



COMMISSION OF THE EUROPEAN COMMUNITIES

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95/0119 (SYN)

Proposal for a

COUNCIL REGULATION (EC)

CONCERNING HUMANITARIAN AID

(presented by the Commission)

EXPLANATORY MEMORANDUM

During the past four years the Community has increased its humanitarian aid by more than seven-fold in response to the various disasters and crises that have occurred throughout the world following the Cold War. This assistance has reached a total value of 765 MECU in 1994. Although it has massively increased humanitarian aid, the Community has nonetheless succeeded in efficient and timely delivery.

This is not least due to the creation of ECHO in 1992. Since ECHO became fully operational in 1993, the Office has systematically built up experience, methodologies and administrative systems which has made it possible to cope with the expanding number of activities and the larger degree of complexity in many operations. A key part in the improved work methods is played by the Framework Partnership Agreement which now covers practically all of ECHO's operations with its partners, be they NGOs, UN agencies or other international organisations.

On 6 July 1994, the Commission adopted a communication to the budget authority concerning the legal basis. It committed itself to propose the legal basis for a number of Community budget lines, for which no legal basis so far exists, apart from the general budget authorization. In the "Statement by the Council and the Commission on humanitarian action" of November 25, 1994, the Council, in view of the increasing importance of humanitarian aid, welcomed this initiative.

The purpose of this legal basis is to define the scope of humanitarian action, coordination as well as the conditions for cooperation between the Community, the EU Member States, the international and non-governmental organizations. The Council also underlined the importance of transparent and quick procedures as well as clear criteria with respect to cooperation with NGOs in humanitarian assistance.

The proposed draft Regulation is firmly anchored on the wishes of the Council and is at the same time based on the operational experience accumulated by ECHO during the past two-and-a-half years.

Firstly, the attached draft Regulation establishes clear objectives and general criteria for humanitarian aid provided by the Community. Hence Chapter I of the proposal addresses questions relating to which disaster situations qualify for humanitarian aid from the Community, what type of assistance can be financed as well as how humanitarian relief links up with disaster preparedness, rehabilitation and reconstruction.

Secondly, the proposal lays down the implementation procedures for the Community's humanitarian actions. Chapter II deals with relations with implementing partners and with cooperation with EU Member States.

Thirdly, the proposed Regulation establishes the decision-making procedures to be followed in the implementation of humanitarian aid programmes financed by the Community. In Chapter III it is proposed that the Commission has the overall competence to take decisions on humanitarian actions and to implement these decisions. However, in the decision-making process the Commission in certain decisions will be assisted by a consultative committee composed of EU Member states and chaired by a representative of ECHO. This chapter also includes provisions for regular evaluations of humanitarian aid and for the Commission to submit an annual report on all its humanitarian actions to the Council and the Parliament.

It is expected that the present Regulation, if adopted, will provide clarity and predictability and yet preserve the necessary flexibility that is necessary to further strengthen the Community's response to humanitarian crises in the years to come.

**PROPOSAL FOR A
COUNCIL REGULATION (EC) N° ...
of ...**

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

In cooperation with the European Parliament,²

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

Whereas measures to protect the victims of fighting or comparable emergencies 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 any 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, and may therefore 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;

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Whereas there is a particular need for preventive action to ensure preparedness for disaster risks and, in consequence, for the establishment of an appropriate rapid-warning and intervention system;

Whereas the effectiveness and consistency of the Community and national prevention and intervention systems set up to meet the needs generated by natural disasters or comparable emergencies should therefore be ensured and reinforced;

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, religion, nationality or political affinities 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 non member 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 humanitarian aid;

Whereas the independence and impartiality of non-governmental organizations and other humanitarian institutions in the execution 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 countries concerned;

Whereas the very nature of humanitarian aid calls for the establishment of flexible, transparent and fast decision-making procedures for the financing of humanitarian operations and projects. In this context, it is foreseen that the Commission will be assisted in certain cases in its decision making by a committee of advisory character.

Whereas procedures should be established for the implementation and administration of humanitarian aid financed by the Community from the general budget, with emergency aid under the IV Lomé Convention remaining subject to the procedures and arrangements laid down in that Convention,

CHAPTER 1

Objectives and general principles of humanitarian aid

Article 1

In the course of its humanitarian action, the Community shall carry out assistance, relief and protection operations on a non discriminatory basis to help people, and particularly the most vulnerable among them, in non-member countries hit by natural disasters, man-made crises, such as wars and outbreaks of fighting, or comparable emergencies. It shall do so for the time needed to meet the humanitarian requirements resulting from these situations.

