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COMMISSION DECISION

of 15.4.2016

**on the financing of emergency support in favour of the affected Member States in
response to the current influx of refugees and migrants into the Union to be financed
from the 2016 general budget of the European Union
(ECHO/-EU/BUD/2016/01000)**

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**on the financing of emergency support in favour of the affected Member States in response to the current influx of refugees and migrants into the Union to be financed from the 2016 general budget of the European Union
(ECHO/-EU/BUD/2016/01000)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) 2016/369 on the provision of emergency support within the Union¹, and in particular Article 4(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 Council of the Union has decided, acting upon a proposal from the Commission, and in recognition of the exceptional nature of the sudden and massive influx of large numbers of refugees and migrants into the Union, to activate, for a period of three years, the emergency support under Regulation (EU) 2016/369, as of 16 March 2016. Actions to be financed under this Decision seek to provide a needs-based response aimed at preserving life, preventing and alleviating human suffering and maintaining human dignity, as well as technical assistance required for the management of these actions, in order to support and complement the actions of the Member States addressing the humanitarian consequences resulting from said influx of refugees and migrants on their territory.
- (2) In order to enable the Commission to finance the required emergency support, it is necessary to adopt a financing decision for 2016. Article 94 of Commission Delegated Regulation (EU) No 1268/2012³ establishes detailed rules on financing decisions.
- (3) An initial amount of EUR 100 million will only be made available at this moment to address the needs in Greece and in any other affected Member State. It should however be ensured that the Commission will be in the position to respond swiftly to the continuing humanitarian consequences of the sudden and massive influx of large numbers of refugees and migrants within the Union, in accordance with the Legislative Financial Statement accompanying the proposal for a Council Regulation on the provision of emergency support within the Union⁴ and the related political commitments. It is therefore appropriate, in order to enable the responsible authorising

¹ OJ L 70, 16.3.2016, p. 1.

² OJ L 298, 26.10.2012, p. 1.

³ 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).

⁴ COM(2016) 115 final.

officer to implement additional appropriations for the specific purpose of addressing the continuing humanitarian consequences of the said disaster to authorise by this Decision the execution of the whole amount of appropriations, that is to say EUR 300 000 000, which should be made available from the 2016 general budget of the Union to provide the said emergency support to the affected Member States.

- (4) Pursuant to Article 1(2) of Regulation (EU) 2016/369, the emergency support should be in support of, and complementary to, the actions of the affected Member States. To this end, close cooperation and consultation with the affected Member States should be ensured, while, in line with Article 6 of that Regulation, synergies and complementarity should be sought with other instruments of the Union, in particular, as far as the present emergency is concerned, those under which emergency assistance can be provided with respect to migration and border management, as well as aid to the most deprived and civil protection in-kind assistance.
- (5) Pursuant to Article 3(4) of Regulation (EU) 2016/369, support actions are to be carried out by the Commission or by partner organisations selected by the Commission.
- (6) Pursuant to Article 4(1) of Regulation (EU) 2016/369, Union financing for support actions are to be implemented by means of direct or indirect management in accordance with points (a) and (c) respectively of Article 58(1) of Regulation (EU, Euratom) No 966/2012.
- (7) Direct implementation by the Commission should draw upon the supplies or services to be provided under public contracts awarded by the Commission to that effect. Such public contracts could be relied upon, inter alia, in the field of logistics, transport, information and communication technology.
- (8) Pursuant to Article 4(3) of Regulation (EU) 2016/369, Union financing for support actions to be implemented by means of direct management may be awarded directly by the Commission without a call for proposals in accordance with Article 128(1) of Regulation (EU, Euratom) No 966/2012. To that effect the Commission may enter into framework partnership agreements or rely on existing framework partnership agreements concluded pursuant to Council Regulation (EC) No 1257/96⁵.
- (9) Pursuant to Article 4(4) of Regulation (EU) 2016/369, where the Commission implements emergency support operations through non-governmental organisations, the criteria concerning financial and operational capacity should be deemed to be satisfied where there is a framework partnership agreement in force between that organisation and the Commission pursuant to Regulation (EC) No 1257/96.
- (10) The underlying reasons justifying the above-mentioned assimilation should equally apply to other organisations and entities in cooperation with which the Commission implements Union-funded operations under the Regulation (EC) No 1257/96, that is, international organisations, including the International Organization for Migration, the International Committee of the Red Cross and the International Federation of the Red Cross and Red Crescent Societies, as well as United Nations organisations and agencies and Member States' specialised agencies.
- (11) Pursuant to Article 5(3) of Regulation (EU) 2016/369, Union financing can cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities

⁵ Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

(hereinafter referred to as 'technical assistance') which are required for the management of the support to be provided under this Decision.

