical assistance to the establishment of the EEF and its operations.*

*Indirect management with IFC*

A part of this action may be implemented in indirect management with the International Finance Corporation (IFC - World Bank Group) in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012. This implementation entails the management of a single donor trust fund destined to provide technical assistance, namely by implementing accompanying measures to grants to final beneficiaries (see section 4.2.1). The activities under Component 2 will be executed by IFC.

This implementation modality is justified because IFC has an extensive experience in providing technical assistance on energy efficiency programmes in Ukraine. IFC has an office in Kiev, a network of energy advisors across the country, in depth knowledge of the sector and hands-on experience in managing operations relevant to the proposed action. IFC is already cooperating with commercial banks in Ukraine in the area of energy efficiency.

The entrusted entity would carry out the following budget-implementation tasks: running public procurements, concluding and managing contracts and carrying-out related payments.

If negotiations with the preferred entity fail, the implementation of this action will be conducted in indirect management by the EBRD (also in this case in charge of Component 1). The implementation by this alternative entrusted entity is justified because the EBRD has an extensive experience in operating energy efficiency programmes in Ukraine. The EBRD has an office in Kyiv, in depth knowledge of the sector and hands-on experience in managing operations relevant to the proposed action. The EBRD is already cooperating with commercial banks in Ukraine in the area of energy efficiency.

*5.3.1.3 Component 3: Energy Audit Training Programme*

*Procurement (direct management)*

<b>Subject</b>	<b>Type (works, supplies, services)</b>	<b>Indicative number of contracts</b>	<b>Indicative trimester of launch of the procedure</b>
Technical Assistance (Energy Audit Training Programme)	Services	1	Q2 2019

#### **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 in accordance with Article 9(2)(b) of Regulation (EU) No 236/2014 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

Type of intervention	EU contribution (in EUR)	Third party contribution (in EUR) <sup>34</sup>
<b>5.3.1.1 Component 1: Financial contribution to the activities of the Energy Efficiency Fund</b> <i>Capital funding and fund management with IFC (indirect management)</i>	<b>50,000,000</b>	n/a
<b>5.3.1.2 Component 2: Regional Outreach of the Energy Efficiency Fund and Technical Support to Home Owners Associations</b> <i>Awareness raising, market demand at local and regional level with IFC, technical support to HOAs (indirect management)</i>	<b>1,900,000</b>	n/a
<b>5.3.1.3 Component 3: Energy Audit Training Programme</b> <i>Procurement - direct management</i>	<b>2,000,000</b>	n/a
<b>Evaluation and audit</b>	<b>100,000</b>	n/a
<b>Total</b>	<b>54,000,000</b>	n/a

## 5.6 Organisational set-up and responsibilities

The EU Delegation will ensure coherence among all action components and set up an appropriate coordination between them. Also, the EU Delegation will contribute to the arrangement of relevant governance mechanisms between involved stakeholders at different levels.

### *Governance*

First, the legal framework for cooperation between the EU and the MDTF manager will be established in the **administration agreement**. The MDTF will be functioning according to the rules agreed by the donors and the fund manager, which should also specify the role and responsibilities of all stakeholders and enable the EU participation in the **Donor Committee of the MDTF** together with other donors. The role of the MDTF manager will be performed by IFC. It will mainly consist in endorsement of overall strategic direction of the MDTF funding activities and priorities, reviewing the programme results, adoption of key priorities and funding programmes, eligibility criteria for receiving grants, etc.

---

<sup>34</sup> This Action represents the second phase of the Energy Efficiency Programme for Ukraine "EE4U" as stipulated in the European Commission decision (ENI/2017/039-641).

Second, it is foreseen that a **Coordination Council** will be established for the purpose of regular coordination between donors and the Government of Ukraine which is expected to lead the activities of the Council. The Council will provide an overall guidance to and establish a link between the MDTF and the EEF, ensure continuous political alignment, coordination of financial contribution and coherence of actions as well as become the platform for taking key decisions on the activities of the Fund (e.g. grant policy). The implementing agent of the Action (IFC for Component 1 and 2) will play a role of an observer. The tasks, responsibilities, operation modalities of the Coordination Council will be specified between the EU and Ukraine.

Third, the EEF and IFC will conclude **an implementation agreement**. It will facilitate the synchronization of disbursements of EEF's grants with those of the MDTF and provide for the alignment of EEF's and IFC's grant approval and disbursement processes.

Finally, to ensure coordination between all aspects of this Action, the EU Delegation may consider at least annual meetings of the regional and local networks as well as implementing agents operating under all components of this Action (as well as those implementing "EE4U" Programme).

#### *Legal documents*

Several main legal documents will set the roles and responsibilities of the stakeholders involved in the activities of the EEF. The EEF is ruled by the **law on the EEF** (adopted by the Ukrainian Parliament), which also contains provisions on donors' participation to the EEF Supervisory Board. The Board has a strategic and coordinating function and will represent donors (1 member), Government (2 members) and independent experts (2 members).<sup>35</sup> The donors will choose their representative by joint agreement and officially inform the Cabinet of Ministers of Ukraine about the nominee to this position. The Board will meet regularly to review the EEF operations at strategic level (e.g. programmes, results and operational effectiveness) and discuss the process of implementation of the Fund programmes, take strategic decisions with regards to those (e.g. change of grant level, redefining the target groups). It will not directly interact with the EEF but prepare decisions which will influence and govern the Fund. The **Selection Procedure of the Members of the Supervisory Board** and the **Regulation on the Supervisory Board of the EEF** describing the functions of the Boards are part of the secondary acts of the EEF law. Finally, **the Charter of the EEF** contains further details on the EEF and, among other provisions, describes the governance structure, the roles and responsibilities of the main services of the EEF.

### **5.7 Performance 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

---

<sup>35</sup> An option of having three independent members is also foreseen by the law on the EEF.

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(n) mid-term, and final evaluation(s) will be carried out for this action or its components via independent consultants contracted by the Commission.

The mid-term evaluation will be carried out for problem solving and learning purposes, with particular attention to expected results and mitigation measures in case of deviations or lack of effectiveness.

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 this is a large programme with a nationwide coverage which is expected to be sustainable in medium to long term.

The Commission shall inform the implementing partner at least two weeks 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.

Indicatively, two contracts for evaluation services shall be concluded under a framework contract in the first quarter of 2020 (mid-term evaluation) and in the first quarter of 2022 (final evaluation).

## **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.

Indicatively, one contract for audit services shall be concluded under a framework contract in the first quarter of 2022.

## **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 and supported with the budget indicated in section 5.5 above.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country, 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 shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

## APPENDIX - INDICATIVE LOGFRAME MATRIX <sup>36</sup>

The activities, the expected outputs and all the indicators, targets and baselines included in the logframe matrix are indicative and may be updated during the implementation of the action, no amendment being required to the financing decision. When it is not possible to determine the outputs of an action at formulation stage, intermediary outcomes should be presented and the outputs defined during inception of the overall programme and its components. The indicative logframe matrix will evolve during the lifetime of the action: new lines will be added for including the activities as well as new columns for intermediary targets (milestones) for the output and outcome indicators whenever it is relevant for monitoring and reporting purposes. Note also that indicators should be disaggregated by sex whenever relevant.

	<b>Intervention logic</b>	<b>Indicators</b>	<b>Baselines (incl. reference year)</b>	<b>Targets (incl. reference year)</b>	<b>Sources and means of verification</b>	<b>Assumptions</b>
<b>Overall objective: Impact</b>	<p>To contribute to reducing the national energy consumption and greenhouse gas emissions.</p> <p>To contribute to making Ukrainian cities more resilient and sustainable (SDG #11).</p> <p>To contribute to diminishing foreign purchases of energy sources and increasing energy security of Ukraine.</p>	<p>Volume of energy consumption in residential sector of Ukraine (in natural gas or electricity equivalent)</p> <p>Volumes of CO2 emission (tCO2)</p>	<p>2016: 17,6 bcm<sup>37</sup></p> <p>2016: 33,44 mn tCO2</p>	<p>2022: Reduction by at least 135,300,000 m3 of natural gas equivalent</p> <p>(or at least 902,000 MWh of electricity equivalent)</p> <p>Reduction by 257,070 tCO2<sup>38</sup></p>	<p>Multi-Donor Trust Fund reports, EEF reports, Government reports.</p>	
<b>Specific objective(s): Outcome(s)</b>	<p>SO1: Implement energy saving measures and contribute to efficient use of energy resources by Ukrainian residents, leading to reduction of energy consumption at the level of multi-apartment</p>	<p>1.1) Number of multi-family buildings having achieved energy savings in Ukraine; segregated by type of building and type of measures and geographically (including in conflict-affected regions);</p> <p>2.1) Average reduction (in %) of energy consumption in renovated buildings (at</p>	<p>1.1) 2018: 0</p> <p>1.2) 2018: 0</p>	<p>1.1) 3100</p> <p>1.2) between 15 and 40%</p>	<p>Multi-Donor Trust Fund reports, EEF reports, Government reports.</p>	<p>1) The Government remains committed to energy efficiency reforms;</p> <p>2) The EEF is established and</p>

<sup>36</sup> Mark indicators aligned with the relevant programming document mark with '\*' and indicators aligned to the EU Results Framework with '\*\*'.