The Community shall also carry out operations to prepare for or prevent disasters or comparable emergencies.

Article 2

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

- (a) to save and preserve life during emergencies and their immediate aftermath and natural disasters that have caused major loss of life, physical, psychological or emotional suffering, or material damage;
- (b) to provide, through individual operations or global plans, the necessary assistance and relief to people affected by longer-lasting crises arising, in particular, from outbreaks of fighting or wars having the effects described in subparagraph (a), especially where their own governments prove unable to help or there is a vacuum of power;
- (c) to take any steps necessary to facilitate or obtain freedom of access to aid recipients and the free flow of aid;
- (d) to carry out short-term rehabilitation and reconstruction work 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;

- (e) to cope with population movements (refugees, displaced people and returnees) caused by natural and man-made disasters and handle schemes to assist repatriation to the country of origin and resettlement there;
- (f) to ensure preparedness for disasters or comparable emergencies and set up a suitable rapid-warning and intervention system;
- (g) to carry out operations to protect the victims of fighting or comparable emergencies.

Article 3

Community aid under this Regulation may be used to finance the purchase and delivery of any product or equipment needed for the implementation of humanitarian operations; the costs associated with the expatriate or local staff employed for those operations; the storage, transport, logistics and distribution of relief and any other action aimed at facilitating or obtaining freedom of access to aid recipients.

It may also be used to finance any other expenditure directly related to the implementation of humanitarian operations, including the cost of publicizing aid.

Article 4

Community aid may also be used to finance:

- feasibility studies, monitoring and evaluation of humanitarian operations;
- training schemes and general studies in the field of humanitarian action;
- measures to strengthen coordination with the Member States, other donor countries, international humanitarian organizations and institutions and non-governmental organizations;
- 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 non-member countries;
- public awareness and information campaigns inside and outside the Community aimed at increasing understanding of humanitarian issues.

Article 5

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

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 bodies and organizations or on the initiative of the Commission.

Article 7

1. The humanitarian partners eligible for Community funding under this Regulation shall be non-governmental organizations satisfying the following conditions:
 - a) They must be legally recognized in their country of origin as independent non-profit-making associations.
 - b) They must have their headquarters in a Community Member State or, exceptionally, a non-member country.
2. When determining an NGO'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 operations carried out by the NGO 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 to work with humanitarian agencies in the countries concerned;

- g) whether it has signed the framework partnership agreement with the Community in the field of humanitarian aid.

Article 8

The Community may also finance humanitarian operations by international agencies and organizations, and in particular those which have signed the framework partnership agreement with the Community in the field of humanitarian aid.

Article 9

The Community may also finance humanitarian operations by the European Commission or the Member States' humanitarian agencies. For that purpose, the Commission may, according to the financial rules in force, administer funds made available to it by the Member States in accordance with procedures agreed beforehand by the Commission and the Member State concerned.

Article 10

In the course of its humanitarian action, the Community shall endeavour to develop partnership and cooperation with non-member countries.

Article 11

1. The administrative procedures for the management and implementation of operations under this Regulation shall be adopted by the Commission.
2. Aid shall be granted only to the organisations referred to in articles 7, 8 and 9 which undertake to comply with the conditions transmitted to them by the Commission regarding its allocation and implementation.

Article 12

All financing contracts concluded under this Regulation shall provide 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.

Article 13

1. In order to guarantee and enhance the effectiveness and consistency of Community and national humanitarian aid systems, the Commission shall take all necessary measures to ensure close coordination between the Member States and the Commission both at decision-making level and on the ground.
2. To that end, the Member States shall accord the Commission all necessary assistance, and in particular provide all relevant information.

CHAPTER III

Procedures for the implementation of humanitarian operations

Article 14

1. The Commission shall appraise, decide upon and administer operations under this Regulation according to the budgetary and other procedures in force, and in particular those laid down in the Community's Financial Regulation.
2. Decisions concerning the implementation of humanitarian aid global plans shall be adopted in conformity with procedure set out in article 15.

Article 15

1. The Commission shall be assisted by an advisory committee (hereinafter referred to as "the committee") made up of representatives of the Member States and chaired by a representative of the Commission.
2. Concerning decisions for action mentioned under article 14.2, 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, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition each Member State shall have the right to ask to have its position recorded in the minutes. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the committee of the manner in which its opinion has been taken into account.

