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CONTENT

ENVIRONMENTAL SUSTAINABILITY

EUROPEAN SUPPORT UKRAINE FACILITY: PROBLEMS AND CHALLENGES

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As a result of the military aggression of the Russian Federation in Ukraine, the state budget deficit increased significantly, and tax revenues decreased. In these conditions, to ensure the economy and defense capability, Ukraine needs to receive external financing. In 2024, EU Regulation 2024/792 was adopted, which regulates the implementation of the Ukraine Facility program and provides for the provision of funding to Ukraine for the period from 2024 to 2027. Funding under EU Regulation 2024/792 depends on legislative reforms implemented in Ukraine. The article analyzes the consistency of the Plan for the Ukraine Facility with EU Regulation 2024/792. Problematic points that may prevent the implementation of the measures provided for in EU Regulation 2024/792 have been identified. It was found that the Plan of Ukraine contains a reference to the National Revenue Strategy until 2030, which the conditions specified in the National Economic Strategy until 2030 doesn't fully meet. The Plan for the Ukraine Facility provides only directions for carrying out relevant reforms and lacks a specific toolkit for their implementation. In order to support the inflow of private investments, it is necessary to implement certain stimulation measures, including through the application of preferences in taxation, which is also expedient to provide for in the Plan for the Ukraine Facility. The identified problems require an urgent solution, as financial support from the EU within the framework of the Ukraine Facility program depends on this.

Keywords: Ukraine Facility Plan, tax policy, tax incentives, budget revenues, private investments

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Introduction

Russia's full-scale aggression against Ukraine, which is understood as an open military invasion of Russian troops on the internationally recognized territory of Ukraine, the transition from a hybrid form to open military operations, began on February 24, 2022.The military aggression of the Russian Federation led to unprecedented challenges and consequences in Ukraine, which are manifested in all spheres of activity.

According to European Union estimates, Russia's war against Ukraine has caused more than €270 billion in damage in Ukraine as of 24 February 2023, with recovery costs estimated at €384 billion, while government spending on humanitarian relief and maintaining the continuity of public services have grown significantly.

As stated in the National Revenue Strategy until 2030, the state budget deficit in 2022 increased by UAH 602 billion compared to 2021 (about 15.7% of GDP) and amounted to UAH 817.9 billion. The deficit in 2021 was financed at the expense of international grants and preferential financing for a total amount of about 33.9 billion euros. Tax revenues in 2022 decreased by 14.2%, while budget expenditures increased by 81.4%.

According to the Ministry of Finance of Ukraine (2023) the need for external financing for 2024 reaches 37.3 billion US dollars, as verified by the IMF.

In 2024, external financing reached USD 10.1 billion, and since the beginning of the full-scale war – USD 83.7 billion. International assistance is directed to finance the priority social expenditures of the State Budget of Ukraine (Ministry of Finance of Ukraine (2024)).

On March 30, 2023, the International Monetary Fund (IMF) estimated the deficit of state financing until 2027 at 75.1 billion euros and agreed with Ukraine on a four-year program worth 14.4 billion euros. These funds are provided to consolidate policies that support fiscal, external, price, financial stability and economic recovery support of Ukraine. The program is aimed at improving governance and strengthening institutions to promote long-term growth in the context of post-war reconstruction and Ukraine's path to joining the European Union (Ministry of Finance of Ukraine, 2023).

In EU Regulation 2024/792 it is noted that Ukraine will need institutional capacity to support its functions, as well as for rapid recovery, reconstruction and modernization. Therefore, it is necessary to create a medium-term single instrument that unifies the support that the Union provides to Ukraine. To this end, it is necessary to introduce the Ukraine Facility for the period from 2024 to 2027, to solve the funding deficit and Ukraine's needs for recovery, reconstruction, modernization and to support Ukraine's reforms as part of its path to EU accession.

In order to receive support under the Ukraine Facility, Ukraine submitted the Plan of Ukraine to the European Commission (2024). This document is the basis for the financial support provided under Pillar I of the Facility. The plan envisages the implementation of reforms that will lay the foundation for further recovery and development of the economy and integration of Ukraine into the EU.