<sup>37</sup> Source: Naftogaz, <http://www.naftogaz.com/www/3/nakweb.nsf/0/E8A50F7214508AE8C22580BC00440E84?OpenDocument>. Consulted on 26 December 2017.

<sup>38</sup> Indexed taken into account available EU funding. Calculations are based on IFC methodology..

	buildings.	building level), segregated by type of building and type of measures.				operational; the EEF functions in a transparent and open way; the EEF is able to offer competitive financial products.
	SO2: Increase access to energy efficiency investment opportunities and attract private investments in energy efficiency measures in the residential sector in Ukraine. Contribute to creation of specific financial products (loans) destined to HOAs by Ukrainian banks.	2.1) Amounts of matching funds made available by Ukrainian households for energy efficiency investments; 2.2) Volume of investments / total value of projects in energy efficiency in the residential sector (EUR); 2.3) Number of banks offering financial products (loans) for HOAs in the framework of the EEF programmes.	2) 2018: 2.1) 0 2.2) 0 2.3) 0	2) 2021: 2.1) EUR 50 mln 2.2) EUR 100 mln 2.3) at least 3	Multi-Donor Trust Fund reports, IFC technical assistance reports, EEF reports, Government reports.	4) Regular annual contributions to the EEF from the State Budget are approved and disbursed. 5) The market for energy efficiency measures is developing; the demand for energy audits is increasing.
	SO3: Contribute to improve the quality of energy audits by Ukrainian energy auditors leading to successful applications to the EEF programmes.	3) Approved high quality energy audits within applications to the EEF as a result of the training programme.	3) 2018: 0	3) 2022: 80%	Reports of the contractor	
Outputs	1) The overall framework for the establishment and operations of the MDTF and EEF is available and functional. Financial support for energy efficiency renovation is available.	<b>Component 1 indicators:</b> 1) Core principles for MDTF and EEF operations; 2) Legal agreements between the MDTF and partnering banks; 3) Grant policy and distribution criteria; 4) Project verification requirements; 5) Total value of EU grants disbursed to households for energy efficiency investments.	<b>Component 1:</b> 1) 2017: 0 2) 2017: 0 3) 2017: 0 4) 2017: 0 5) 2017:0	<b>Component 1:</b> 1) 2019: adopted 2) 2019: adopted 3) 2019: adopted 4) 2019: adopted 5) 2022: EUR 50 million	<b>Component 1:</b> Multi-Donor Trust Fund reports, IFC technical assistance reports, EEF reports.	<b>Components 1-2- 3:</b> 1) The EEF is established and operational; the EEF functions in an open and transparent manner; 2) EU funds are available.
	2) Homeowners (including vulnerable population) apply to receive support of the EEF and implement energy efficiency measures.	<b>Component 1 indicators:</b> 1) Total number of grant applications to EEF; 2) Number of grants submitted as a result of the programme; 3) Number of executed projects (per	<b>Component 1:</b> 1) 2017: 0 2) 2017: 0 3) 2017: 0 4) 2017: 0	<b>Component 1:</b> 2022: 1) 7,000 2) 6,000 (85%) 3) 3,100 4) At least 100	<b>Component 1:</b> Multi-Donor Trust Fund reports, EEF reports	<b>Component 1:</b> MDTF manager is committed; the distribution channels are operational.



	<p>type of buildings, per type of measures);</p> <p>4) Number of buildings with more than 50% of housing and subsidy recipients having conducted complex thermo-modernisation;</p> <p>5) Number of households benefitting from the EEF financial products support;</p> <p>6) Share of lower income households, notably of single female headed households among them, among those receiving support from the EEF<sup>39</sup></p>	<p>5) 2017: 0</p> <p>6) 2017 : 0</p>	<p>5) 201,500<sup>40</sup></p> <p>6) 30%; of them 25% single female headed households</p>		<p>The market for energy efficiency measures is developing; the demand is increasing.</p> <p><b>Component 2:</b> The implementing agent is committed to the Action; the regional network of energy auditors is functioning.</p> <p><b>Component 3:</b> The market for energy efficiency measures is developing; the demand for energy audits is increasing.</p> <p>The implementing agent is committed to the Action.</p> <p>The continued interest of women towards new skills and new jobs, especially of graduates of HEIs and VET institutions with technical</p>
<p>3) The Ukrainian residential sector is informed about the advantages of energy efficiency investments. Homeowners (including vulnerable population) are made aware of opportunities for energy efficiency investments and access financial products offered by the EEF. A comprehensive approach to energy efficiency measures in the residential sector is promoted. People to people approach to communication is enhanced.</p>	<p><b>Component 2 indicators :</b></p> <p>1) Number of residents informed about the advantages of energy efficiency investments and opportunities offered by the EEF (segregated geographically, including in conflict affected regions);</p> <p>2) Number of trainings conducted by the programmes as well as by involved NGOs as the multiplication effect of the programme;</p> <p>3) Number of women-led HOAs participating in trainings;</p> <p>4) Number of trainings conducted in conflict-affected regions, controlled by the Government;</p> <p>5) Number of training days for HOAs;</p> <p>6) Number of special events for HOAs;</p> <p>7) Number of special events for HOAs</p>	<p><b>Component 2:</b></p> <p>1) 2017: 0</p> <p>2) 2017: 0</p> <p>3) 2017: 0</p> <p>4) 2017: 0</p> <p>5) 2017: 0</p> <p>6) 2017: 0</p> <p>7) 2017: 0</p> <p>8) to be defined after the baseline survey (initial) survey</p>	<p><b>Component 2: 2022</b></p> <p>1) 2,500,000</p> <p>2) 1,500</p> <p>3) 900 (60% of the total number of participating HOAs)</p> <p>4) 75 (5% of total trainings)</p> <p>5) 3,000</p> <p>6) 3,000</p> <p>7) 15</p> <p>8) to be defined by the results of the final</p>	<p><b>Component 2:</b> IFC technical assistance reports, Multi-Donor Trust Fund reports, EEF reports</p>	<p>The market for energy efficiency measures is developing; the demand for energy audits is increasing.</p> <p>The implementing agent is committed to the Action.</p> <p>The continued interest of women towards new skills and new jobs, especially of graduates of HEIs and VET institutions with technical</p>

<sup>39</sup> The total share of HUS subsidy recipients in Ukrainian households is around 50 %.

<sup>40</sup> Assumption: 65 households per building.