3. There shall be a discussion once a year of general guidelines presented by the Commission representative concerning humanitarian operations in the year ahead.

In this context, the Commission and the Member States shall examine the priorities for humanitarian action by the Community, the entire question of the coordination of Community and national humanitarian aid and any general or specific issues concerning Community aid in that field.

4. The Commission shall notify the committee of the humanitarian operations and projects adopted, indicating the amount granted, the nature of the operation, the recipient country and the partner implementing the aid.

Article 16

The Commission shall regularly evaluate humanitarian 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. Evaluation reports shall be submitted to the committee.

Article 17

After the end of each budget year, the Commission shall report to Parliament and the Council on the operations implemented in the course of that year.

Article 18

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 Brussels, ...

For the Council
The President



1. **Title of operations**

Humanitarian aid from the European Union for the populations of third countries.

2. **Budget headings involved**

- B7-210** Aid to help the populations of developing countries and others hit by disasters or serious crises.
- B7-211** Emergency food aid for developing countries and others hit by disasters or serious crises.
- B7-214** Humanitarian aid to the people of Central and Eastern European countries.
- B7-215** Humanitarian aid to the people of the independent states of the former Soviet Union.
- B7-217** Emergency aid for refugees and displaced persons in developing countries and other third countries.
- B7-219** Operational support, disaster preparedness and humanitarian intervention.

3. **Description of operations**

- B7-210** Financing of emergency aid for the victims of natural disasters or other events with a major economic and social impact upon the population.
- B7-211** Emergency food aid for countries or populations suffering from food shortages.
- B7-214** Financing of humanitarian aid operations to help victims of natural disasters or events with a major economic and social impact in Central and Eastern Europe.
- B7-215** Financing of operations which provide humanitarian aid for victims of natural disasters or events with a major economic and social impact in the independent states of the former Soviet Union.
- B7-217** Financing of operations to help refugees and persons displaced as a result of natural disasters or fighting; repatriation and resettlement aid schemes
- B7-219** Financing of projects to ensure disaster preparedness and studies and other operations which can prevent or alleviate disasters.

4. **Period covered**

The average period covered by humanitarian operations is six months, but it may be extended in duly justified cases.

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5. Classification of expenditure or revenue

- 5.1 Non-compulsory expenditure
- 5.2 Differentiated appropriation
- 5.3 Revenue: revenue may be allocated under article 9 of the proposal for a regulation.

6. Type of expenditure or revenue

Grants:

- 100% grant
- grant for cofinancing with other donors (international organizations, Member States).

7. Financial impact

The commitment appropriations are given as a guide and are based on:

- action undertaken by the Union in recent years;
- requests for humanitarian aid received by organizations concerned with such aid;
- current humanitarian aid programmes which need to be continued;
- expected crisis points in the world;
- appeals for international solidarity from international organizations;
- initiatives taken by the Commission itself or at the Delegations' request;
- estimates of world cereals prices and transport costs;
- the potential number of refugees and displaced persons who might require assistance.

The payment appropriations are based on the realization that operations are not all cleared for payment during a financial year, particularly those implemented in the second half of the financial year.

The humanitarian aid organizations or agencies responsible for implementing operations receive a minimum advance of 50% of the amount of the contracts following signing.

The balance is passed for payment when the operations are closed and the final (narrative and financial) reports are presented .

8. Itemized breakdown

An itemized breakdown is not included given the impossibility of predicting disasters, the time scale and long-term effects.

Account is nevertheless taken of the following:

- the products and articles financed in the past;
- the average price of products;
- the cost of transport;
- (local and expatriate) staffing costs;
- warehousing and distribution costs.

Unit prices for products are negotiated for each contract. The cheapest rates are used for transport.

9. Fraud prevention measures

- On-the-spot checks are arranged through experts on contract and/or the Commission Delegations.
- Visits to the site of operations are arranged by headquarters officials.
- The humanitarian aid organization responsible for implementing a relief operation is required to present narrative and financial reports at the intervals set down in the contracts. A final narrative and financial report is requested at the end of the humanitarian aid operation in order for final payment to be made.
- The humanitarian aid organizations responsible for implementing projects are known to the European Community Humanitarian Office and the Member States' humanitarian aid departments.
- The projects which fall within the scope of humanitarian aid undergo prior assessment. Further evaluation and one-off monitoring operations are planned during implementation, and there is to be subsequent evaluation.
- The framework partnership agreement lays down conditions for suspending or terminating operational contracts in the event of obvious inability of the partners to meet the contractual conditions.
- The contracts are signed with partners whose financial soundness and technical know-how have been verified.
- Any new partner is investigated by the national authorities of the Member State in which the organization applying for financing has its head office.

