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COMMISSION DECISION

of 14.2.2017

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 2017 general budget of the European Union (ECHO/-EU/BUD/2017/01000)

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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 2017 general budget of the European Union (ECHO/-EU/BUD/2017/01000)

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 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) In March 2016 the Council of the Union, acting upon a proposal from the Commission, decided to activate the emergency support under Regulation (EU) 2016/369 for a period of three years. Actions financed under the Emergency Support Regulation 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 necessary for the management of these actions, in order to support and complement the actions of the Member States addressing the humanitarian consequences resulting from the influx of refugees and migrants on their territory.
- (2) In 2016, in accordance with Commission Decision C(2016) 2214, the maximum contribution of the European Union for the provision of emergency support for actions in Member States faced with exceptional humanitarian challenges as a result of the sudden and massive influx of refugees and migrants, was set at EUR 300 million from the general budget of the Union. The funding provided to partner organisations was organised around the following main operational priorities: food assistance; provision of shelter, of water, sanitation and hygiene and of healthcare; delivery of non-food items; ensuring access to education for refugee children; guaranteeing protection of refugees and migrants across all of the above-mentioned activities.
- (3) The humanitarian consequences of the ongoing migration and refugee crisis require the provision of further financial and technical support for urgently needed humanitarian relief operations within the Union. The present Decision seeks to enable the Commission to continue financing the required emergency support actions in affected Member States in 2017. Article 94 of Commission Delegated Regulation (EU) No 1268/2012³ establishes detailed rules on financing decisions, whereby the

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).

award of public procurement contracts will be implemented taking into account the specific nature of emergency support, in particular the need for flexibility and adaptability to rapidly evolving needs and circumstances.

- (4) The humanitarian impact of the migration and refugee crisis is particularly acute in several Member States, some of which already face economic difficulties. In particular, the emergency needs of refugees stranded in Greece continue to be associated with the required improvement of their living conditions, both in camps and in urban areas; lack of economic means to access markets for procurement of personal goods and of access to basic services such as health services; insufficient protective environment for unaccompanied minors or separated children.
- (5) A further influx of refugees into the Union cannot be excluded given the ongoing conflicts in Syria, Libya, Iraq or Afghanistan, and the possible increase in migratory flows from Africa. As needs evolve, the Commission may work together with its partners to ensure the capacity to intervene in a continuously changing context.
- (6) 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 State. 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, 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.
- (7) 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.
- (8) 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 procurement of goods, logistics, transport, and information and communication technology.
- (9) 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 1257/96⁴.
- (10) 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.
- (11) 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 Organisation for Migration, the International Committee of the Red Cross and the International Federation of the Red Cross and Red Crescent

⁴ Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

Societies, as well as United Nations organisations and agencies and Member States' specialised agencies.

- (12) In cases where Union funding is granted to non-governmental organisations in accordance with Article 3(4) of Council Regulation (EU) 2016/369, in order to guarantee that the beneficiaries of that funding are able to meet their commitments in the long term, the Authorising Officer responsible should verify if the non-governmental organisations concerned satisfy the requisite eligibility and selection criteria, notably as regards their legal, operational and financial capacity. The verification to be made should also seek to confirm whether the non-governmental organisations concerned are able to provide emergency support in accordance with the humanitarian principles.
- (13) In cases where the Union finances humanitarian aid operations of Member States' specialised services in accordance with Article 3(4) of Council Regulation (EU) 2016/369, in order to guarantee that the beneficiaries of Union grants are capable of fulfilling their commitments in the long run, the Authorising Officer responsible should verify the legal, operational and, where the entities or bodies concerned are governed by private law, financial capacity of any Member States' specialised services desiring to receive financial support under this Decision. The verification to be made should also seek to confirm whether the Member States' specialised services concerned are able to provide emergency support in accordance with the humanitarian principles.
- (14) Pursuant to Article 5(3) of Regulation (EU) 2016/369, Union financing can cover expenses pertaining to communication, preparation, monitoring, control, audit and evaluation activities (hereinafter referred to as 'technical assistance') which are required for the management of the support to be provided under this Decision.
- (15) 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 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 derogation adopted by the Commission to that effect on 22 June 2016⁵, provided that the related expenditure incurred under the relevant financing decision⁶ be reimbursed using the necessary appropriation under this Decision.
- (16) 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.
- (17) 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.