The problems of financing the needs of Ukraine during the war were considered by various scientists. In particular, E. Dmytrenko (2023) analyzed the peculiarities of the functioning of the financial system of Ukraine in the conditions of martial law and the post-war period. N. Denysenko (2022) considered the main modern trends in the sphere of state finances of Ukraine and made a comparison with the world experience of the functioning of military state finances. Samodai, V., Mashina, Yu., & Zhilnikov, O. (2024) analyzed and summarized the international aid provided to Ukraine since the beginning of the full-scale invasion of Russia in 2022, which was classified by type, highlighting military, humanitarian and financial aid.

However, the analysis of the reforms envisaged by the Plan of Ukraine in the context of their coordination with the provisions of EU Regulation 2024/792 and the National Income Strategy until 2030 has not yet been carried out.

The purpose of the article is to analyse the reforms provided for in the Plan of Ukraine in the context of their alignment with the provisions of EU Regulation 2024/792 and the National Revenue Strategy until 2030 (NRS). The tasks of the research include the following: analysis of compliance and coherence of the provisions of the Plan of Ukraine with the requirements of EU Regulation 2024/792 and NRS, identification of problematic points in the legislation of Ukraine that may hinder the implementation of the Ukraine Facility financing program.

The scientific novelty consists in the scientific justification of recommendations on directions for making changes to the current legislation, which reduces the risks of non-compliance of legislative reforms in Ukraine with the provisions of EU Regulation 2024/792.

Materials and Methods

Qualitative and quantitative methods were used in the research. Qualitative methods were used to analyse the consistency of the Plan for the Ukraine Facility with the relevant provisions of EU Regulation 2024/792 and NRS.

The method of statistical analysis was used to analyse the sources of external financing of Ukraine in 2023 and the directions of financing within the framework of the Ukraine Facility program. Calculations were made using the Excel program based on data from the Ministry of Finance of Ukraine.

Results and Discussion

According to the Ministry of Finance of Ukraine, in 2023, the state budget received 42.6 billion US dollars in external financing. In total, since the beginning of the full-scale war, international partners have sent 73.7 billion US dollars to Ukraine.

In 2023, grant funds provided on non-refundable terms amounted to 11.5 billion US dollars, about 27% of the total amount of funding. At the same time, Ukraine received all loans on preferential terms.

The largest donors of financial assistance in 2023 are: Figure 1.

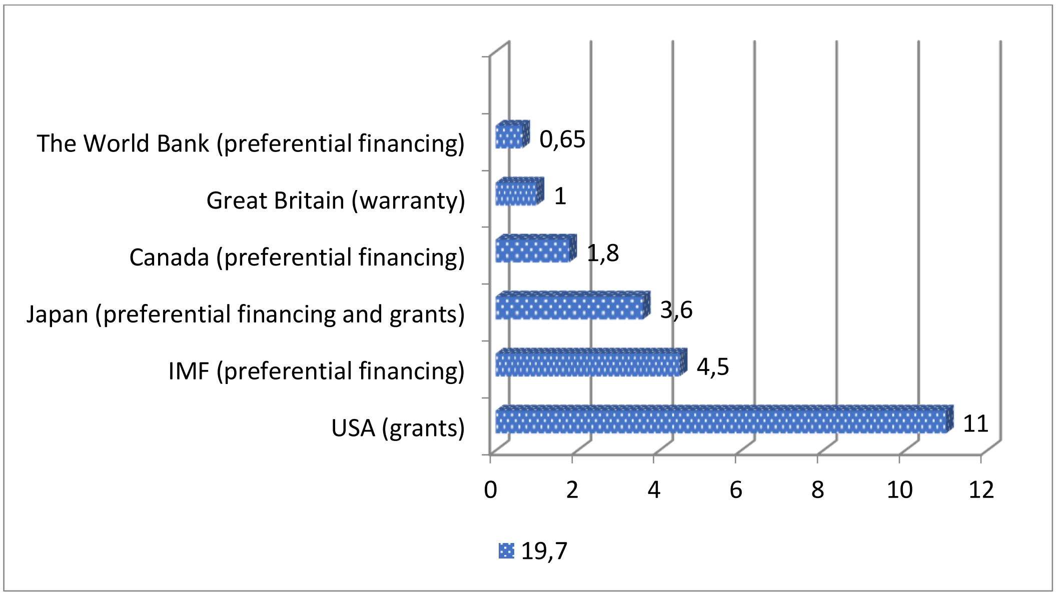

Figure 1. The largest donors of financial assistance in 2023

Source: Developed by the authors for information from the Ministry of Finance of Ukraine