10. Elements of cost-effectiveness analysis

10.1 Specific objectives

- (a) To translate into action the European Union's solidarity with the victims of disasters or similar circumstances in other countries in order to save lives, help the injured, refugees, displaced persons, returnees and/or famine victims.
- (b) Greater efficiency and speed through improved organization which enables the Community to act as quickly as possible.
- (c) Close cooperation with humanitarian aid agencies, i.e. international organizations (UNHCR, ICRC and WFP, etc.) and NGOs, the Commission's traditional humanitarian aid partners.
- (d) Helping to make the Union's humanitarian aid activities visible.

10.2 Grounds for the operation

- (a) Affirming the European Union's role in international solidarity.
- (b) Forming an international reference point for humanitarian aid and providing a multiplier effect for the aid supplied by other donors and the United Nations agencies.
- (c) Helping where appropriate to expand on the Member States' efforts and, where necessary, securing coordination between the Union's efforts and those of the Member States.
- (d) Making it easier for NGOs from all the Member States to participate.
- (e) Enabling the United Nations agencies and other humanitarian aid organizations (ICRC and IFRC) to conduct humanitarian aid operations.
- (f) Helping to raise public consciousness and to provide information on the humanitarian aid supplied by the European Union.

10.3 Quantification of objectives and results

The performance indicators comprise the results expected from humanitarian aid (e.g. number of people treated, people saved from famine, lives saved, refugees repatriated, speed of action, etc.) and also the quality of management of the NGOs and the machinery for coordination with other donors, etc. These indicators are obtained from, among other sources, the prior assessments. The results of each humanitarian aid operation are monitored by means of narrative and financial reports by operating partners, supervision on the spot by the Delegations and teams of monitors and visits by Commission officials.

The monitoring and subsequent evaluation operations are conducted (usually during the last stage of a project) by independent experts. In the final stage of an operation, the partners are also assembled by ECHO in order to conduct an overall evaluation of the results and the humanitarian requirements which may still have to be met despite the efforts already made.

There is no fixed timetable for evaluation. Each operation may differ from the next. At regular intervals, ECHO draws the necessary conclusions from its activities as a guide for the future.

The results are gauged in terms of the speed and efficiency of Community aid, but evaluation is complex since it is a matter above all of saving human lives.

10.4 Coherence with financial programming

- Humanitarian aid activities are by their very nature non-programmable.
- An attempt at programming is nevertheless made by drawing up and implementing global humanitarian aid plans where there is a structural crisis and shortage.

**APPROPRIATIONS ENTERED IN THE BUDGETS
FROM 1993 TO 1995 AND PRELIMINARY DRAFT BUDGET (PDB) FOR 1996**

ITEM	1993	1994	1995	Total	PDB 1996
B7-210 CA	39.15	41.00	51.00	121.15	63.00
PA	25.66	54.48	42.00	112.14	60.00
B7-211¹ CA	36.00	36.00	33.60	105.60	87.00
PA	29.97	59.27	28.70	117.94	70.00
B7-214 CA	60.00	110.00	102.70	272.70	102.00
PA	60.00	70.00	111.40	241.40	90.00
B7-215 CA	10.00	50.00	46.70	106.70	45.50
PA	10.00	31.00	52.40	93.40	35.00
B7-216² CA	11.25	13.00	12.10	36.35	-
PA	10.83	12.42	10.50	33.75	-
B7-217 CA	15.00	16.00	14.90	45.90	15.50
PA	15.00	16.00	11.00	42.00	11.00
B7-219³ CA	-	-	5.00	5.00	6.00
PA	-	-	4.00	4.00	4.00

¹ The difference between 1993-1994-1995 and the 1996 PDB is explained by the definitive transfer from DG VIII to ECHO of all the food aid projects of a humanitarian, emergency nature which DG VIII was conducting until 1995 with DG VIII resources.

² In the 1996 PDB this heading was removed and the appropriations were incorporated with those of Article B7-210.

³ New heading from 1995 financial year.

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