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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1257/96
of 20 June 1996
concerning humanitarian aid

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130w thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 189c of the Treaty ⁽²⁾,

Whereas people in distress, victims of natural disasters, wars and outbreaks of fighting, or other comparable exceptional circumstances have a right to international humanitarian assistance where their own authorities prove unable to provide effective relief;

Whereas civilian operations to protect the victims of fighting or of comparable exceptional circumstances are governed by international humanitarian law and should accordingly be considered part of humanitarian action;

Whereas humanitarian assistance encompasses not only relief operations to save and preserve life in emergencies or their immediate aftermath, but also action aimed at facilitating or obtaining freedom of access to victims and the free flow of such assistance;

Whereas humanitarian assistance may be a prerequisite for development or reconstruction work and must therefore cover the full duration of a crisis and its aftermath; whereas, in this context, it may include an element of short-term rehabilitation aimed at facilitating the arrival of relief, preventing any worsening in the impact of the crisis and starting to help those affected regain a minimum level of self-sufficiency;

Whereas there is a particular need for preventive action to ensure preparedness for disaster risks and, in conse-

quence, for the establishment of an appropriate early-warning and intervention system;

Whereas the effectiveness and consistency of the Community, national and international prevention and intervention systems set up to meet the needs generated by natural or man-made disasters or comparable exceptional circumstances should therefore be ensured and strengthened;

Whereas humanitarian aid, the sole aim of which is to prevent or relieve human suffering, is accorded to victims without discrimination on the grounds of race, ethnic group, religion, sex, age, nationality or political affiliation and must not be guided by, or subject to, political considerations;

Whereas humanitarian aid decisions must be taken impartially and solely according to the victims' needs and interests;

Whereas close coordination between the Member States and the Commission both at decision-making level and on the ground constitutes the foundation for effective humanitarian action by the Community;

Whereas the Community, as part of its contribution to the effectiveness of international humanitarian aid, must endeavour to cooperate and coordinate its action with that of third countries;

Whereas, in pursuit of that same objective, criteria should be established for cooperation with non-governmental organizations and the international agencies and organizations specializing in the field of humanitarian aid;

Whereas the independence and impartiality of non-governmental organizations and other humanitarian institutions in the implementation of humanitarian aid must be preserved, respected and encouraged;

Whereas cooperation in the humanitarian sphere should be encouraged between non-governmental organizations in the Member States and other developed countries and their equivalents in the third countries concerned;

⁽¹⁾ OJ No C 180, 14. 7. 1995, p. 6.

⁽²⁾ Opinion of the European Parliament of 30 November 1995 (OJ No C 339, 18. 12. 1995, p. 60), Council common position of 29 January 1996 (OJ No C 87, 25. 3. 1996, p. 46) and Decision of the European Parliament of 21 May 1996 (OJ No C 166, 10. 6. 1996).

Whereas the very nature of humanitarian aid calls for the establishment of efficient, flexible, transparent and, where necessary, rapid decision-making procedures for the financing of humanitarian operations and projects;

Whereas procedures should be established for the implementation and administration of humanitarian aid financed by the European Community from the general budget, with emergency aid under the Fourth ACP-EC Convention signed at Lomé on 15 December 1989, amended by the Agreement amending the said Convention, signed at Mauritius on 4 November 1995 remaining subject to the procedures and arrangements laid down in that Convention,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Objectives and general principles of humanitarian aid

Article 1

The Community's humanitarian aid shall comprise assistance, relief and protection operations on a non-discriminatory basis to help people in third countries, particularly the most vulnerable among them, and as a priority those in developing countries, victims of natural disasters, man-made crises, such as wars and outbreaks of fighting, or exceptional situations or circumstances comparable to natural or man-made disasters. It shall do so for the time needed to meet the humanitarian requirements resulting from these different situations.

Such aid shall also comprise operations to prepare for risks or prevent disasters or comparable exceptional circumstances.