The European Union provided Ukraine with the largest amount of financial assistance within the framework of large-scale macro-financial assistance (MFA+) for 2023. The total volume of preferential funds reached 19.5 billion euros.

In March 2023, the IMF Executive Board made a historic decision to launch a 4-year Extended Fund Facility program for Ukraine in wartime conditions. The total amount of the program is about 15.6 billion US dollars, of which Ukraine received about 4.5 billion US dollars in 2023.

According to the Ministry of Finance of Ukraine in March 2024, the general fund of the State Budget of Ukraine received about USD 9 billion of external financing. Among the donors: EU – USD 4.9 billion (concessional financing); Canada – USD 1.5 billion (concessional financing); Japan – USD 1.1 billion (concessional financing); IMF – USD 880 million (concessional financing); UK – USD 515 million (concessional financing).

Since the beginning of the full-scale war, the World Bank has created 7 projects to support Ukraine: PEACE in Ukraine, HOPE, HEAL Ukraine, RELINC, Re-Power, INSPIRE, ARISE.

In these conditions, the participation of Ukraine in the projects implemented by the EU is of decisive importance for the support of Ukraine's defense capability, economy and investment attractiveness. In particular, the European Union's provision of macro-financial assistance in the amount of up to 18 billion euros for 2023 in accordance with Regulation (EU) 2022/2463 of the European Parliament and the Council was a response to Ukraine's funding deficit for 2023. This financing became the main factor of macroeconomic and financial stability of Ukraine at a critical time.

The European Union also provided significant financial support through an additional package combining funds under the Neighbourhood, Development and International Cooperation Instrument - Global Europe (NDICI-Global Europe) established by Regulation (EU) 2021/947 of the European Parliament and of the Council and EIB loans. In addition, ongoing support is provided by member state authorities, communities, non-governmental organizations and volunteer groups.

The financing of Ukraine under the Ukraine Facility program provided for by EU Regulation 2024/792 provides for the receipt of financing of 50 billion euros during 2024-2027. These funds will be used to finance the state budget, stimulate investments, and provide technical support in the implementation of the program (Figure 2).

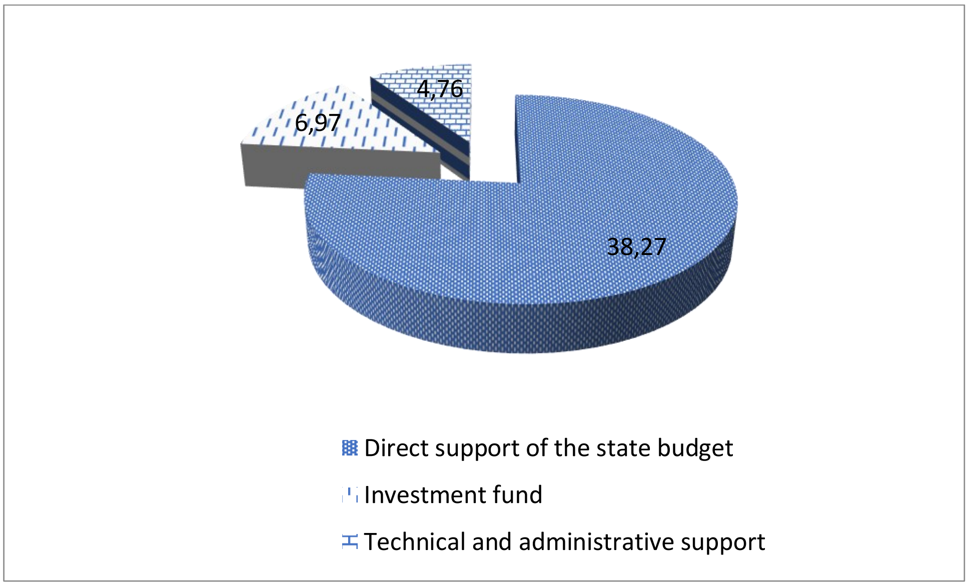

Figure 2. Funding directions of Ukraine under the program Ukraine Facility

Source: Developed by the authors for information from the Ministry of Finance of Ukraine