		<p>conducted in conflict-affected regions, controlled by the Government;</p> <p>8) Increased recognition/awareness-raising of the following topics amongst representative population (segregated geographically, including in conflict-affected regions):</p> <ul style="list-style-type: none"> <li>• Understanding of homeowners' rights and responsibilities towards the ownership in multifamily buildings;</li> <li>• Understanding of energy efficiency potential and corresponding monetary savings in multi-family buildings;</li> <li>• Knowledge of the financial instruments that exist in the market to facilitate energy efficiency measures.</li> </ul>		survey		background.
4) The regional coverage of qualified energy auditors including women is increased. The capacity of qualified energy auditors is strengthened.	<p><b>Component 3 indicators (part 1):</b></p> <p>1) Number of trained energy auditors;</p> <p>2) Share of women among trained energy auditors;</p> <p>3) Number of hours of training provided during the programme;</p> <p>4) Increased capacity of energy auditors;</p> <p>5) Number of performed energy auditors in multi-storey buildings as follow up of the training programme;</p> <p>6) Regional coverage by energy audits (segregated geographically, including in conflict-affected regions).</p>	<p><b>Component 3:</b></p> <p>2018:</p> <p>1) 0</p> <p>2) 0</p> <p>3) 0</p> <p>4) to be determined by assessing participants initial skills/needs</p> <p>5) 0</p> <p>6) 0</p>	<p><b>Component 3:</b></p> <p>2022:</p> <p>1) 2000</p> <p>2) 60%</p> <p>3) 75</p> <p>4) Acquired basic skills in business, communication and marketing skills;</p> <p>5) 8,000</p> <p>6) all regions covered by energy audits, with at least 5% of multi-</p>	<p><b>Component 3:</b></p> <p>Reports of the contracting authority, Multi-Donor Trust Fund reports, EEF reports</p>		

				family buildings per region audited.		
	<p>5) Women's presence in the energy audit market sector is promoted and increased. Partnership with relevant stakeholders such as local authorities and employers are established.</p>	<p><b>Component 3 indicators (part 2):</b></p> <ol style="list-style-type: none"> <li>1) Number of regional antennas of female energy auditors network;</li> <li>2) Number of outreach activities conducted with the involvement of female energy auditors;</li> <li>3) Number of stakeholders reached via the women's energy network.</li> </ol>	<p><b>Component 3:</b></p> <ol style="list-style-type: none"> <li>1) 2018: 0</li> <li>2) 2018: 0</li> <li>3) 2018: 0</li> </ol>	<p><b>Component 3:</b></p> <ol style="list-style-type: none"> <li>1) one per region</li> <li>2) 2022: four per region</li> <li>3) 2022: <ul style="list-style-type: none"> <li>• 1000 women potentially interested in an energy sector career in all regions;</li> <li>• Partnership established with 50% of regional/local government stakeholders;</li> <li>• At least 30% of relevant employers demonstrate interest in the activities of the network;</li> <li>• Partnership established with at least 50% of relevant VET and higher education institutions.</li> </ul> </li> </ol>	<p><b>Component 3:</b></p> <p>Reports of the contractor</p>	



**ANNEX 2**

of the Commission Implementing Decision on the Annual Action Programme 2018 (part 1) in favour of Ukraine

**Action Document for Technical Cooperation Facility 2018**

**INFORMATION FOR POTENTIAL GRANT APPLICANTS**

**WORK PROGRAMME FOR GRANTS**

This document constitutes the work programme for grants in the sense of Article 128(1) of the Financial Regulation (Regulation (EU, Euratom) No 966/2012) in the following sections concerning calls for proposals:

5.3.1.1 – Grants: indicatively 3 calls for proposals for Twinning projects (direct management) and in the following sections concerning grants awarded directly without a call for proposals:

5.3.2.1 – Grant: direct award to United Nations High Commissioner for Human Rights to support the human rights monitoring mission in Ukraine (direct management)

5.3.3.1 – Grant: direct award to the Ministry of Education and Science of Ukraine for participation of Ukraine in the EU Programme "Horizon 2020" (direct management)

<b>1. Title/basic act/ CRIS number</b>	<b>Technical Cooperation Facility 2018</b> CRIS number: ENI/2018/041-188 financed under 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. Sector of concentration/ thematic area</b>	Complementary support for capacity development	DEV. Aid: YES
<b>5. Amounts concerned</b>	Total estimated cost: EUR 42 750 000 Total amount of EU budget contribution EUR 37 000 000 This action is co-financed by potential grant beneficiaries for an indicative amount of EUR 5 750 000	

<b>6. Aid modality(ies) and implementation modality(ies)</b>	Project Modality Direct management – grants – call for proposal, grants – direct award, procurement of services and supplies Indirect management with the Council of Europe Indirect management with the Ministry for Foreign Affairs of Finland			
<b>7 a) DAC code(s)</b>	15110 - Public Sector Policy and Administrative Management; 15160 - Human rights; 43082 - Research/scientific institutions; 11110 – Education; 15153-Media and free flow of information; 15151- Elections			
<b>b) Main Delivery Channel</b>	Private sector institutions – 60000; Central Government – 12001; United Nations High Commissioner for Human Rights – 41313; Council of Europe – 47138			
<b>8. Markers (from CRIS DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main 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 (including Women In Development)	<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>Main 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>9. Global Public Goods and Challenges (GPGC) thematic flagships</b>	Environment and Climate change; Sustainable energy; Food and Nutrition Security and Sustainable Agriculture			
<b>10. SDGs</b>	Main SDG Goal 16: Promote just, peaceful and inclusive societies Secondary SDG Goals: Goal 8: Promote inclusive and sustainable economic growth, employment and decent work for all Goal 9: Build resilient infrastructure, promote sustainable industrialization and foster innovation Goal 13: Mitigate climate change impact			

## SUMMARY

This Action aims at supporting Ukraine in implementing 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 areas covered by the EU-Ukraine Association Agreement. In particular, the assistance will be provided in environment, transport, sanitary and phytosanitary, standardization, accounting, electronic communication, cybersecurity, and energy.

The Action will also enhance Ukraine's capacities to ensure respect for human rights and fundamental freedoms, with specific focus on support to human rights monitoring, freedom of expression, minority rights protection, prevention of torture and ill-treatment.

## 1. CONTEXT

### 1.1 Sector/Country/Regional context/Thematic area

#### *1.1.1 Public Policy Assessment and EU Policy Framework*

The EU-Ukraine Association Agreement (AA), which includes a Deep and Comprehensive Free Trade Area (DCFTA), 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.

The AA entails the implementation of profound reforms by the Government of Ukraine as re-affirmed by 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 governance, human capital development, establishment of the rule of law and fight against corruption, and security and defence.

In October 2017, the Government of Ukraine endorsed its new Action Plan on the AA implementation replacing the Action Plan for 2014–2017 (Resolution № 847). It also launched the monitoring tool 'Pulse of the Agreement' (<http://pulse.eu-ua.org/en>) and the European Integration Communication Strategy.

The 4<sup>th</sup> EU-Ukraine Association Council in December 2017 welcomed the progress in pursuing a comprehensive reform agenda in spite of severe security challenges, and assessed steps in the implementation of the AA, while underlining the need to step-up reform efforts.

Under the AA Ukraine commits to respect the democratic principles, human rights and fundamental freedoms, as defined in particular in the Helsinki Final Act of 1975 of the Conference on Security and Cooperation in Europe and the Charter of Paris for a New Europe of 1990, and other relevant human rights instruments, among them the UN Universal Declaration of Human Rights and the European Convention on Human Rights and Fundamental Freedoms. These elements also constitute, according to Article 2 of the AA, essential elements of the Agreement.

The human rights situation in Ukraine continues to be heavily exacerbated by the active conflict in the eastern part of the country, as well as by the illegal annexation of the Crimean peninsula by the Russian Federation. These developments have resulted in grave violations of human rights and international humanitarian law in areas not controlled by the Government of Ukraine. Conversely, in the Government-controlled territory, human rights are widely respected and fundamental freedoms upheld. Still, a number of concerns persist, relating to discrimination on various grounds, the existence of cases of torture and ill-treatment, and the lack of protection of vulnerable groups, such as women and children. Other concerns over human rights violations include persisting impunity for several crimes, including in terms of lack of progress in the investigations on past killing of journalists, and of crimes committed during the Maidan events in Kyiv (2013-14) and in Odesa (2 May 2014).

Ukraine is a member of the Council of Europe (CoE) and therefore subject to the European Court of Human Rights (ECtHR) jurisdiction. It shows willingness to cooperate with international monitoring bodies, but implementation of their recommendations lags far behind. Cases against Ukraine constitute 16% of the overall amount of cases of the ECtHR. However, the ratification of some of the international instruments, such as the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and the Rome Statute of the International Criminal Court, remains pending.

The 3<sup>rd</sup> Universal Periodic Review of Human Rights covering Ukraine held in November 2017 and its reporting highlights some key achievements, notably in the areas of legislative and institutional changes, but also refers to the persisting human rights problems in the non-Government controlled areas.

At the end of 2015 Ukraine adopted its first ever National Human Rights Strategy and Action Plan until 2020, the drafting of which the Ukrainian civil society and the Human Rights Ombudsperson took an active part. Their implementation requires better mainstreaming across the government the allocation of adequate resources which have been lacking so far. According to the first annual implementation report by the Ombudsperson only about one fourth of actions were completed on time, whereas the government assesses that half of the measures have been implemented in time.

