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COMMISSION DECISION

of 12.12.2017

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 2018 general budget of the European Union (ECHO/-EU/BUD/2018/01000)

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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 2018 general budget of the European Union (ECHO/-EU/BUD/2018/01000)

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, Commission Decision C(2016) 2214 set the maximum contribution of the European Union for the provision of emergency support at EUR 300 million from the general budget of the Union. In 2017, in order to respond to the persisting needs, Commission Decision C(2017) 763 allocated a further EUR 200 million for the provision of emergency support. The funding provided in 2016 and 2017 to partner organisations was organised around the following operational priorities: food assistance; provision of shelter, of water, sanitation and hygiene (WASH) and of healthcare; delivery of non-food items (NFI); ensuring access to education for refugee children and protection.
- (3) Emergency support provided in 2016 and 2017 has achieved concrete results in addressing the humanitarian needs of refugees and migrants in one affected Member State³. The present Decision seeks to enable the Commission to continue funding the required emergency support actions in affected Member States throughout 2018.

¹ OJ L 70, 16.3.2016, p. 1.

² OJ L 298, 26.10.2012, p. 1.

³ Report from the Commission to the Council on the implementation of Regulation (EU) 2016/369 on the provision of emergency support within the Union, COM(2017) 131, Brussels, 15.3.2017.

- (4) In view of the end of the activation of emergency support in March 2019, over the course of 2018 the humanitarian response will be progressively handed over to the affected Member State on the basis of a phase-out plan elaborated in close cooperation and consultation with the national authorities. Activities will include the continued provision of shelter through a rental accommodation scheme and a limited number of permanent camps, a multi-purpose cash transfer system and the delivery of a number of services, including protection, education, health and WASH, funded through emergency support. Article 94 of Commission Delegated Regulation (EU) No 1268/2012⁴ establishes detailed rules on financing decisions, whereby the 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.
- (5) A further massive 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 needs to maintain the capacity to intervene in a continuously evolving 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 1257/96⁵.
- (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.

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

- (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 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 manner. To that effect, the Commission should be able to rely on appropriate technical assistance in the relevant sectors of intervention during the operations in order to maximise the benefits of aid. In compliance with point (a) of Article 17(2) of Commission Decision C(2017)6760⁶, such technical assistance includes on an *ad hoc* and temporary basis the assistance to be provided within the Union by experts recruited by the Commission under direct employment contracts subject to national law pursuant to Article 3 of Regulation (EC) No 1257/96, provided that the related expenditure incurred under the relevant financing decision⁷ 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

⁶ Commission Decision C(2017) 6760 of 16.10.2017 on the general provisions for implementing Article 79(2) of the Conditions of Employment of Other Servants of the European Union, governing the conditions of employment of contract staff employed by the Commission under the terms of Articles 3a and 3b thereof.

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).

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.
- (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 DECIDED AS FOLLOWS:

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 199 million shall be financed from budget line 18 07 01 and EUR 1 million shall be financed from budget line 18.010405 of the general budget of the Union for year 2018.
2. The emergency support actions referred to in paragraph 1 shall be implemented in the pursuit of the following two specific objectives:
 - (a) a total of EUR 199 000 000 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.
 - (b) a total of EUR 1 000 000 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 Mechanism⁸, the Asylum, Migration and Integration Fund⁹, the Internal Security Fund¹⁰, the European Social Fund¹¹ and the Fund for European Aid to the Most Deprived¹².
6. The appropriations provided for in paragraph 1 may also cover interest due for late payment.
7. The implementation of this Decision is subject to the availability of the appropriations provided for in the draft budget for 2018 after the adoption of the budget by the budgetary authority or provided for in the provisional twelfths.

Article 2

Implementation modalities and eligible entities

8. 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

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 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).

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 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).

¹² 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).

'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 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.

- 9. Grants may be awarded without a call for proposals to the organisations and entities referred to in paragraph 1.
- 10. 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.
- 11. 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

12. Union financing for support actions under this Decision may cover up to 100% of the eligible costs.
13. 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

14. 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 changing circumstances, resources may be reallocated between the above-mentioned specific objectives up to a maximum of 20% of the total amount of the financing decision. This may include the increase of up to 20 % of the maximum contribution authorised by this Decision.
15. Non-substantial changes shall be applied in accordance with the principles of sound financial management and proportionality.

Article 5

Technical assistance

In accordance with point (a) of Article 17(2) of Commission Decision C(2017) 6760, 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 within the Union 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, 12.12.2017

For the Commission
Christos STYLIANIDES
Member of the Commission

