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2022/0106 (NLE)

Proposal for a

**COUNCIL RECOMMENDATION**

**on the conversion of hryvnia banknotes into the currency of host Member States for the benefit of persons fleeing the war in Ukraine**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

In response to the start of the Russian military invasion of Ukraine on 24 February 2022, the European Council, in its conclusions issued the same day, condemned the Russian Federation's (hereafter Russia) unprovoked and unjustified military aggression against Ukraine in the strongest possible terms, underlining the gross violation of international law and the principles of the UN Charter and the risk to European and global security and stability.

The Union has shown and will continue to show its resolute support to Ukraine and its citizens, faced with an unprecedented act of aggression by Russia. This proposal forms part of the Union's response to people fleeing as a result of the Russian military invasion of Ukraine.

Since the Russian invasion of Ukraine, more than 4 million people have arrived in the Union in the space of just a few weeks. Both the scale and the speed of arrivals are unprecedented. These numbers are expected to increase.

Council implementing Decision (EU) 2022/382<sup>1</sup> established the existence of a mass influx into the Union of displaced persons who have had to leave Ukraine as a consequence of an armed conflict, and introduced temporary protection for displaced persons from Ukraine.

Displaced persons enjoying temporary protection or adequate protection under national law, in accordance with Directive 2001/55/EC<sup>2</sup> and Council implementing Decision (EU) 2022/382 have urgent liquidity needs to cover essential expenses. Many of them have arrived with hryvnia banknotes, but face extreme difficulties in converting such notes into the currency of the host Member State. The National Bank of Ukraine has suspended the exchange of hryvnia banknotes into foreign cash in order to protect Ukraine's limited foreign exchange reserves. The extreme uncertainty around what a future exchange rate between the host Member State currency and hryvnia may be *de facto* prevents credit institutions accepting the exchange of hryvnia banknotes even at a discount.

Member States have made considerable efforts to put in place humanitarian assistance to those fleeing Ukraine. A number of Member States have looked to complement such efforts via initiatives to facilitate the exchange of hryvnia banknotes into host Member State currency in order to support displaced persons from Ukraine in meeting their needs, in particular as they travel across the Union.

The objective of this proposal is to promote a coordinated approach for potential national schemes with a view to offering the displaced persons from Ukraine the same conditions for converting their hryvnia banknotes into local currency independently of the Member State that hosts them.

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<sup>1</sup> Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ L 71, 4.3.2013, p. 1).

<sup>2</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

- **Consistency with existing policy provisions in the policy area**

This proposal is fully consistent with the EU asylum acquis, in particular with the Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, and with the Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection. It is also fully consistent with the Union's objective of establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Union.

The elements of the proposal are also consistent with the Pact on Migration and Asylum of September 2020 and the accompanying legislative proposals.

- **Consistency with other Union policies**

This proposal is consistent with the Union's external action, such as EU sanctions and other restrictive measures. This proposal is part of a comprehensive set of EU actions responding to the Russian invasion of Ukraine.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal is based on Article 292 TFEU, in conjunction with, Article 78(1) and (2), (c) TFEU. In accordance with Article 78(1) TFEU, the Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties. Under Article 78(2)(c) TFEU, for the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising a common system of temporary protection for displaced persons in the event of a massive inflow.

- **Subsidiarity (for non-exclusive competence)**

The present proposal is in conformity with the principle of subsidiarity as provided for in Article 5(3) TEU. The proposal promotes a coordinated approach for all Member States with a view to offering the displaced persons from Ukraine the same treatment for converting their hryvnia banknotes into local currency independently of the Member State that host them, of establishing a level playing field for the credit institutions and to prevent eventual speculative behaviour on the market.

- **Proportionality**

The present proposal is in conformity with the principle of proportionality as provided for in Article 5(4) TEU. Neither the content nor the form of this proposed Recommendation exceeds what is necessary to achieve its objectives. The commitments Member States would make are of a voluntary nature and each Member State remains free to decide whether they wish to put in place such potential national schemes.

- **Choice of the instrument**

A Council recommendation is an appropriate instrument within the field. It builds on the existing body of European Union law and is in line with the type of instruments available for European Union action in the area of common European asylum system. It lays down measures to be considered by Member States but it provides flexible guidance to Member States with respect to the choice and design of the measures.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations and collection and use of expertise**

Not applicable.

- **Impact assessment**

The proposal offers recommendations for the establishment of national schemes to address the challenges of the exchange of hryvnia banknotes by displaced persons who have had to leave Ukraine as a consequence of Russia's invasion of Ukraine, into the local currency of the Member State that hosts the persons. However, as it provides flexible guidance to Member States with respect to the choice and design of the measures, an impact assessment is not required.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

This proposal respects fundamental rights and observes the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union, as well as the obligations stemming from international law, including the Geneva Convention of 28 July 1951 on the status of refugees, as amended by the New York Protocol of 31 January 1967.

### **4. BUDGETARY IMPLICATIONS**

This proposal for a Recommendation does not require resources from the EU budget.

### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

§ 1 indicates the objective and scope of this Recommendation.

The aim of this Recommendation is to facilitate the exchange of hryvnia banknotes by the displaced persons enjoying temporary protection or adequate protection under national law within the meaning of Article 2 of Council Implementing Decision (EU) 2022/382, into the local currency of the Member State that hosts the persons.