- (12) Emergency support should be provided within the Union in an efficient and accountable manner. To that effect, the Commission should be able to rely on efficient, appropriate and effective technical assistance during the operations and in crisis situations in order to assess needs and monitor aid, engage in coordination with other donors and with humanitarian partners, and to maximise the benefits of aid. Such technical assistance should include, on an ad hoc and temporary basis, until 30 June 2016, the assistance to be provided by experts recruited by the Commission under direct employment contracts subject to national law pursuant to Article 3 of Regulation (EC) No 1257/96 in compliance with the derogatory provisions adopted by the Commission to that effect on 16 March 2016⁶, provided that the related expenditure incurred under the relevant financing decision⁷ be reimbursed using the necessary appropriation under this Decision.
- (13) Pursuant to paragraphs 4 and 5 of Article 5 of Regulation (EU) 2016/369, Union financing for support actions may cover up to 100% of the eligible costs and expenditure incurred by a partner organisation before the date of submission of an application for funding may be eligible for Union financing.
- (14) The authorising officer by delegation has obtained evidence that the entities and persons entrusted with the implementation of the budget by indirect management will fulfil the requirements laid down in points (a) to (d) of the first subparagraph of Article 60(2) of Regulation (EU, Euratom) No 966/2012.
- (15) It is necessary to allow for 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.
- (16) In order to allow for flexibility in the implementation of the work programme, it is appropriate to define the term 'substantial change' within the meaning of Article 94(4) of Delegated Regulation (EU) No 1268/2012,

HAS DECIDED AS FOLLOWS:

Article 1

Adoption of the measure

1. The Decision on the financing of emergency support from the 2016 general budget in favour of the affected Member States in response to the current influx of refugees and migrants into the Union to be financed from the general budget of the European Union is approved.
2. The implementation of this Decision shall be subject to the availability of budget appropriations provided for in the budget for 2016.

⁶ PV(2016)2161

⁷ Commission Implementing Decision C(2016)1169 of 29 February 2016 on financing technical assistance and field offices to support humanitarian aid operations from the general budget of the European Union (ECHO/TAS/BUD/2016/01000).

Article 2
Financial contribution

1. The maximum contribution of the European Union for the provision of emergency support is set at EUR 300 million. Of this amount, EUR 297 million shall be financed from budget line 18 07 01 and EUR 3 million shall be financed from budget line 18 01 04 05 of the general budget of the Union for year 2016.
2. The emergency support actions referred to in paragraph 1 shall be implemented in the pursuit of the following specific objectives:
 - (a) a total of EUR 297 000 000 is allocated to the provision of multi-sectoral support to meet the basic needs of persons adversely affected by the disaster referred to in paragraph 1, in Greece and in any other affected Member State. The multi-sectoral support may include the following sectors of intervention:
 - (i) food assistance;
 - (ii) non-food items;
 - (iii) shelter;
 - (iv) healthcare, including psychosocial support;
 - (v) water, sanitation and hygiene;
 - (vi) protection;
 - (vii) educational services appropriate to the emergency context;
 - (b) a total of EUR 3 000 000 is allocated to the provision of technical assistance to the extent required for the management of the support to be provided under this Decision in accordance with the provisions laid down in Article 5.
3. The emergency support actions referred to in paragraph 1 shall be in support of, and complementary to, the actions of the affected Member States. To this end, close cooperation and consultation with the affected Member States shall be ensured.
4. Synergies and complementarity shall be sought with other instruments of the Union, in particular with respect to the Union Civil Protection Mechanism⁸, the Asylum, Migration and Integration Fund⁹, the Internal Security Fund¹⁰ and the Fund for European Aid to the Most Deprived¹¹.

⁸ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism the Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

⁹ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168)

¹⁰ Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (OJ L 150, 20.5.2014, p. 93) and Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

¹¹ Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived (OJ L 72, 12.3.2014, p. 1).

