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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 8 August 2007

laying down rules for the implementation of the provisions on transport in Council Decision 2007/162/EC, Euratom establishing a Civil Protection Financial Instrument

(notified under document number C(2007) 3769)

(Text with EEA relevance)

(2007/606/EC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 2007/162/EC, Euratom of 5 March 2007 establishing a Civil Protection Financial Instrument ⁽¹⁾, and in particular Article 4(4) thereof,

Whereas:

(1) A Community Mechanism to facilitate reinforced cooperation in civil protection assistance interventions, hereinafter 'the Mechanism', was established by Council Decision 2001/792/EC, Euratom ⁽²⁾. Commission Decision 2004/277/EC, Euratom ⁽³⁾ lays down rules for the implementation thereof. It is necessary to refer to that Decision for the definitions of participating States and third countries.

(2) Decision 2007/162/EC, Euratom makes special provisions to fund certain transport resources in the event of a major emergency to facilitate a rapid and effective response thereto.

(3) It is necessary to establish the rules and procedures concerning the requests made by the participating States to obtain financial support from the Community to transport their assistance to the affected country and the handling of those requests by the Commission. To that end, it is necessary to establish the rules and procedures to follow with regard to the pooling or identifying of transport resources since one of the conditions for the provision of financial support is that all other possibilities for finding transport under the Mechanism have been exhausted. To ensure a rapid and effective response of the Community to major emergencies it is necessary to set a period on expiry of which requests for Community financing may become eligible.

(4) For reasons of transparency, coherence and effectiveness it is necessary to establish the information to be provided in the requests for transport support and related replies by the Participating States and the Commission.

(5) Where Community financial assistance may be provided in accordance with Decision 2007/162/EC, Euratom, participating States should have the choice to request either a grant or a transport service.

(6) It is necessary to define the information to be taken into account in order to determine whether the criteria set out in points (i) and (iii) of Article 4(2)(c) of Decision 2007/162/EC, Euratom and the principles of economy, efficiency and effectiveness of the Financial Regulation are met.

⁽¹⁾ OJ L 71, 10.3.2007, p. 9.

⁽²⁾ OJ L 297, 15.11.2001, p. 7.

⁽³⁾ OJ L 87, 25.3.2004, p. 20.

- (7) It is necessary to define the eligible costs since under Decision 2007/162/EC, Euratom the financial assistance from the Community may take the form of grants or public procurement contracts implemented in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾.
- (8) Decision 2007/162/EC, Euratom provides that Member States requesting financial support from the Community for the transport of their assistance are to reimburse at least 50 % of the Community funds received within 180 days of the intervention. It is necessary to establish rules and procedures for that purpose. The costs incurred by the Commission are to be considered as funds received by Member States within the meaning of Article 4(3) of Decision 2007/162/EC, Euratom.
- (9) Since it is the responsibility of Member States to provide equipment and transport for the civil protection assistance they offer in the framework of the Mechanism, and since the Commission has only a supporting role in financing additional transport resources at the request of Member States, it is necessary to safeguard the financial interests of the Community concerning compensation for possible damage by providing that the participating State requesting transport support shall refrain from making any request for compensation from the Community where such damage is the consequence of the provision of transport support governed by this Decision, unless it is proven to be the result of fraud or serious misconduct.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Committee for civil protection,
- (a) 'participating State' has the meaning assigned to it in Article 2 of Commission Decision 2004/277/EC, Euratom.
- (b) 'third countries' has the meaning assigned to it in Article 2 of Commission Decision 2004/277/EC, Euratom.
- (c) 'affected State' means the participating State or third country affected by a major emergency for which the Mechanism is activated.
- (d) 'participating State requesting transport support' means the participating State, which requests support from the Mechanism to transport its assistance to the affected State.
- (e) 'civil protection assistance' means civil protection teams, experts or modules with their equipment as well as relief materials or supplies needed to mitigate the immediate consequences of an emergency.

Article 3

Procedures applying to requests for support through the Mechanism for the transport of assistance and to related replies

1. The procedures provided for in Articles 4 and 5 shall apply whenever requests are made by participating States for support through the Mechanism in order to transport their civil protection assistance to an affected State, hereinafter 'transport support'.

2. Where a request for transport support includes a request for financial support, the latter shall not be eligible for consideration by the Commission until the procedures referred to in Paragraph 1 have been completed.

3. Requests shall be issued by the competent authority referred to in Article 12 and sent to the Commission in writing. They shall contain the information provided for in Part A of the Annex.

4. All requests for transport support under this Decision and related replies and exchanges of information between the participating States and the Commission shall be transmitted to and processed by the Monitoring and Information Centre of the Commission (MIC) established by Decision 2004/277/EC, Euratom.

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision lays down rules for the implementation of the actions in the field of transport that are eligible for financial assistance from the Community under Article 4(2)(b) and (c) and Article 4(3) of Decision 2007/162/EC, Euratom.