§ 2 recommends to Member States to establish national schemes to facilitate the conversion of hryvnia banknotes into the national currency. The schemes should provide for maximum limits of 10 000 hryvnias per person, without charges, at the official exchange rate as published by the National Bank of Ukraine. The duration of the schemes should be for a minimum of 3 months.

§ 3 recommends Member States to make the best use of a network of participating credit institutions for the implementation of the scheme, and to agree with participating credit institutions on how to record and check the identity of each displaced person that utilises the scheme.

§ 4 recommends Member States to agree with the National Bank of Ukraine the modalities for a future exchange of the hryvnia banknotes.

Proposal for a

## **COUNCIL RECOMMENDATION**

### **on the conversion of hryvnia banknotes into the currency of host Member States for the benefit of persons fleeing the war in Ukraine**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292, in conjunction with Article 78(1) and (2), point (c) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Since the Russian invasion of Ukraine, more than 4 million people have arrived in the European Union in the space of just a few weeks. Both the scale and the speed of arrivals are unprecedented.
- (2) Council Implementing Decision (EU) 2022/382<sup>1</sup> established the existence of a mass influx into the Union of displaced persons who have had to leave Ukraine as a consequence of an armed conflict, and introduced temporary protection for displaced persons from Ukraine.
- (3) Displaced persons enjoying temporary protection or adequate protection under national law, in accordance with Council Directive 2001/55/EC<sup>2</sup> and Implementing Decision (EU) 2022/382 have urgent liquidity needs to cover essential expenses. Many of them have arrived with hryvnia banknotes, but face extreme difficulties in converting such notes into the currency of the host Member State.
- (4) The National Bank of Ukraine has suspended the exchange of hryvnia banknotes into foreign cash in order to protect Ukraine's limited foreign exchange reserves.
- (5) Credit institutions in the Member States are not willing to carry out the exchanges due to the limited convertibility of hryvnia banknotes and exposure to exchange rate risk.
- (6) Some Member States are considering putting in place national schemes that support the conversion of a limited amount of hryvnias per displaced person at a fixed rate.
- (7) The conversion of hryvnias into local currency of the host Member States should be facilitated in order to support persons displaced from Ukraine in meeting their needs, in particular as they travel across the Union.
- (8) A coordinated approach for national schemes put in place by Member States should be promoted with a view to offering the displaced persons from Ukraine the same

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<sup>1</sup> Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ L 71, 4.3.2013, p. 1).

<sup>2</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

conditions for converting their hryvnia banknotes into local currency independently of the Member State that host them, of establishing a level playing field for the credit institutions and to prevent eventual speculative behaviour on the market.

- (9) The National Bank of Ukraine has approached a number of Member States in order to put in place such schemes to buy hryvnia banknotes at the official exchange rate.
- (10) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 3 and 4 of that Protocol, Ireland is not taking part in the adoption of this Recommendation and is not subject to its application.
- (11) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Recommendation and is not subject to its application,

HAS ADOPTED THIS RECOMMENDATION:

#### **OBJECTIVE AND SCOPE**

1. The aim of this Recommendation is to facilitate the exchange of hryvnia banknotes by displaced persons entitled to temporary protection or adequate protection under national law within the meaning of Article 2 of Council Implementing Decision (EU) 2022/382, into the local currency of the Member State that hosts those displaced persons.

#### **RESPECTING NATIONAL COMPETENCES AND HAVING REGARD TO NATIONAL CIRCUMSTANCES AND PRACTICES,**

**RECOMMENDS:**

#### **CORE RECOMMENDATIONS**

2. Member States should establish national schemes to facilitate the conversion of hryvnia banknotes into the national currency, having the following characteristics:
  - (a) each displaced person presenting evidence of being entitled to temporary protection as provided for in Directive 2001/55/EC or adequate protection under national law as referred to in Implementing Decision (EU) 2022/382, such as that referred to in the Communication from the Commission 2022/C 126 I/01<sup>3</sup> should be able to convert hryvnias banknotes into the currency of the Member State. In case of displaced unaccompanied minors, the conversion should be made by the representant provided for in Article 16(1) of Directive 2001/55/EC;
  - (b) maximum limits per person should be established; taking into account national circumstances, such maximum limits should be at or below 10 000 hryvnias per person;

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<sup>3</sup> Communication from the Commission on Operational guidelines for the implementation of Council Implementing Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ C 126 I, 21.3.2022, p. 1).

- (c) such conversion should be allowed without charges;
- (d) the applicable exchange rate should be the official exchange rate as published by the National Bank of Ukraine;
- (e) the duration of the scheme should be for a minimum of three months.

#### **ADDITIONAL RECOMMENDATIONS**

3. With a view to guaranteeing effective access to the conversion scheme, Member States should strive to make the best use of a network of participating credit institutions for the implementation of the scheme. With a view to ensuring the respect of the maximum limit per displaced person in particular, Member States should consider to agree with participating credit institutions on how to record and check the identity of each displaced person that utilises the scheme.
4. With a view to guaranteeing sound financial governance and where necessary, Member States should envisage to agree with the National Bank of Ukraine the modalities for a future exchange of hryvnia banknotes.

Done at Brussels,

*For the Council  
The President*