Ukraine has established a National Preventive Mechanism against Torture. The situation with detention facilities overcrowding has improved. However, torture and ill-treatment in police detention remain sometimes a problem, aggravated by impunity. Victims of torture and other ill-treatment continue to experience difficulty in getting their complaints investigated and punishments handed down by the courts often did not reflect the gravity of the crime. This situation is documented by the UN Human Rights Council's Universal Periodic Review of Ukraine's (recommendation to create an independent body to investigate cases of torture and guarantee compensation to victims).

The action is fully in line with the European Union's commitment to promote and protect human rights and to support democracy worldwide as evidenced from the EU's Action Plan on Human Rights and Democracy for 2015-2019. Through this Action Plan the EU has put special emphasis on supporting local actors, also through increased co-operation with national human rights institutions and civil society. The EU also ensures a comprehensive human

rights approach to preventing and addressing conflicts and crises, and further mainstreams human rights in the external aspects of its policies.

While minority rights are overall upheld, the recent adoption of the law on education and its provision on education in minority languages, have sparked a number of criticisms by minority representatives. Among certain national minorities, there is a concern that the legitimate goal of the law on education to promote the use and learning of the state language (Ukrainian) could be achieved to the detriment of their existing language rights. Ukrainian authorities have committed to implement the opinion of the Venice Commission issued at the end of 2017, in order to address minorities' concerns. Ukraine has ratified most of the core human rights international instruments and cooperates well with the respective bodies monitoring their implementation.

In the area of freedom of expression, the present context in Ukraine is of a distorted media environment, with a general lack of impartial and objective news reporting by the main TV and radio in the country. Independent media in post-Maidan Ukraine still remains highly vulnerable. The lack of safety of journalists and of personal data protection continues to constitute a problem. The ongoing conflict in the Eastern regions of Ukraine and propaganda by the foreign media creates strong additional challenges to ensuring freedom of speech and media in the country. The existing regulatory and supervisory institutions are sometimes dysfunctional and mandates are partially incoherent. The national legal framework needs to be brought in line with the EU Audio Visual Media Service Directive. The reform of the public service broadcaster continues to face serious obstacles, also due to a lack of budgetary means. There have been violations of media freedom during election campaigns, and lack of consistency on the rights and responsibilities of mass media during all types of elections. In addition, the regulator does not possess necessary responsibilities and authorities to intervene and provide remedies in case of violations.

The reports of the OSCE/ODIHR Election Observation Missions covering the most recent elections generally assess positively the voting process, to a lesser extent the vote count and tabulation process. Critical remarks were raised to the work of the Central Election Commission, issues of appointments of District Election Commissions, lack of autonomy of the media from political parties and/or corporate interests.<sup>1</sup>

The Single Support Framework (SSF) for Ukraine 2018-2020, adopted by the EU in December 2017, complementary to the four priority sectors, includes a provision for support for capacity development and institution building activities aiming at implementation of priority commitments deriving from EU and other agreements with Ukraine.

### ***1.1.2 Stakeholder analysis***

This action will primarily impact on the public authorities responsible for the implementation of the AA/DCFTA, including those responsible for ensuring respect for human rights and fundamental freedoms.

---

<sup>1</sup> Ukraine, Early Parliamentary Elections, 26 October 2014: Final Report  
<https://www.osce.org/odihr/elections/ukraine/132556?download=true>



In relation to the **implementation of the AA/DCFTA**, the following institutions will be involved in the implementation of activities as direct beneficiaries of the action:

- Government Office for European and Euroatlantic Integration, Verkhovna Rada of Ukraine for **horizontal support to AA/DCFTA**;
- Ministry of Ecology and Natural Resources and Ministry for Regional Development, Building and Housing in the area of **environment**;
- Ministry of infrastructure, State Agency of Transport Safety, State Agency of Automobile Roads in the area of **transport**;
- State Service of Ukraine for Food Safety and Consumer Protection in the area of **sanitary and phytosanitary** (animal health and welfare);
- Ministry of Finance, National Commission for Securities and Stock Market, National Bank in the area of **accounting**;
- Ministry of Economic Development and Trade in the area of **standardization**;
- National Security and Defence Council, State Center of Special Communication and Information Protection, Security Service, National Agency for e-Governance, State Center for Cyberdefence and Counteraction to Cyber Threats, Central Electoral Commission in the area of **cybersecurity**;
- National Commission for the State Regulation of Communications and Informatization in the area of **electronic communication**;
- National Energy and Utilities Regulatory Commission, Energy Ombudsperson (institution to be created in line with Electricity Market law and law on Regulator) in the area of **energy**.

The civil society and other non-state actors will be consulted systematically during the further definition of the actions. Civil society organisations will not only be involved in the consultation of actions but will also be continuously involved in policy dialogue processes. The coordination with the Verkhovna Rada of Ukraine has to be ensured for the adoption of the legislation developed by the Government for the AA/DCFTA implementation.

In relation to the **respect of human rights and fundamental freedoms**, the following public institutions will be involved: Parliament Commissioner for Human Rights, Ministry of Justice, Ministry of Internal Affairs, Ministry of Education and Science, Ministry of Social Policy, Ministry of Defence, Ministry of Health, Ministry of Temporary Occupied Territories and Internally displaced persons, Security Service, Presidential Administration, relevant Committees of the Verkhovna Rada (especially of Freedom of Speech and information policy), Central Election Commission, Ministry of Information Policy, National Council of Television and Radio Broadcasting.

The UN Human Rights Monitoring Mission (HRMMU), CoE and the Ministry for Foreign Affairs of Finland will be involved in the implementation of the activities in this area. Teachers, school staff and students, particularly those belonging to ethnic minorities, will be the final beneficiaries of the component related to education. Representatives of national minorities will be consulted throughout the action.

As regards the support to **Ukraine's participation in “Horizon 2020” the EU Framework Programme for Research and Innovation** the main government institution involved is the

Ministry of Education and Science and researchers and scientists in Ukraine and EU Member States participating in the programme are the final beneficiaries of the programme.

Citizens of Ukraine are expected to benefit from the implementation of the programme through the support to the implementation of AA/DCFTA overarching objectives, including fundamental rights for democracy, pluralism, respect for human rights and access to education as well as promotion of sustainable development, good governance, free market economy (in particular energy).

### *1.1.3 Priority areas for support/problem analysis*

#### **1.1.3.1 Capacity building for Ukrainian public authorities to implement AA/DCFTA**

Following the entry into force of the AA/DCFTA on 1 September 2017, the Cabinet of Ministers of Ukraine and Verkhovna Rada of Ukraine are expected to intensify the process of AA implementation, which includes ambitious reform plan in 27 key areas and the development of a system of institutions to underpin the process. Improving the system on approximation of Ukrainian legislation to EU law and improving the capacities of the key actors in the corresponding end-to-end legislative process will be essential for the necessary reforms and for achieving progress in the AA implementation.

Systemic challenges to the process of legal approximation have to be addressed under **horizontal support to the AA/DCFTA**, aiming at revision of legislative procedures and providing necessary administrative and political support to the implementation of the AA/DCFTA. Besides, the key areas requiring support are the development of national capacities to carry out EU law conformity checks for draft legislation and improving the quality of EU law translation.

The implementation of reforms and further legal approximation require continued support to **institution building and capacity development** for Ukrainian public authorities. Targeted support and specialised expertise are required for legal approximation in **environment, transport, accounting, sanitary and phytosanitary, standardisation, electronic communication** sectors in view of the volumes of the legislation which has to be transposed in line with the AA/DCFTA. In the areas where the progress has been achieved in legal approximation, substantial efforts are needed for improving institutional capacities of the relevant public authorities and professional development of those involved in developing, implementing and enforcing relevant controls.

In the **energy** sector, Ukraine has already transposed the EU Directives on electricity and gas by adopting the Gas Market law, Energy Regulator's law and Electricity Market law. The implementation of this legislation and development of retail energy markets requires strengthening the capacity of responsible institutions to focus on consumer protection and at the same time empowering energy end-users to use their rights to choose suppliers and have access to information.

In the context of strengthening Ukrainian resilience against hybrid threats, enhanced support is needed in the area of **cybersecurity** where Ukraine has been increasingly the target of cyberattacks against its critical infrastructure (the election system, energy and banking

sectors). Ukraine has approved a Cybersecurity Strategy and a Cybersecurity Law in 2017, where the key areas and actions of ensuring cybersecurity in Ukraine were identified. However further legal approximation in this area with the EU acquis is needed, as well as capacity building within the national cybersecurity system in Ukraine and improvement of organisational coordination within it.