Article 2

The principal objectives of the humanitarian aid operations referred to in Article 1 shall be:

- (a) to save and preserve life during emergencies and their immediate aftermath and natural disasters that have entailed major loss of life, physical, psychological or social suffering or material damage;
- (b) to provide the necessary assistance and relief to people affected by longer-lasting crises arising, in particular, from outbreaks of fighting or wars, producing the same effects as those described in subparagraph (a), especially where their own governments prove unable to help or there is a vacuum of power;
- (c) to help finance the transport of aid and efforts to ensure that it is accessible to those for whom it is intended, by all logistical means available, and by protecting humanitarian goods and personnel, but excluding operations with defence implications;
- (d) to carry out short-term rehabilitation and reconstruction work, especially on infrastructure and equipment, in close association with local structures, with a view to facilitating the arrival of relief, preventing the impact of the crisis from worsening and starting to help those affected regain a minimum level of self-sufficiency, taking long-term development objectives into account where possible;
- (e) to cope with the consequences of population movements (refugees, displaced people and returnees) caused by natural and man-made disasters and carry out schemes to assist repatriation to the country of origin and resettlement there when the conditions laid down in current international agreements are in place;
- (f) to ensure preparedness for risks of natural disasters or comparable exceptional circumstances and use a suitable rapid early-warning and intervention system;
- (g) to support civil operations to protect the victims of fighting or comparable emergencies, in accordance with current international agreements.

Article 3

Community aid referred to in Articles 1, 2 and 4 may be used to finance the purchase and delivery of any product or equipment needed for the implementation of humanitarian operations, including the construction of housing or shelter for the victims, the costs associated with the outside staff, expatriate or local, employed for those operations, the storage, international or national transport, logistics and distribution of relief and any other action aimed at facilitating or obtaining freedom of access for aid recipients.

It may also be used to finance any other expenditure directly related to the implementation of humanitarian operations.

Article 4

Such Community aid referred to in Articles 1 and 2 may also be used to finance:

- preparatory and feasibility studies for humanitarian operations and the assessment of humanitarian projects and plans,
- operations to monitor humanitarian projects and plans,
- small-scale training schemes and general studies in the field of humanitarian operations, to be phased out gradually where funding is over several years,
- the cost of highlighting the Community nature of the aid,
- public awareness and information campaigns aimed at increasing understanding of humanitarian issues, especially in Europe and in third countries where the Community is funding major humanitarian operations,
- measures to strengthen the Community's coordination with the Member States, other donor countries, international humanitarian organizations and institutions, non-governmental organizations and organizations representing them,
- the technical assistance necessary for the implementation of humanitarian projects, including the exchange of technical know-how and experience by European humanitarian organizations and agencies or between such bodies and those of third countries,
- humanitarian mine-clearance operations, including campaigns to increase awareness of anti-personnel mines on the part of the local population.

Article 5

Community financing under this Regulation shall take the form of grants.

The operations covered by this Regulation shall be exempt from taxes, charges, duties and customs duties.

CHAPTER II

Procedures for the implementation of humanitarian aid

Article 6

Humanitarian aid operations financed by the Community may be implemented either at the request of international or non-governmental agencies and organizations from a Member State or a recipient third country or on the initiative of the Commission.

Article 7

1. Non-governmental organizations eligible for Community financing for the implementation of opera-

tions under this Regulation must meet the following criteria:

- (a) be non-profit-making autonomous organizations in a Member State of the Community under the laws in force in that Member State;
 - (b) have their main headquarters in a Member State of the Community or in the third countries in receipt of Community aid. This headquarters must be the effective decision-making centre for all operations financed under this Regulation. Exceptionally, the headquarters may be in a third donor country.
2. When determining a non-governmental organization's suitability for Community funding, account shall be taken of the following factors:
- (a) its administrative and financial management capacities;
 - (b) its technical and logistical capacity in relation to the planned operation;
 - (c) its experience in the field of humanitarian aid;
 - (d) the results of previous operations carried out by the organization concerned, and in particular those financed by the Community;
 - (e) its readiness to take part, if need be, in the coordination system set up for a humanitarian operation;
 - (f) its ability and readiness to work with humanitarian agencies and the basic communities in the third countries concerned;
 - (g) its impartiality in the implementation of humanitarian aid;
 - (h) where appropriate, its previous experience in the third country involved in the humanitarian operation concerned.

Article 8

The Community may also finance humanitarian operations by international agencies and organizations.

Article 9

Where necessary, the Community may also finance humanitarian operations by the Commission or the Member States' specialized agencies.

Article 10

1. In order to guarantee and enhance the effectiveness and consistency of Community and national humanitarian aid systems, the Commission may take any measure necessary to promote close coordination between its own activities and those of the Member States, both at decision-making level and on the ground. To that end, the Member States and the Commission shall operate a system for exchange of information.

2. The Commission shall ensure that humanitarian operations financed by the Community are coordinated and consistent with those of international organizations and agencies, in particular those which form part of the United Nations system.

3. The Commission shall endeavour to develop collaboration and cooperation between the Community and third-country donors in the field of humanitarian aid.