⁵ PV(2016) 2174 final.

⁶ 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).

- (18) 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.
- (19) 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 ADOPTED THIS DECISION:

Article 1

Financial contribution

1. The maximum contribution of the European Union for the provision of emergency support is set at EUR 200 million. Of this amount, EUR 198 million shall be financed from budget line 18 07 01 and EUR 2 million shall be financed from budget line 18.010405 of the general budget of the Union for year 2017.
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 198 000 000 is allocated to the provision of multi-sectorial support to meet the needs of persons in Greece and in any other Member State that are adversely affected by the current influx of refugees and migrants into the Union. The multi-sectorial 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.

In the provision of such multi-sectorial support, the specific needs of vulnerable groups of beneficiaries, such as unaccompanied minors, shall be taken into consideration.
 - (b) a total of EUR 2 000 000 is allocated to the provision of technical assistance to the extent required for the management of the support to be provided under this Decision, including the technical assistance to be provided in accordance with the provisions laid down in Article 5.
3. The emergency support actions referred to in paragraph 2 shall be carried out in full respect of the humanitarian principles of humanity, neutrality, impartiality and independence.
4. The emergency support actions referred to in paragraph 2 shall be in support of and complementary to, the actions of the affected Member States. To this end, close cooperation with the affected Member State shall be ensured.

5. Synergies and complementarity shall be sought with other instruments of the Union, in particular with respect to the Union Civil Protection Mechanism⁷, the Asylum, Migration and Integration Fund⁸, the Internal Security Fund⁹, the European Social Fund¹⁰ and the Fund for European Aid to the Most Deprived¹¹.
6. The appropriations provided for in paragraph 1 may also cover interest due for late payment.

Article 2

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 Directorate-General 'European Civil Protection and Humanitarian Aid Operations' (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 Directorate-General 'European Civil Protection and

⁷ 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).

⁸ Regulation (EU) No 516/2014 of the European Parliament and 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, 20.05.2014, p.168).

⁹ 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).

¹⁰ Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 (OJ L 347, 20.12.2013, p. 470).

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).

Humanitarian Aid Operations' (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;

In cases where the Union finances humanitarian aid operations of Member States' specialised services, the Authorising Officer responsible shall verify whether these services have legal personality and sufficient operational and, where these agencies are governed by private law, financial capacity to provide emergency support in accordance with the humanitarian principles.

- (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 2(1)(a)(iv) and (v), which are affected by a crisis 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(2) of Commission Decision C(2016) 5104 of 16 June 2016 on the adoption of a model pillar assessed grant or delegation agreement (PAGoDA), the authorising officer responsible is authorised to use the contractual models developed by the Directorate-General 'European Civil Protection and Humanitarian Aid Operations' (ECHO) for the purpose of implementing humanitarian aid operations outside the Union, possibly adjusted to take into account any relevant features of emergency support operations within the Union.

Article 3

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 before the date of submission of an application for funding may be eligible for Union financing.

Article 4

Flexibility clause

1. The increase of up to 20 % of the maximum contribution authorised by this Decision shall not be considered to be a substantial change within the meaning of Article 94(4) of Commission Delegated Regulation (EU) No 1268/2012.
2. The authorising officer responsible may apply the change referred to in the first paragraph. This change shall be applied in accordance with the principles of sound financial management and proportionality.

Article 5

Technical assistance

As laid down in the administrative and budgetary decision taken by the Commission during its 2174th meeting of 22 June 2016 on the implementation of the emergency support within the Union, the technical assistance of 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. In such cases, the expenditure incurred under the relevant Commission Implementing Decision on financing technical assistance and field offices to support humanitarian aid operations shall be reimbursed using the appropriation referred to in Article 1(2)(b) of this Decision.

Done at Brussels, 14.2.2017

For the Commission
Christos STYLIANIDES
Member of the Commission