In order to ensure implementation and enforcement of adopted policies and legislation and sustainability of institutional capacities, specific attention will be paid on the **quality of the legislative and policy-making processes** as well as accountability arrangements within and between concerned institutions. In line with the public administration reform efforts that Ukraine has committed to, the legal approximation process will need to ensure that all legislative proposals are based on evidence and their cost is calculated (impact assessments) and they will be consulted in the right time of the process with internal and external stakeholders. In order to ensure sustainable capacity in the sectors, the support will also contribute to improved accountability lines between institutions, for example by supporting agencies that are legally under specific ministries, to improve their reporting to concerned ministries and ministries to provide the necessary supervision of such agencies.

#### **1.1.3.2 Strengthening capacities of Ukrainian public authorities, civil society and media to protect human rights and fundamental freedoms**

In view of the access and control restrictions of the Ukrainian government representatives to the non-government controlled areas of the Donetsk and Luhansk regions, as well as in the Autonomous Republic of Crimea and the city of Sevastopol, the international monitoring and reporting on the violations of human rights and international humanitarian law has been carried out by the Office of the High Commissioner for Human Rights, represented by the **Human Rights Monitoring Mission** in Ukraine (HRMMU). It has a unique mandate to monitor and report on the human rights situation throughout Ukraine including non-government controlled areas and to make recommendations to the Government and other actors to address human rights concerns. The activities by the HRMMU are particularly important for its analysis of the situation provided to all humanitarian and development actors for shaping policies and assistance programmes. HRMMU will increase its technical cooperation with various stakeholders, including the Government authorities and civil society, in order to ensure greater national capacity in addressing human rights violations throughout Ukraine.

The problems leading to the violations of human rights and freedoms at the territories under the control of Ukrainian authorities, including discrimination on various grounds, cases of torture and ill-treatment, and the lack of protection of vulnerable groups, have to be addressed. Ukraine is still among the few countries with the largest number of rulings against it by the ECtHR. The number of cases against Ukraine is particularly high in the enhanced procedure - 908 cases or 16% of all enhanced procedure cases compared with 204 cases in standard procedure as of 2016. There are a number of cases against Ukraine, which concern structural problems, in particular, the inefficiency of enforcement of ECtHR judgements against the State.

Complementary to the ongoing reform and EU-funded programmes in support of justice sector reform and efficient law-enforcement systems, targeted support to institutions ensuring human rights adherence has to be provided. In particular, capacity building support to the

Parliamentary Commissioner on Human Rights (Ombudsperson) to fulfil its high constitutional functions of the national preventive mechanism, the anti-discrimination body and the national authority of personal data protection.

There is a general lack of impartial and objective news reporting by the main TV and radio in the country. The current ownership structure of the media, while providing for formal freedom of speech and wide range of views, makes the biggest news outlets subordinated to vested interests and imposes self-censorship on journalists who are dependent on the interest media owners. Ukraine's obligations under the AA to reinforce **media independence** and professionalism have to be met by gradual approximation to the EU regulatory framework and international instruments in the area of audio-visual policy, as well as through implementation of CoE's recommendations laid out in the Institutional Mapping Analysis in the Sphere of Information Policy and Media in Ukraine. With national elections in Ukraine in the offing, it is important to highlight the role of the media in the period leading up to and including elections.

The capacities of the Ministry of Justice also have to be further strengthened through supporting the reform of the **enforcement system, penitentiary system** and focusing on **execution of the ECtHR decisions/judgements** in Ukraine. As Ukraine is a member state of the CoE and human rights protection and monitoring are at the core of the CoE mandate, such support will be provided by the CoE through a comprehensive programme.

With regard to the upcoming elections in 2019, targeted on-demand support could be provided to address shortcomings in the preparations and conduct of the elections as well as to provide neutral and objective information to citizens in order to take informed choices.

The article 7 "Language of Education" of the Law "On Education" has triggered worried reactions by representatives of national minorities and their kin States, who considered that the law would violate existing rights of minorities to instruction in their native languages. At the request of Ukraine, the European Commission for Democracy through Law (Venice Commission) issued an Opinion in December 2017, recommending specific steps to ensure the proper respect of minority language rights<sup>2</sup>.

In February 2018, the Ministry of Education and Science of Ukraine adopted a "Roadmap for the implementation of the Article 7 "language of Education" of the law of Ukraine "on Education" (the Roadmap)<sup>3</sup>, including a timeline for consultations with minorities representatives that started in mid-February 2017. The Cabinet of Ministers endorsed the legal amendments proposed by the Ministry of Education to the 2017 framework law on education to prolong the transitional period for the implementation of the law from 2 to 5 years to ensure sufficient time for the Ministry to address the recommendations of the Venice Commission and conduct necessary consultations with minority representatives. Support to the Ministry of Education and Science of Ukraine to the implementation of the Roadmap, "including

---

<sup>2</sup> see art 122-126 of the opinion issued by the Venice Commission:

<sup>3</sup>

<https://mon.gov.ua/storage/app/media/news/%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8/2018/02/13/broshure-roadmapeng12-02-2018-1.pdf>

dedicated measures to create opportunities for quality teaching of the Ukrainian language in schools with national minorities' language of instruction" is therefore required and is proposed to be provided through Ministry of Foreign Affairs of Finland which already partners with the Ministry to support the secondary education reform "New Ukrainian School".

### 1.1.3.3 Support to Ukraine's participation in EU programme “Horizon 2020”

Ukraine became an associated country to “Horizon 2020” programme in 2015 and since then Ukrainian organizations are able to participate in “Horizon 2020” on equal terms with EU Member States and other associated countries. By now 121 organizations have been selected in “Horizon 2020” for EU funding through 94 projects for the amount of €17.60 million. Further support to Ukraine's participation in “Horizon 2020” will help Ukrainian researchers and scientists to team up with partners from EU Member States to implement the cooperation projects and foster Ukraine's integration into the European Research Area.

## 2. RISKS AND ASSUMPTIONS

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

overlapping policy responsibilities among institutions (especially ministries and agencies)		obligations.
Human rights are not guaranteed for all groups (religious, ethnic, vulnerable women, sexual minorities and children) of society	M	Policy dialogue and EU support in the implementation of the National Human Rights Strategy and Action Plan for the key stakeholders
There is no direct access of human rights monitoring bodies to the areas not under Government control	H	Cooperation between OHCHR-HRMMU and civil society and human rights activists who have access to the non-government controlled areas to engage with other stakeholders with access to information
Civil society and human rights activists are under increasing pressure	M	Public Diplomacy by EU to support those actors in their daily work, including direct support to them to continue their operations. Policy dialogue with Ukrainian authorities. Conditioning of part of the assistance (such as more for more funds).
Poor quality of teaching of the national language for non-Ukrainian native-speaker pupils and poor communication on it trigger more negative reactions within and outside Ukraine	M	Technical advice from non-directly affected EU-Member States seen as neutral by all stakeholders
<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, COMPLEMENTARITY AND CROSS-CUTTING ISSUES**

#### **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 2008-2013 and Technical Cooperation Facilities 2015-2016. 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 necessary for the legal approximation to the EU acquis by the Government and the Parliament.

In the area of support of democracy and human rights, past projects have shown that it is important to have a comprehensive approach and address in parallel issues linked to the legal and regulatory framework, provide direct support to civil society actors and to engage in intensive policy dialogue and public diplomacy activities. It is also important to closely link with other specialized actors such as the CoE and EED, that have a specific mandate and expertise and are well connected to the stakeholders among the civic activist/media and public authorities.

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 a large number 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 coordination**

The action will complement the ongoing EU assistance as well foreseen support under the focal sectors of the SSF. It continues the support to the implementation of EU-Ukraine Agreements through the Framework Programmes 2008-2013 and Technical Cooperation Facilities 2015-2016.

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. The proposed action on cybersecurity will complement the planned regional programme and provide country specific technical expertise and hands on support in the improvement of the institutional framework for cybersecurity.

The support in the area of education will be provided in synergy with Finland's comprehensive support to the "New Ukrainian School" reform. The proposed programme will also allow to continue and further deepen the ongoing activities under the CoE implemented "Partnership for Good Governance" in the areas of media governance.