Most of the funds provided by the Ukraine Facility program (38.27 billion Euro) will be directed to direct support of the state budget. Assistance will be provided in the form of soft loans (33 billion euros) and grants (5.27 billion euros). At the same time, 20% of grant funds within the framework of the first component of the program (1.05 billion euros) should be directed to the needs of the regions.

EU Regulation 2024/792 repeatedly refers to the Plan of Ukraine, which serves as the basis for the activities planned for priority EU funding under the Ukraine Facility.

The plan for the Ukraine Facility is a technical document necessary for the implementation of the program of financial support for Ukraine from the European Union.

In accordance with the norms of Part 2 of Art. 1 of EU Regulation 2024/792 within the framework of the Ukraine Facility, support will be provided to Ukraine under the following three Pillars:

Pillar I: financial support provided to Ukraine to carry out reforms and investments for the implementation of the Plan of Ukraine, as well as to support the macro-financial stability of the country, as specified in Section III;

Pillar II: a specific investment program in Ukraine to support investments and ensure access to financing, as specified in Section IV;

Pillar III: technical assistance and related support to Ukraine for the development and implementation of reforms related to accession to the Union and the strengthening of Ukraine's administrative capacity, subsidizing borrowing and collateral costs, and other relevant measures, as specified in Section V.

Financial support to Ukraine for the implementation of reforms and investments is one of the main priority areas of financing within the framework of the Ukraine Facility.

Ukraine Facility provides financing after satisfactory fulfillment of the preliminary conditions set out in Artbcle 5(1) of EU Regulation 2024/792, as well as the conditions outlined in the Plan of Ukraine, in the form of qualitative or quantitative steps. Such conditions should reflect the different goals of the Ukraine Facility, as specified in Article 3 of EU Regulation 2024/792, and include conditions related to the main requirements, such as the maintenance of economic and financial stability, budgetary supervision and management of public finances, as well as conditions related to the implementation of reforms and investments outlined in the Plan of Ukraine.

The reforms presented in the Ukraine Facility Plan are divided into 3 main blocks: basic reforms, economic reforms, and key sectors.

Therefore, for financing under the Ukraine Facility, the measures provided for by the Plan of Ukraine are of crucial importance, since there is a direct connection in this direction.

Based on the results of the analysis of the reforms provided for in the Plan for the Ukraine Facility, in the context of consistency with the NRS, it is possible to conclude that some areas need to be amended in regulatory documents. In particular, attention should be paid to such reforms.

The reform in the field of energy involves the approval of the Integrated National Plan for Energy and Climate to establish national goals of climate neutrality, development of renewable energy sources, energy efficiency and ensuring proper planning of relevant measures. The plan will be approved taking into account the recommendations of the Secretariat of the Energy Community. The plan will define the goals to be achieved in 2030:

- reduction of greenhouse gas emissions using market mechanisms of carbon pricing;
- share of renewable energy sources in gross final energy consumption;

- energy savings in final energy consumption by 2030. The reform will be implemented by the Ministry of Economy by the 2nd quarter of 2024.