Article 2

Definitions

For the purposes of this Decision, the following definitions shall apply:

⁽¹⁾ OJ L 248, 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

5. Requests may be transmitted by telefax, electronic mail or through the common emergency communication and information system (CECIS) established by Decision 2004/277/EC, Euratom. Transmission of requests involving Community financing by telefax, electronic mail or CECIS are accepted provided that the originals signed by the competent authority are subsequently provided to the Commission without delay.

Article 4

Requests for support for pooling or identifying transport resources

1. The Commission shall, upon receipt of a request for support from the Mechanism for pooling or identifying transport resources in order to transport civil protection assistance to an affected State, immediately notify the contact points, designated by the participating States under point (e) of Article 3 of Decision 2001/792/EC, Euratom of this request.

2. In the notification, the Commission shall invite participating States to provide it with details of any transport resources which they can make available to the participating State making the request.

3. In the notification referred to in Paragraph 2, the Commission shall also set a period on expiry of which requests for Community financing may become eligible. That period shall not exceed 24 hours from the notification. The Commission may shorten that period to a minimum of six hours where this is necessary in order to respond effectively to urgent and vital needs.

Article 5

Replies to requests for support for pooling or identifying transport resources

1. Participating States shall inform the Commission as soon as possible of any transport resources they can make available on a voluntary basis in response to the request for support for pooling or identifying transport resources. That information shall contain the elements provided for in Part B of the Annex.

2. Participating States which do not have suitable transport resources available should inform the Commission immediately.

3. The Commission shall compile the information on available transport resources and forward it to the participating State making the request and to other participating States, as soon as possible.

4. In addition to the information referred to in Paragraph 3, the Commission shall forward to the participating States any other information it has concerning transport resources available from other sources, including the commercial market and shall facilitate the access of participating States to those additional resources.

5. The participating State making the request shall inform the Commission of the transport solutions it has selected and shall liaise with the participating States providing such support or the operator identified by the Commission.

6. The Commission shall inform all participating States of the selection made by the participating State making the request. That State shall keep the Commission regularly informed of the progress in the delivery of its civil protection assistance.

Article 6

Request for a grant

1. Where a possible transport solution has been identified but Community funding is required to allow the transport of the civil protection assistance, the participating State may request a grant from the Community.

2. The participating State shall indicate in its request what percentage of the eligible costs it will reimburse. That percentage shall not be less than 50 %. The Commission shall immediately inform all the participating States of the request.

3. The Commission may conclude framework partnership agreements as defined in Article 163 of Commission Regulation (EC, Euratom) No 2342/2002⁽¹⁾ with the relevant competent authorities of participating States in order to facilitate procedures under this Article.

Article 7

Request for a transport service

1. In cases other than that referred to in Article 6, the participating State requesting transport support may request the Commission to contract a transport service to private or other entities in order to transport its civil protection assistance to the affected country.

2. Upon receipt of a request as referred to in Paragraph 1, the Commission shall immediately inform all the participating States of the request and shall inform the participating State requesting a transport service of any available transport solutions and their costs.

⁽¹⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.4.2007, p. 13).

3. On the basis of the exchange of information referred to in Paragraphs 1 and 2, the participating State shall confirm in writing its request for a transport service and its commitment to reimburse the Commission according to the provisions of Article 10. The participating State shall indicate what percentage of the costs it will reimburse. That percentage shall not be less than 50 %.

4. The participating State shall immediately notify the Commission of any changes to the request for a transport service.

Article 8

Decision on Community financing

1. For the purposes of point (ii) of Article 4(2)(c) of Decision 2007/162/EC, Euratom all other possibilities for finding transport under the Mechanism shall be deemed to have been exhausted when the procedures provided for under Article 4 and 5 of this Decision have not resulted in arrangements within the period fixed by the Commission pursuant to Article 4(3) of this Decision.

2. In order to determine whether the criteria set out in points (i) and (iii) of Article 4(2)(c) of Decision 2007/162/EC, Euratom and the principles of economy, efficiency and effectiveness of the Financial Regulation are met, the following shall be taken into account:

- (a) the information contained in the request for Community financing presented by the participating State according to Article 3(3);
- (b) the needs expressed by the affected State;
- (c) any needs assessments carried out by experts reporting to the Commission during the emergency;
- (d) other relevant and reliable information available to the Commission at the time of the decision provided by participating States and by international organisations;
- (e) the efficiency and effectiveness of transport solutions designed to affect the timely delivery of civil protection assistance;
- (f) other actions undertaken by the Commission.

3. The participating States shall provide any additional information needed to assess the fulfilment of the criteria set out in Article 4(2)(c) of Decision 2007/162/EC, Euratom. Participating States shall inform the Commission as soon as possible upon receipt of a request from the Commission for such information.

4. The decision on the actions eligible for financial assistance pursuant to Article 4(2)(c) of Decision 2007/162/EC, Euratom, shall set the maximum amount of Community financing for a given request, taking account of the availability of budgetary resources.