Under the European Instrument for Democracy and Human Rights a number of project are ongoing and are about to start, which contribute to the strengthening of human rights advocacy groups. The focus of the majority of those projects is on promotion of equality and non-discrimination, fight against torture, support to IDPs and vulnerable groups, and human rights defenders. The proposed actions under this programme will be complementary and address notably institutional bottlenecks linked e.g. to the capacities of the Ombudsperson, the capacities to implement ECtHR judgements and the capacities to prevent human rights violations in penitentiary institutions. It will also allow to reinforce human rights monitoring in areas not controlled by the Government. Support to the respect for human rights will also build upon the achievements of the ongoing Twinning project in support to the Ombudsperson. Methodological guidance developed under that programme will be applied and rolled out.

The proposed action is also complementary to the planned regional programme to support civil society development, which will provide grant support to non-government organization to i.a. reinforce civic actors.

This action allows to target institutions outside the key sectors but still of key importance for the implementation of the agreements, particularly in the area of human rights and democracy, which is also a cross-cutting theme under the SSF. It also extends the time period of support for Ukraine's participation in EU programme "Horizon 2020".

On donor coordination - The existing Government-Donor coordination mechanism will be used for the overall coordination of this action. It is led by the Ministry of Economic Development and Trade (for technical assistance). Donor coordination in specific thematic areas is led by relevant state bodies.

### **3.3 Cross-cutting issues**

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. This should entail an analysis of Ukrainian implementation of the nine global human rights treaties and shortcomings to be addressed in the context of project design. Socially or economically deprived groups should be of consideration wherever these issues are of particular relevance to the institutions to be assisted. Gender equality will be embedded in the activities supporting the protection of human rights and fundamental freedoms. 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 also ensure the respect to key Principles of Public Administration, especially the commitment to inclusive and evidence-based policy and legislative development.



This action will be implemented following a rights-based approach, encompassing all human rights. The five working principles below will be applied at all stages of implementation: legality, universality and indivisibility of human rights; 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. DESCRIPTION OF THE ACTION

##### 4.1 Objectives/results

The **overall objective** of the programme is to support Ukraine in the implementation of the AA/DCFTA and making progress in helping Ukrainian institutions to strengthen the respect for democratic principles, human rights and fundamental freedoms.

*The Specific objectives of this programme are:*

1. To enhance the capacity of Ukrainian public authorities in selected priority areas to carry out legal approximation with the EU and implement the AA/DCFTA;
2. To strengthen the capacities of Ukrainian public authorities, civil society and media to monitor and establish effective mechanisms for protection of human rights and fundamental freedoms, including freedom of expression and access to quality education for minorities;
3. To support Ukraine's participation in EU programme "Horizon 2020".

The following main results are expected:

- **Result 1:** Strengthened institutional and administrative capacities of the Ukrainian public authorities in selected priority areas to transpose EU acquis in Ukrainian legislation and implement the provisions of the AA/DCFTA;
- **Result 2:** Improved legal framework and strengthened capacities of the Ukrainian public authorities and non-governmental stakeholders to effectively promote the respect of human rights and fundamental freedoms in Ukraine including areas not controlled by the government;
- **Result 3:** Active participation of Ukrainian organisations in the EU programme "Horizon 2020".

This programme is relevant for the Agenda 2030. It contributes primarily to the progressive achievement of SDG Goal 16: *Promote just, peaceful and inclusive societies*, but also promotes progress towards Goals 8: *Promote inclusive and sustainable economic growth, employment and decent work for all* and Goal 9: *Build resilient infrastructure, promote sustainable industrialization and foster innovation*. This does not imply a commitment by the country benefiting from this programme.

##### 4.2 Main activities

The main activities corresponding to **Result 1** in the selected priority areas are as follows:

- **Horizontal support to AA/DCFTA:** providing advice on coordination, monitoring and communication of the AA/DCFTA implementation, as well as support

establishing effective government systems for the EU acquis translation and compliance checks

- **Environment:** support in the development of the environmental legislation subject to transposition in line with the AA and capacity building activities for its implementation of this legislation, including the National Waste Strategy
- **Transport:** support in transposition of transport legislation in line with the AA provisions and building administrative capacities for the implementation and enforcement of the priority regulations, including measures improving the road safety.
- **Sanitary and phytosanitary:** support in the development of legislation in the area of animal health and welfare and building administrative capacities in providing relevant services, control, surveillance and national emergency response.
- **Accounting:** support to the revision of the legislative framework in the area of accounting and financial reporting in line with best EU and international practices
- **Standardization:** strengthening institutional capacity to improve functioning of national quality infrastructure
- **Electronic communication:** strengthening institutional capacity to review the strategic aspects of the regulatory policy in the area of electronic communication services, monitoring of the quality of services, market access and market supervision.
- **Cybersecurity:** support to the implementation of the key areas and actions identified in the Cybersecurity Strategy of Ukraine for in ensuring cybersecurity, consolidation of the legislative framework in the field of cybersecurity in line with EU acquis and building the capacity within national cybersecurity system in Ukraine in order ensure better protection of the critical infrastructure and increase resilience and response to cyber threats.
- **Energy:** strengthening institutional capacities of relevant stakeholders in fulfilling their functions at the new retail energy markets in line with the EU acquis focusing on the benefits for energy consumers and consumer rights

All above activities will ensure an inclusive and evidence-based legal approximation process and administrative capacity development in line with the public administration reform commitments of Ukraine.

The main activities corresponding to **Result 2** are as follows:

- **HRMMU:** monitoring and reporting on human rights situation in Ukraine, with particular attention to conflict affected areas and Crimea, provision of advisory services to foster compliance with international human rights commitments, supporting national counterparts' capacities in monitoring, reporting, advocacy and assisting victims to obtain legal redress
- **Human rights protection:** strengthening institutional capacities of relevant stakeholders implementing the national prevention mechanism against human rights violations, supporting national mechanisms to ensure full, effective and prompt execution of ECtHR judgments, providing support to the reform of the penitentiary system, strengthening the oversight of prisons, wider range of rehabilitative services and improved practices for handling prisoners' complaints

- **Media:** Promote the regulatory framework and stakeholder capacities for effective monitoring of media related violations, diversity and neutrality of information, the development and reform of media at local level and ensuring quality journalism.
- **Elections:** support flexibly and demand driven urgent needs to ensure the fair and effective preparations and conduct of the electoral process, and the access of citizens to information allowing for a democratic choice.
- **Education:** activities on curriculum development, development of teaching material and teachers' training, with a focus on teaching national language to non-native speakers, in line with the Venice Commission's recommendation and the Roadmap for implementation of article 7 "Language of Education" of the law of Ukraine "On Education"

**Result 3** is the partial reimbursement of Ukraine's contribution in the EU programme "Horizon 2020" in 2019-2020.

### 4.3 Intervention logic

The action is aimed at creating the 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.

Respect for human rights and democratic principles will be promoted through an integrated approach that combines legal and regulatory advice with capacity building through training and policy advice. In addition civil actors will be empowered through small grants to enhance their role in the public space and better represent citizen's aspirations. Complementary policy dialogue and public diplomacy will address possible threats and adverse and vested interests of national and local actors.

The action also supports Ukraine's participation in the EU programme "Horizon 2020".

## 5. IMPLEMENTATION

### 5.1 Financing agreement

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of Regulation (EU, Euratom) No 966/2012.

### 5.2 Indicative implementation period

The indicative operational implementation period of this action, during which the activities described in section 4.2 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; such

amendments to this decision constitute technical amendments in the sense of point (i) of Article 2(3)(c) of Regulation (EU) No 236/2014.

### **5.3 Implementation modalities**

The envisaged assistance to Ukraine is deemed to follow the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU<sup>4</sup>.

#### **5.3.1 Capacity building of Ukrainian public authorities to implement AA/DCFTA**

##### **5.3.1.1 Grants: indicatively 3 calls for proposals for Twinning projects (direct management)**

(a) Objectives of the grants, fields of intervention, priorities of the year and expected results

The Twinning modality via calls for proposals will indicatively be used for the actions supporting the areas of electronic communication, cybersecurity and standardization in line with the objectives, results and activities described in sections 4.1 and 4.2.

(b) Eligibility conditions

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.

(c) Essential selection and award criteria

The essential selection criterion is the operational capacity of the applicant.

The essential award criteria are relevance of the proposal to the objectives of the Twinning project, proposed methodology, technical expertise, and sustainability of the action.

(d) Maximum rate of co-financing

The rate of co-financing for Twinning grant contracts is 100%<sup>5</sup>.

