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COMMISSION IMPLEMENTING DECISION

of 23.4.2015

**on the Special Measure 2015 for Private Sector Development and Approximation in
favour of Ukraine to be financed from the general budget of the European Union**

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THE EUROPEAN COMMISSION,

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

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 action¹, and in particular Article 2(1) thereof,

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 1605/2002², and in particular Article 84(2) thereof,

Whereas:

- (1) The European Council Conclusions of 18 December 2014 welcomed the determination of the Ukrainian Government in carrying out political and economic reforms. The European Council highlighted that the EU and its Member States stand ready to further facilitate and support Ukraine's reform process.
- (2) In the framework of the fragile situation in Ukraine it was not possible to finalise the multi-annual programming exercise. In order to face the urgent needs related to the transition process in the country the Commission opted for implementing a Special Measure in 2015.
- (3) The objective pursued by the Special Measure to be financed under the European Neighbourhood Instrument (ENI)³ is to contribute, in the framework of the implementation of the Association Agreement (AA) and the Deep and Comprehensive Free Trade Area (DCFTA), to the private sector development, including support to improvement of the business climate, support to small and medium enterprises (SMEs) and economic recovery actions related to the conflict in the East. The Special Measure contains two Actions.
- (4) The first Action entitled "EU Support to Ukraine to Re-launch the Economy (EU SURE)" contributes to sustainable and inclusive economic growth in Ukraine to enhance employment opportunities, regional prosperity and national cohesion with focus on SMEs sector. The action will be implemented under direct management through service contracts and in the form of reimbursement of up to 50 % of the participation in EU programme fee through the introduction of specific provisions in

¹ OJ L 77, 15.3.2014, p. 95.

² OJ L 298, 26.10.2012, p. 1.

³ 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).

the Financing Agreement; as well as under indirect management with the European Bank for Reconstruction and Development (EBRD).

- (5) The second Action entitled “Technical Cooperation Facility” is aimed at raising Ukrainian public authorities' capacities in designing and implementing key reforms stemming from the Association Agreement, including capacity to carry out legal approximation process with the EU. The action will be implemented under direct management through grants, service/supply contracts and under indirect management with the World Bank.
- (6) 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 1268/2012⁴.
- (7) It is necessary to adopt a work programme for grants the detailed rules of which are set out in Article 128(1) of Regulation (EU, Euratom) No 966/2012 and in Article 188(1) of Delegated Regulation (EU) No 1268/2012. The work programme is constituted by the Annex 2 (sections 5.3.1 and 5.3.2).
- (8) The Commission should entrust budget-implementation tasks under indirect management to the entities specified in this Decision, subject to the conclusion of a delegation agreement. In accordance with Article 60(1) 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. The EBRD and the World Bank are currently undergoing the assessment under Regulation (EU, Euratom) No 966/2012. In anticipation of the results of this review, the authorising officer responsible deems that, based on the entities' positive assessment under Council Regulation (EC, Euratom) No 1605/2002⁵ and on the long-standing and problem-free cooperation with them, budget-implementation tasks can be entrusted to these entities.
- (9) 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.
- (10) Pursuant to Article 94(4) of Delegated Regulation (EU) No 1268/2012, the Commission should define changes to this Decision which are not substantial in order to ensure that any such changes can be adopted by the authorising officer responsible.
- (11) 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 the ENI Regulation.

HAS DECIDED AS FOLLOWS:

Article 1

Adoption of the measure

⁴ 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).

⁵ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p.1).

The "Special Measure 2015 for Private Sector Development in favour of Ukraine", as set out in the Annexes, is approved.

The special measure shall include the following actions:

- Annex 1: EU Support to Ukraine to Re-launch the Economy (EU SURE);
- Annex 2: Technical Cooperation Facility.

Article 2

Financial contribution

The maximum contribution of the European Union for the implementation of the Special Measure referred to in Article 1 is set at EUR 70 million and shall be financed from budget line 21 03 02 02 of the general budget of the European Union for 2015.

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

Article 3

Implementation modalities

Budget-implementation tasks under indirect management may be entrusted to the entities identified in the attached Annexes 1 (section 5.3.3) and 2 (section 5.3.4), subject to the conclusion of the relevant agreements.

The section "Implementation" of the Annexes to this Decision sets out the elements required by Article 94(2) of Delegated Regulation (EU) No 1268/2012.

The costs related to participation of Ukraine in EU Programme *Horizon 2020* are recognised as eligible from the date set out in the Annex 1.

Article 4

Non-substantial changes

Increases or decreases of up to EUR 10 million not exceeding 20 % of the contribution set by 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 actions. 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, 23.4.2015

For the Commission
Johannes HAHN
Member of the Commission