5. The decision on financial support shall immediately be communicated to the participating State requesting financial support. It shall also be communicated to all other participating States.

Article 9

Eligible costs

The following costs shall be eligible for Community financial support:

- (a) costs related to the movement of the transport resources to the point of dispatch in the territory of the participating State offering the civil protection assistance including the costs of all services, fees, logistical and handling costs, fuel and possible accommodation costs as well as other indirect costs such as taxes, duties in general and transit costs;
- (b) costs incurred from the point of dispatch in the territory of the participating State offering the civil protection assistance to its final destination, including the costs of all services, fees, logistical and handling costs, fuel and possible accommodation costs as well as other indirect costs such as taxes, duties in general and transit costs;
- (c) costs necessary for the return journey of the transport assets and any teams and their equipment.

All costs must be duly justified.

Article 10

Reimbursement of Community financing

1. For the financing granted by the Commission under the procedure set out in Article 6, the Commission shall issue within 90 days of the completion of the transport operation for which a Community financial support was granted a recovery order to the participating State having benefited from Community financing for an amount corresponding to the provisions of the award decision and representing at least 50 % of the funds received and a minimum of 50 % of the eligible costs.

2. For the costs incurred by the Commission under the procedure set out in Article 7, the Commission shall issue, within 90 days of the completion of the transport operation for which a Community financial support was granted a recovery order to the participating States having benefited from this Community financing for an amount corresponding to the provisions of the decision made by the Commission on the request for a transport service and representing at least 50 % of the transport costs.

Article 11

Compensation for damage

The participating State requesting transport support shall refrain from making any request for compensation from the Community for damage caused to its property or service staff where such damage is the consequence of the provision of transport support governed by this Decision, unless it is proven to be the result of fraud or serious misconduct.

Article 12

Designation of competent authorities

Participating States shall designate the competent authorities authorised to request and receive financial support from the Commission in application of this Decision and shall inform the Commission thereof within 60 days after notification of this Decision. Any changes in that information shall be immediately notified to the Commission.

Article 13

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 8 August 2007.

For the Commission

Stavros DIMAS

Member of the Commission

ANNEX

PART A**Information to be provided by participating States requesting transport support for civil protection assistance**

1. Disaster/emergency.
2. References to messages issued by the Monitoring and Information Centre of the Commission (MIC).
3. Requesting State/organisation.
4. Final recipient/beneficiary of the assistance transported.
5. Details of the civil protection assistance to be transported including precise description of items, weight, size, volume, floor space, packaging with due reference to air, land, maritime packaging standards, any hazardous items, vehicle characteristics as well as overall weight, size, volume, floor space and number of staff travelling and other legal, customs, health or sanitary requirements relevant for the transport and the delivery of the assistance.
6. Information on how this assistance meets the needs of the affected country in reference to affected country request or needs assessment.
7. Information, if available, on the existence (or absence) of possibilities for local procurement and distribution available for the type(s) of assistance to be transported in sufficient quantity.
8. Reason(s) why additional transport resources are necessary for ensuring the effectiveness of the civil protection response under the mechanism.
9. Information on the state of play regarding this assistance by the affected State or coordinating authority.
10. Required route for transportation of the assistance.
11. Place/port of embarkation and local contact point.
12. Place/port of disembarkation and local contact point.
13. Date/time when the assistance is ready, packed and prepared for transportation from the port of embarkation.
14. Information on any possibilities to move assistance to an alternative place/port of embarkation/hub for onward movement.
15. Additional information (as appropriate).
16. Information on possible contributions to the transportation costs.
17. Information concerning a request for Community financing (when applicable).
18. Competent authority/signature.

PART B**Information to be provided by participating States or the Commission when offering transport support for civil protection assistance**

1. Disaster/Emergency.
2. Responding State/organisation/contact point.
3. References to messages issued by the Monitoring and Information Centre of the Commission (MIC) and of the participating State/organisation requesting transport support.
4. Technical details of the offer of transportation including types of transport resources available, dates and times of transportation, number of movement or sorties required.

5. Particular details, constraints and modalities concerning the civil protection assistance to be transported including, weight, size, volume, floor space, packaging, eventual hazardous items, vehicle preparation, handling requirements, staff travelling and other legal, customs, health or sanitary requirements relevant for the transport and the delivery of the assistance.
 6. Proposed route for transportation of assistance.
 7. Place/port of embarkation and local contact point.
 8. Place/port of disembarkation and local contact point.
 9. Date/time when the assistance needs to be ready, packed and prepared for transportation from the port of embarkation.
 10. Information on any request for movement of assistance to an alternative place/port of embarkation/hub for onward movement.
 11. Additional information (as appropriate).
 12. Information on possible request for contributions to the transportation costs and details of any particular conditions or restriction related to the offer.
 13. Information on the request for Community financing (when applicable).
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