(e) Indicative timing to launch the call

1st trimester of 2019

f) Use of lump sums/flat rates/unit costs

Twining contracts include a system of unit costs and flat rate financing, defined in the Twinning Manual for the reimbursement of the public sector expertise provided by the selected Member States administrations. The use of this system of unit costs and flat rate financing, which exceeds the amount of EUR 60 000 per beneficiary of a Twinning contract, is authorised through the Commission decision C(2017)1122.

##### **5.3.1.2 Procurement (direct management)**

---

<sup>4</sup> [https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_en)

<sup>5</sup> As provided for in the Twinning Manual

Subject in generic terms, if possible	Type (works, supplies, services)	Indicative number of contracts	Indicative trimester of launch of the procedure
Horizontal support to AA/DCFTA	Services	1	1 <sup>st</sup> trimester of 2019
Technical assistance to the public institutions in the selected areas (as defined in 4.2)	Services	5	2 <sup>nd</sup> trimester of 2019
Supply of IT hardware, software and veterinary laboratory equipment and consumables to complement support in Animal Health and Welfare	Supply	2	2 <sup>nd</sup> trimester of 2019
Technical assistance to strengthen the national cybersecurity system	Services, supplies	2	1st trimester of 2019

### **5.3.2 *Strengthening capacities of Ukrainian public authorities, civil society and media to protect human rights and fundamental freedoms***

#### **5.3.2.1 Grant: direct award to support the OHCHR human rights monitoring mission in Ukraine (direct management)**

(a) Objectives of the grant, fields of intervention, priorities of the year and expected results

The objective of this grant is to support monitoring and reporting activities on human rights situation in Ukraine, with particular attention to conflict affected areas and Crimea. The grant will build on the results and previous support provided to the HRRMU through the Instrument Contributing to Stability and Peace since 2015.

(b) Justification of a direct grant

Under the responsibility of the Commission's authorising officer responsible, the grant may be awarded without a call for proposals to OHCHR. The recourse to an award of a grant without a call for proposals is justified because, in accordance with Article 190(1) (f) of Commission Delegated Regulation (EU) No 1268/2012, this action has specific characteristics that require a particular type of body on account of its technical competence, its high degree of specialisation or its administrative power,

OHCHR's mandate is to monitor and report on the human rights situation throughout Ukraine and to make recommendations to the Government and other actors to address human rights concerns. OHCHR's HRRMU has a high degree of specialization ensuring monitoring, reporting and advocating on the human rights situation across the contact line with field presences in both government-controlled and non-government controlled areas. The monitoring and documentation of human rights violations, as well as the provision of legal

advice and referral will continue to result in identifying gaps and concerns and the formulation of relevant recommendations, contributing to the ongoing reform process.

(c) Essential selection and award criteria

The essential selection criteria are the financial and operational capacity of the applicant.

The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

(e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 80%.

In accordance with Articles 192 of Regulation (EU, Euratom) No 966/2012 if full funding is essential for the action to be carried out, the maximum possible rate of co-financing may be increased up to 100 %. The essentiality of full funding will be justified by the Commission’s authorising officer responsible in the award decision, in respect of the principles of equal treatment and sound financial management.

(f) Indicative trimester to conclude the grant agreement

3<sup>rd</sup> trimester of 2018

**5.3.2.2 Procurement (direct management)**

Subject in generic terms, if possible	Type (works, supplies, services)	Indicative number of contracts	Indicative trimester of launch of the procedure
Support to the electoral process	Services	2	1 <sup>st</sup> trimester of 2019

**5.3.2.3 Indirect management with the Council of Europe**

A part of this action may be implemented in indirect management with the CoE in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012. This implementation entails support to (i) strengthening the capacities of the Parliament Commissioner for Human Rights (Ombudsman), (ii) the improved execution of ECtHR judgements, (iii) penitentiary reforms and (iv) freedom of expression and media governance. This implementation is justified as Ukraine is a member of the CoE, and has therefore taken the obligation to comply with CoE principles and practice related to human rights media freedom. No other stakeholder has the specific mandate, the expertise and the political leverage, through Council of Ministers conclusions, CoE Conventions and other instruments. The proposed actions are in full alignment with the CoE Action Plan for Ukraine.

The entrusted entity would carry out the following budget-implementation tasks: running the public procurement and grant award procedures; concluding and managing the resulting contracts, including making of the related payments.

#### **5.3.2.4 Indirect management with the Ministry of Foreign Affairs of Finland**

A part of this action may be implemented in indirect management with the Ministry of Foreign Affairs of Finland in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012. This implementation entails support to the implementation of the Venice Commission's opinion, including through support to the rolling-out of the Roadmap for implementation of article 7 "Language of Education" of the law of Ukraine "On Education", particularly on curriculum development, development of teaching material and teachers' training, with a focus on teaching national language to non-native speakers. This implementation is justified because of the sensitivity of the topic, the neutrality, thematic expertise and specific experience of Finland on teaching national language to non-native pupils and integrating minorities through an open and highly praised educational system. Finland has a significant experience with a well-established minority education programme having had to deal with traditional minorities among Sami population as also new minorities among migrants. Moreover Finland's primary and secondary education is rated as one of the best in Europe. Moreover, the Finnish Government is launching a 6-million EUR project in 2018 to support the implementation of the concept of the "New Ukrainian School". The programme has a national coverage and it focuses on three areas which are linked to each other: Teacher Competence Development, Education Promotion and Education Environments. Therefore, indirect management with the Ministry of Foreign Affairs of Finland will ensure full synergy and complementarity, securing that quality teaching to minorities will be embedded into the overall "New Ukrainian School" reform.

The entrusted entity would carry out the following budget-implementation tasks: running the public procurement and grant award procedures; concluding and managing the resulting contracts, including making of the related payments.

The Commission authorises that the costs incurred by the entrusted entity may be recognised as eligible as of 27 July 2018 because this is the planned start date of the Finnish education reform project and this will ensure the necessary deployment of support that is urgently needed for the September 2018 new school year.

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

If due to exceptional circumstances negotiations with the CoE fail, that part of this action may be implemented in direct management under the service contract:

Subject	Type (works, supplies, services)	Indicative number of contracts	Indicative trimester of launch of the procedure
Support to protection of human rights and fundamental freedoms, including independence of media	Services	1	Q2 of 2019

If due to exceptional circumstances negotiations with the Ministry of Foreign Affairs of Finland fail, that part of this action may be implemented in direct management under a service contract.

Subject	Type (works, supplies, services)	Indicative number of contracts	Indicative trimester of launch of the procedure
Support to the Roadmap for the implementation of article 7 of the Education law	Services	1	Q1 of 2019

### 5.3.3 Support to Ukraine's participation in EU programme "Horizon 2020"

#### 5.3.3.1 Grant: direct award for participation of Ukraine in the EU Programme "Horizon 2020" (direct management)

##### (a) Objectives of the grant, fields of intervention, priorities of the year and expected results

The objective is to support the participation of Ukraine in the EU Programme "Horizon 2020" for the years 2019-2020. This will be achieved by means of reimbursement of 50% of the annual participation fee required from Ukraine as a contribution to the programme budget. Payment will be made on bi-annual basis after receiving evidence of the payment of the total fee for the corresponding year. No pre-financing is foreseen under this scheme.

##### (b) Justification of a direct grant

Under the responsibility of the Commission's authorising officer responsible, the grant may be awarded without a call for proposals to the Ministry of Education and Science of Ukraine. The recourse to an award of a grant without a call for proposals is justified because, in accordance with Article 190(1)(f) of Commission Delegated Regulation (EU) No 1268/2012, the action has specific characteristics requiring a specific type of beneficiary for its technical competence, specialisation or administrative power. Ministry of Education and Science of Ukraine has been designated by Ukraine for being in charge of this programme and is responsible for topics relevant to the concerned EU programme.

##### (c) Essential selection and award criteria

The essential selection criteria are the financial and operational capacity of the applicant. The essential award criterion is the relevance of the proposed action to the objectives, results and activities as described in sections 4.1 and 4.2 above. These criteria will be verified by ensuring that the institution is the one in charge of the payment of the participation fee and that the payment of the entire fee for the corresponding year has been done.