5. The appropriations provided for in paragraph 1 may also cover interest due for late payment.

Article 3

Implementation modalities and eligible entities

1. The budget shall be implemented as follows:

- (a) directly with:

- (i) the Commission's departments by awarding public procurement contracts;
- (ii) non-governmental organisations that are signatories of a framework partnership agreement in force concluded with the Commission pursuant to Regulation (EC) No 1257/96;
- (iii) non-governmental organisations that are signatories of a framework partnership agreement in force concluded with the Commission pursuant to Article 4 of Regulation (EU) 2016/369 where the non-governmental organisations concerned satisfy the eligibility and selection criteria specified by the authorising officer responsible of the Directorate-General 'Humanitarian Aid and Civil Protection' (ECHO) in pursuance of Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 and provided that they are not in one of the exclusion situations referred to under Articles 106(1) and 107 of Regulation (EU, Euratom) No 966/2012;
- (iv) Member States' specialised services which the authorising officer responsible of the Directorate-General 'Humanitarian Aid and Civil Protection' (ECHO) has recognised, or may recognise, as specialised agencies under Article 9 of Regulation (EC) No 1257/96;
- (v) Member States' specialised services that are signatories of a framework partnership agreement in force concluded with the Commission pursuant to Article 4 of Regulation (EU) 2016/369.

The following entities shall be eligible for the conclusion of a framework partnership agreement:

- any entity which could be recognised as a specialised agency of a Member State under Article 9 of Regulation (EC) No 1257/96;
 - the competent authorities appointed by Member States under Article 29 of Decision No 1313/2013/EU of the European Parliament and of the Council;
 - any other entity, either governed by public law or by private law, provided in the latter case that the entity concerned operates under the effective control of a Member State, where the authorising officer responsible is satisfied that the said entity has sufficient expertise and experience in providing emergency support within the Union;
- (b) indirectly with international organisations which have been subject to an ex-ante assessment pursuant to Article 61 of Regulation (EU, Euratom) No 966/2012, including those that are signatories of a framework partnership agreement in force concluded with the Commission pursuant to Regulation

(EC) No 1257/96 or are covered by the Financial and Administrative Framework Agreement concluded with the United Nations.

2. Grants may be awarded without a call for proposals to the organisations and entities referred to in paragraph 1.
3. Specialised agencies and services of Member States referred to in Article 3(1)(a)(iv) and (v), which are affected by a disaster for which emergency support is to be provided under this Decision, shall not be eligible for Union emergency support.
4. By derogation from Article 1(a) and (d) of Commission Decision C(2015) 3177 of 18 May 2015 on the adoption of the model Pillar Assessed Grant or Delegation Agreement (PAGoDA), the authorising officer responsible is authorised to use the contractual models developed by the Directorate-General 'Humanitarian Aid and Civil Protection' (ECHO) for the purpose of implementing humanitarian aid operations outside the Union, as possibly adjusted to take into account any relevant features of emergency support operations within the Union.

Article 4
Eligible costs

1. Union financing for support actions under this Decision may cover up to 100% of the eligible costs.
2. Expenditure incurred by a partner organisation between 16 March 2016 and the date of submission of an application for funding may be eligible for Union financing.

Article 5
Flexibility clause

The authorising officer responsible may decide on non-substantial changes in accordance with Article 94(4) of Commission Delegated Regulation (EU) No 1268/2012. Accordingly, when required by the changing circumstances, the maximum contribution authorised by this Decision may be increased up to 20 %.

Article 6
Technical assistance

The technical assistance which the Commission can avail itself under Article 5(3) of Regulation (EU) 2016/369 may include the assistance to be provided by experts recruited by the Commission under direct employment contracts subject to national law pursuant to Regulation (EC) No 1257/96 as laid down in the administrative and budgetary decision taken by the College during its 2161 meeting of 16 March 2016 on the implementation of the emergency support within the Union, provided that the related expenditure incurred under Commission Implementing Decision C(2016)1169 of 29 February 2016 be reimbursed using the appropriation referred to in Article 2(2)(b) of this Decision.

Done at Brussels, 15.4.2016

For the Commission
Christos STYLIANIDES
Member of the Commission