Article 11

1. The Commission shall lay down the conditions for allocating, mobilizing and implementing aid under this Regulation.

2. Aid shall not be implemented unless the recipient complies with these conditions.

Article 12

All financing contracts concluded under this Regulation shall provide in particular that the Commission and the Court of Auditors may conduct checks on the spot and at the headquarters of humanitarian partners according to the usual procedures established by the Commission under the rules in force, and in particular those of the Financial Regulation applicable to the general budget of the European Communities.

CHAPTER III

Procedures for the implementation of humanitarian operations

Article 13

The Commission shall decide on emergency action for an amount not in excess of ECU 10 million.

The following operations shall be deemed to necessitate emergency action:

- operations to meet immediate and unforeseeable humanitarian requirements generated by sudden natural or man-made disasters, such as floods, earthquakes and outbreaks of fighting or comparable situations,
- operations limited to the duration of the unforeseeable emergency response: the corresponding funds shall cover the response to the humanitarian needs referred to in the first indent for a period of not more than six months laid down in the decision on financing.

Where operations fulfil these conditions and are in excess of ECU 2 million:

- the Commission shall adopt its decision,
- it shall inform the Member States in writing within forty-eight hours,
- it shall account for its decision at the Committee's next meeting, in particular giving the reasons for its use of the emergency procedure.

Decisions to continue operations adopted by the emergency procedure shall be taken by the Commission, acting in accordance with the procedure laid down in Article 17 (3) and within the limits set in the second indent of Article 15 (2).

Article 14

The Commission shall appraise, decide upon and administer, monitor and assess operations under this Regulation according to the budgetary and other procedures in force, and in particular those laid down in the Financial Regulation applicable to the general budget of the European Communities.

Article 15

1. Acting in accordance with the procedure laid down in Article 17 (2), the Commission shall:

- decide on Community financing for the humanitarian-aid protection operations referred to in Article 2 (c),
- adopt implementing Regulations for this Regulation,
- decide to take direct Commission action or finance action by Member States' specialized agencies.

2. Acting in accordance with the procedure laid down in Article 17 (3), the Commission shall:

- approve global plans intended to provide a coherent framework for action in a given country or region where the scale and complexity of the humanitarian crisis is such that it seems likely to continue, and the budgets for those plans. In this context, the Commission and the Member States shall examine the priorities to be established in the implementation of these global plans,
- decide on projects in excess of ECU 2 million, without prejudice to Article 13.

Article 16

1. Once a year the Committee referred to in Article 17 shall discuss general guidelines presented by a representative of the Commission for humanitarian operations to be undertaken in the year ahead and examine the whole question of the coordination of Community and national humanitarian aid and any general or specific issues concerning Community aid in that field.

2. The Commission shall also submit to the Committee referred to in Article 17 information on changes in the instruments for administering humanitarian aid, including the framework partnership agreement.

3. The Committee referred to in Article 17 shall also be notified of the Commission's intentions regarding the assessment of humanitarian operations, and, possibly, its timetable of work.

Article 17

1. The Commission shall be assisted by a Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. Where the procedure laid down in this paragraph is to be followed the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of one month from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

3. Where the procedure laid down in this paragraph is to be followed, the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt measures which apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has decided for a period of one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

Article 18

1. The Commission shall regularly assess humanitarian aid operations financed by the Community in order to establish whether they have achieved their objectives and to produce guidelines for improving the effectiveness of subsequent operations. The Commission shall submit to the Committee a summary, which shall also indicate the status of the experts employed, of the assessment exercises carried out that it might, if necessary, examine. The assessment reports shall be available to the Member States on request.

2. At the Member States' request, and with their participation, the Commission may also assess the results of the Community's humanitarian operations and plans.

Article 19

At the close of each financial year, the Commission shall submit an annual report to the European Parliament and to the Council with a summary of the operations financed in the course of that year.

The summary shall contain information concerning the agencies with which humanitarian operations have been implemented.

The report shall also include a review of any outside assessment exercises which may have been conducted on specific operations.

The Commission shall notify the Member States, within no more than one month of its decision and without prejudice to Article 13 of this Regulation, of the operations approved, indicating the amount granted, the nature of the operation, the people who have received aid and the partners involved.

Article 20

Three years after entry into force of this Regulation, the Commission shall submit an overall assessment of the operations financed by the Community under this Regulation to the European Parliament and to the Council, together with suggestions for the future of the Regulation and, as necessary, proposals for amendments to it.

Article 21

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 20 June 1996.

For the Council

The President

P. BERSANI