At the same time, the NRS indicated that there is a question regarding the gradual harmonization of the norms of the tax legislation of Ukraine with the norms of the European legislation and noted the following problems in the energy sector:

1) the tax rate for carbon dioxide emissions is 30 hryvnias for 1 ton of carbon dioxide emissions, which in 2022 corresponded to the lowest rate in the European Union at that time;

2) in recent years, several EU countries have taken measures to reduce carbon emissions, including environmental regulations, emissions trading systems, and carbon taxes;

3) the Association Agreement with the EU (2014) obliges Ukraine to create emissions trading systems by 2025 with similar coverage to the existing EU emissions trading system (energy and industry), and Ukraine has committed to reducing emissions by 65% below the 1990 level by 2030 at the expense of its nationally determined contribution;

4) there is also a problem of the non-compliance of the environmental tax of biofuel with European practice. In all member states of the European Union, taxes on carbon dioxide emissions during the burning of biofuel are not applied, since according to EU legislation, biofuel is considered a CO_2-neutral fuel.

Therefore, the measures provided for in the Plan of Ukraine are partially outlined in the NRS of revenues.

The reform to improve the management of public finances provides for the restoration of budget planning from 2024 to ensure the predictability of budget policy.

Regarding medium-term planning, the NRS only states that it will contribute to the achievement of fiscal guidelines, medium-term budget planning, which are focused on reducing public debt as a percentage of GDP, reducing the primary budget deficit as a percentage of GDP, and maintaining the downward trend of both debt and deficit budget as a percentage of GDP. These fiscal benchmarks are formulated to achieve medium-term fiscal goals of the Government.

At the same time, the NRS lacks any specific measures to implement budget planning from 2024, in which the concept of tax expenditures should be applied. In EU countries, the concept of tax expenses was introduced by COUNCIL DIRECTIVE 2011/85/EU, when the calculation of tax expenses was integrated into the mechanism of medium-term budget planning, in Ukraine there are no reform plans regarding the implementation of the concept of tax expenses.

The reform to improve the management of public investments provides for the approval of the Action Plan for the implementation of the Road map for reforming the public investment management system based on the recommendations of the PIMDA of the World Bank by the 2nd quarter of 2024. Ukraine will give priority to public investment planning based on strategic priorities and the medium-term budget perspective, as well as transparent and economically justified selection of investment projects, primarily for economic recovery. However, there are no references in the NRS to the approval of the Action Plan for the implementation of the Roadmap for reforming the public investment management system based on the PIMDA recommendations of the World Bank until the 2nd quarter of 2024.

The reform of improving the legislative framework for a more effective fight against corruption involves making changes to the Criminal and Criminal Procedural Codes to improve the procedure for agreements with the justice authorities, cancelling the pre-trial investigation period from the moment of registration of criminal proceedings to the notification of a person of suspicion.

However, the NRS only provides for amendments to the Criminal and Criminal Procedure Codes of Ukraine regarding the criminalization of smuggling of goods and excise products, as well as false declaration of goods. However, the changes provided for in the reform 2 of the Plan of Ukraine are not mentioned in the NRS.

The reform in the field of measures to prevent money laundering provides for the creation of a single register of bank accounts of individuals and legal entities in accordance with EU standards; harmonization of legislation in the field of virtual assets with the EU acquis; adoption of a road map for institutional capacity creation and joint methodological guidelines for justice authorities and the prosecutor's office.

With regard to this reform, the NRS states that the key prerequisite for reforms in the field of tax policy is to ensure the availability of information about the transactions in taxpayers' bank accounts to tax authorities. Expanding such powers of tax authorities will require the taking effective measures aimed at restoring trust in the work of tax authorities (especially in the part of working with personal data of taxpayers), and providing society with guarantees to prevent the use of these expanded powers to put pressure on individual taxpayers and hinder their work.

There are also certain inconsistencies between EU Regulation 2024/792 and the Plan of Ukraine and NRS. Thus, the Plan of Ukraine also provides that in order to speed up the recovery process, Ukraine will attract investments from the private sector. Attracting private investment will require, in particular:

- identification of priority sectors of the economy, which, with the inflow of private capital, will contribute to the creation of added value and new jobs;
- implementation of reforms, including those covered by the Plan of Ukraine, which will ensure the creation of a supportive environment for private investment and for the recovery, reconstruction and modernization of the country;
- development of guarantee instruments to cover the risks of private investments and public-private partnership instruments.