##### (e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 50%.

##### (f) Indicative trimester to conclude the grant agreement

1st trimester of 2019

##### (g) Exception to the non-retroactivity of costs

An agreement between the EU and Ukraine on the participation of Ukraine in EU Programme "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" was signed on 20 March 2015, according to the terms of which entities established in Ukraine



were allowed to participate (under the same conditions applied to entities of EU Member States) in calls funded from 2015 budget onwards. It is therefore appropriate to allow retroactive co-financing of this participation and the Commission authorises that the cost of the financial contribution of Ukraine for its participation in Horizon 2020 may be recognised as eligible as of 1 July 2018.

#### **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 in accordance with Article 9(2)(b) of Regulation (EU) No 236/2014 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><i>5.3.1. Capacity building of Ukrainian public authorities to implement AA/DCFTA, composed of</i></b>	<b><i>21 500 000</i></b>	
5.3.1.1 – Call for proposals for Twinning projects (direct management)	4 000 000	-
5.3.1.2 – Procurement (direct management)	17 500 000	n/a
<b><i>5.3.2. Strengthening capacities of Ukrainian public authorities, civil society and media to protect human rights and fundamental freedoms, composed of</i></b>	<b><i>9 000 000</i></b>	
5.3.2.1 – Direct grant to OHCHR (direct management)	3 000 000	750 000
5.3.2.2 – Procurement (direct management)	1 000 000	
5.3.2.3 – Indirect management with the CoE	3 000 000	
5.3.2.4 – Indirect management with the Ministry of Foreign Affairs of Finland	2 000 000	
<b><i>5.3.3. Support to Ukraine's participation in EU programme "Horizon 2020"</i></b>	<b><i>5 000 000</i></b>	

5.3.3.1 – Direct grant to the Ministry of Education and Science of Ukraine (direct management)	5 000 000	5 000 000 <sup>6</sup>
5.8 – Evaluation, 5.9 - Audit	300 000	
5.10 – Communication and visibility	300 000	
Contingencies	900 000	
<b>Totals</b>	<b>37 000 000</b>	<b>5 750 000</b>

## 5.6 Organisational set-up and responsibilities

The EU Delegation will be responsible for the management of the programme and will monitor its overall implementation. It will also be the focal point for any communication with the contractors or the beneficiary institutions.

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 action, including the management structure, the experts' team, composition of the Steering Committee in charge of the supervision of the project.

## 5.7 Performance 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.

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).

---

<sup>6</sup> The amount of the indicative contribution by the partner country shall be established within the limit of the funds foreseen in the State Budget adopted by the Verkhovna Rada of Ukraine for the respective years.

## **5.8 Evaluation**

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

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 compilation of sub-actions under the over-arching objective to support the implementation of the EU-Ukraine Association Agreement.

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.

Indicatively, one contract for evaluation services shall be concluded under a framework contract in 2022.

## **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.

Indicatively, three contracts for audit services shall be concluded under a framework contract in 2022.

## **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 and supported with the budget of individual actions indicated in section 5.5 above.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country, 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 shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

Indicatively, one contract for communication and visibility services shall be concluded in 3<sup>rd</sup> trimester of 2019.

**[APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY) <sup>7</sup>]**

The activities, the expected outputs and all the indicators, targets and baselines included in the logframe matrix are indicative and may be updated during the implementation of the action, no amendment being required to the financing decision. When it is not possible to determine the outputs of an action at formulation stage, intermediary outcomes should be presented and the outputs defined during inception of the overall programme and its components. The indicative logframe matrix will evolve during the lifetime of the action: new lines will be added for including the activities as well as new columns for intermediary targets (milestones) for the output and outcome indicators whenever it is relevant for monitoring and reporting purposes. Note also that indicators should be disaggregated by sex whenever relevant.

	<b>Results chain</b>	<b>Indicators</b>	<b>Baselines</b> (incl. reference year)	<b>Targets</b> (incl. reference year)	<b>Sources and means of verification</b>	<b>Assumptions</b>
<b>Overall objective: Impact</b>	To support Ukraine in the implementation of the AA/DCFTA and making progress in helping Ukrainian institutions to strengthen the respect for democratic principles, human rights and fundamental freedoms	Progress in implementation of AA/DCFTA (in the selected areas targeted by this Action)  Extent to which human rights based approaches have been integrated and applied in specific policies and decisions adopted by the Government of Ukraine	2018 - current overall assessment as per the government monitoring tool 'Pulse of the Agreement'	2023 - overall assessment of the AA implementation	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')  Reports by the Ukrainian Side of the EU-Ukraine Civil Society Platform (UA-CSP)  Reports and statements of the Ombudsperson and human rights NGOs	

<sup>7</sup> Mark indicators aligned with the relevant programming document mark with '\*' and indicators aligned to the EU Results Framework with '\*\*'.

Specific objective(s): Outcome(s)	1. To enhance the capacity of Ukrainian public authorities in selected priority areas to carry out legal approximation with the EU and implement the AA/DCFTA;	1. Number of measures implemented and number of EU acquis transposed in the Ukrainian legislation in the areas of environment, transport, sanitary and phytosanitary, accounting, standardisation	1. Current state of play of AA/DCFTA Implementation in 2018 in these areas as per the government monitoring tool 'Pulse of the Agreement'	1. At least 70% of measures implemented /legal acts approximated in accordance with the respectful deadlines in the Governmental Action Plan for AA implementation by 2023	<ul style="list-style-type: none"> <li>• Official AA Implementation reports by the Government and the EU</li> <li>• Minutes of Association Committees and Councils</li> <li>• Government decisions, policies and programmes</li> <li>• Adapted legal acts</li> </ul>	Ukraine pursues its objective of effective implementation of the EU-Ukraine AA/DCFTA
	2. To strengthen the capacities of Ukrainian public authorities, civil society and media to monitor and establish effective mechanisms for protection of human rights and fundamental freedoms, including freedom of expression and access to quality education for minorities;	2. Number of recommendations in response to human rights violations, followed by the Government  Number of human rights violations which were positively addressed by the Government of Ukraine  Number of ECtHR judgments executed Ukraine	2. State of play in 2018  ECtHR cases: 73 judgments, 2300 in 2016 judgments pending execution	2. Increase related to 2018  Increased related to 2018 reports  Decrease of number of ECtHR cases  Improved implementation of general measures in view of any ECtHR judgment regarding Ukraine by 2020	<ul style="list-style-type: none"> <li>• Reports and statements of the Ombudsperson and human rights NGOs</li> <li>• Public documents and statements of international and national stakeholders</li> </ul>	Ukraine remains committed to fundamental values of democracy, rule of law and human rights  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
	3. To support Ukraine's participation in EU programme "Horizon 2020"	3. Number of Ukrainian entities participating in Horizon 2020 in 2019-2020	3. State of play in 2018	3. Increased participation	<ul style="list-style-type: none"> <li>• Reports on Horizon 2020 implementation</li> </ul>	

<b>Outputs Outputs</b>	<p>1. Strengthened institutional and administrative capacities of the Ukrainian public authorities in selected priority areas to transpose EU <i>acquis</i> in Ukrainian legislation and implement the provisions of the AA/DCFTA;</p> <p>2. Improved legal framework and strengthened capacities of the Ukrainian public authorities and non-governmental stakeholders to effectively promote the respect of human rights and fundamental freedoms in Ukraine including areas not controlled by the government;</p> <p>3. Active participation of Ukrainian organisations in the EU programme "Horizon 2020"</p>	<p>1. To be completed at later stage for each individual action financed under this TCF</p> <p>2. To be completed at a later stage for each individual action financed under this TCF</p> <p>3. Number of projects awarded to Ukrainian organisations or individuals under "Horizon 2020"</p>	<p>1. Degree of EU <i>'acquis'</i> approximation/ implementation by Ukrainian beneficiary institutions</p> <p>2. To be defined at a later stage for each individual action</p> <p>3. March 2018: 94 projects through 121 organizations</p>	<p>1. Increased number of EU <i>'acquis'</i> approximation/ implementation by Ukrainian beneficiary institutions</p> <p>2. To be defined at a later stage for each individual action</p> <p>3. Increase of the number of institutions selected for funding with participation of Ukrainian institutions</p>	<p>1. Reports to relevant Sub-Committees and project Steering Committees</p> <p>2. Reports of project implementers, NGOs</p> <p>3. Report on the implementation of the action Horizon 2020</p>	<p>There is sufficient institutional and absorption capacity in beneficiary institutions to receive and benefit from the proposed actions</p> <p>Government enhances its donor coordination effort and supports improvement of decision-making processes in line with European principles</p>
------------------------	---	---	--	---	--	---