The Plan of Ukraine also states that in the context of Ukraine Facility Pillar II - the Investment Program for Ukraine, designed to attract private and public investments, will become the main tool in the recovery of Ukraine. However, the EU Regulation 2024/792 and the Plan of Ukraine do not provide for specific measures to reform investment taxation, which would contribute to stimulating the attraction of private investments.

NRS is mentioned in this document only in the context of the harmonization of tax legislation and the implementation of income detinization measures. In particular, these documents stated that the approved NRS includes such measures as:

- proposals for amendments to the tax legislation of Ukraine in accordance with the requirements of the legislation of the European Union (in terms of taxation with value added tax and excise duties, measures to combat tax evasion, etc.);
- proposals for amendments to the tax legislation of Ukraine to improve the taxation of the income of individuals;
- proposal of the IT strategy of the State Tax Service;
- measures to overcome the shadow economy;
- measures to reform property taxation;
- measures to reduce tax losses and exemptions.

Meanwhile, in order to support the inflow of private investments, it is necessary to implement certain measures for stimulation, including through the use of preferences in taxation, which is also expedient to provide for in the Plan of Ukraine.

A certain inconsistency between the Plan of Ukraine and the NRS can also be traced to the problem of medium-term budget planning, which requires the implementation of the concept of tax expenditures, but this aspect is not mentioned in the EU Regulation 2024/792 and the Plan, and in the NRS it needs to be detailed in the part devoted to tax benefits.

The task of creating conditions for encouraging reinvestment, declared in EU Regulation 2024/792 and the Plan of Ukraine, is not coordinated with the NRS in terms of measures in the field of dividend taxation, and the tools for reinvestment direction proposed in the NRS are limited to accelerated and immediate full depreciation, which limits the possibilities of tax policy.

It should also be taken into account that according to paragraph 70 of the EU Regulation 2024/792, the Plan of Ukraine must define the conditions that reflect the expected progress in the implementation of the measures it contains. These conditions must take the form of qualitative or quantitative steps to be implemented by 31 December 2027, although the overall completion of the measures to which such steps relate should be possible after 2027.

Support in the form of grants and loans will be provided quarterly as the indicators of the Ukraine Facility Plan are executed. More than 150 quarterly performance indicators correspond to the 69 reforms provided for in the Plan and include 16 investment indicators.

The schedule of indicators of the Plan for the Ukraine Facility is presented on the website of the Ministry of Finance of Ukraine (2024). So this condition is fulfilled.

EU Regulation 2024/792 establishes that, if necessary, the measures provided for in the Plan of Ukraine can be adjusted. This allows, on the basis of monitoring the use of the received funding, to promptly respond to negative deviations from the expected results.

When making changes to the Plan of Ukraine and Ukrainian legislation, it is necessary to take into account that according to Article 93 of the EU Regulation 2024/792 in accordance with the Pillar III Ukraine Facility, support should be aimed mainly at gradual alignment with EU rules, standards, policies and practices ("acquis") with a view to future membership in the European Union. This process should also take into account the relevant recommendations of international organizations such as the Council of Europe and the Venice Commission. Support should also be aimed at strengthening democratic and judicial institutions, including courts, and the capacities of stakeholders, including local and regional authorities, social partners and civil society organizations, including their public oversight role.

Conclusions

In general, based on the results of the analysis of the Plan of Ukraine, it can be concluded that this document is drawn up in accordance with EU Regulation 2024/792 and contains all the main conditions stipulated in the Regulation. However, according to certain reforms, it is necessary to make clarifying changes in the NRS. It should also be taken into account that the NRS does not fully meet the conditions specified in the National Economic Strategy until 2030. Therefore, it is necessary to make appropriate adjustments to the National Economic Strategy until 2030 in order to align it, first of all, with the NRS.

In the Plan of Ukraine, only directions for carrying out relevant reforms are given and there is no specific toolkit for their implementation. And the results of the reform directly depend on this.

Therefore, a final assessment of the compliance of the measures and reforms specified in the Plan of Ukraine with the requirements of EU Regulation 2024/792 can be provided only after the instruments for their implementation, including tax, have been clearly defined in National Revenue Strategy.

Conflict of interest

The authors state no conflict of interest.

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