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COMMISSION IMPLEMENTING DECISION

of 15.12.2022

**on the financing of humanitarian aid actions from the 2023 general budget of the
European Union**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012¹, and in particular Article 110 thereof,

Having regard to Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid², and in particular Article 15(2) and (3) thereof,

Whereas:

- (1) In order to ensure the implementation of the humanitarian aid actions of the Union for 2023, it is necessary to adopt an annual financing decision for 2023. Article 110 of Regulation (EU, Euratom) 2018/1046 ('the Financial Regulation') establishes detailed rules on financing decisions.
- (2) The Union's humanitarian aid aims to provide assistance, relief and protection on a non-discriminatory basis to help people in third countries, particularly the most vulnerable among them, who are victims of natural disasters, human-induced crises, such as wars and outbreaks of fighting, or exceptional situations or circumstances comparable to natural or human-induced disasters. It should provide assistance for the time needed to meet the humanitarian requirements resulting from those situations. Such aid should also comprise the preparions for risks or the prevention of disasters or comparable exceptional circumstances.
- (3) The principal objectives of Union's humanitarian aid operations are outlined in Article 2 of Council Regulation (EC) No 1257/96 while other eligible activities are specified in Articles 3 and 4 of that Regulation.
- (4) In March 2021, the Commission adopted a communication on the Union's humanitarian action³. This document outlines the challenges and key actions for 2022 and beyond.
- (5) The Union has been a member of the Food Assistance Convention since 2012⁴. In accordance with Article 5 of this Convention, the Union is to specify a minimum

¹ OJ L 193, 30.7.2018, p. 1.

² OJ L 163, 2.7.1996, p. 1.

³ Communication from the Commission to the European Parliament and Council on the EU's humanitarian action: new challenges, same principles (COM(2021) 110 final).

⁴ Council Decision of 13 November 2012 on the conclusion, on behalf of the European Union, of the Food Assistance Convention (OJ L 330, 30.11.2012, p. 1).

annual commitment. An amount of EUR 350 000 000, to be spent as food and nutrition assistance funded under this Decision, is to be counted towards the Union's minimum annual commitment for 2023 under Article 5 of the Food Assistance Convention.

- (6) As a general rule, the grants funded under this Decision should be co-financed. However, by way of derogation, pursuant to Article 190(3) of the Financial Regulation, the Authorising Officer responsible may authorise financing the grant in full by the Union, provided appropriate justification is given in the award decision.
- (7) The envisaged provision of humanitarian assistance is to comply with the conditions and procedures set out by the restrictive measures⁵ adopted pursuant to Article 215 TFEU, account being taken of the relevant principles of international humanitarian law.
- (8) The Commission should acknowledge and accept contributions from other donors made in accordance with Article 21(2), point (a)(ii) of the Financial Regulation, subject to the conclusion of the relevant agreement. Where such contributions are not denominated in euro, a reasonable estimate of conversion should be made.
- (9) A part of the Union budget for humanitarian aid should remain unallocated, as part of an operational reserve, in order to cover unforeseen operations.
- (10) In cases where Union funding is granted to non-governmental organisations in accordance with Article 7 of Council Regulation (EC) No 1257/96, 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. That is in order to guarantee that the beneficiaries of that funding are able to meet their commitments in the long term. The verification to be made should also seek to confirm whether the non-governmental organisations concerned are able to provide humanitarian aid in accordance with the humanitarian principles set out in the European Consensus on Humanitarian Aid⁶.
- (11) In cases where the Union finances humanitarian aid operations of Member States' specialised agencies in accordance with Article 9 of Council Regulation (EC) No 1257/96, the Authorising Officer responsible should verify the legal, operational capacity of the entities applying for financial support under this Decision. Where the entities or bodies concerned are governed by private law, the Authorising Officer responsible should also verify the financial capacity of any Member States' specialised agencies applying for financial support under this Decision. The verifications should be made in order to guarantee that the beneficiaries of that funding are able to meet their commitments in the long term. In particular, it should be verified whether the Member States' specialised agencies concerned are able to provide humanitarian assistance or equivalent international relief outside the Union in accordance with the humanitarian principles set out in the European Consensus on Humanitarian Aid.
- (12) Pursuant to the exception set out in Article 195, point (a) of the Financial Regulation, it is appropriate to authorise the award of grants without a call for proposals to the

⁵ www.sanctionsmap.eu. Note that the Sanctions Map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy the OJ prevails.

⁶ Joint Statement by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission (OJ C 25, 30.1.2008, p. 1).

non-governmental organisations satisfying the eligibility and suitability criteria referred to in Article 7 as well as to the Member States' specialised agencies referred to in Article 9 of Council Regulation (EC) No 1257/96 for the purpose of humanitarian aid.

- (13) Pursuant to the exception set out in Article 193(2), point (b) of the Financial Regulation, the Commission should authorise the eligibility of costs as of a date preceding that of the submission of a grant application, which is prior to the date of adoption of this Decision, for reasons of extreme urgency in crisis management aid or in other exceptional and duly substantiated emergencies, whereby an early engagement by the Union would be of major importance.
- (14) In order to ensure an effective delivery of Union-funded humanitarian aid in all relevant crisis contexts while taking into account the specific mandates of international organisations, such as the United Nations, as well as the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, it is necessary to use indirect management for the implementation of Union-funded humanitarian aid operations.
- (15) The Commission is to ensure a level of protection of the financial interests of the Union with regards to entities and persons entrusted with the implementation of Union funds by indirect management as provided for in Article 154(3) of the Financial Regulation. To this end, such entities and persons are to be subject to an assessment of their systems and procedures in accordance with Article 154(4) of the Financial Regulation⁷ and, if necessary, to appropriate supervisory measures in accordance with Article 154(5) of the Financial Regulation before a contribution agreement can be signed.
- (16) It is necessary to allow for the payment of interest due for late payment on the basis of Article 116(5) of the Financial Regulation.
- (17) In order to allow for flexibility in the implementation of the work programme, it is appropriate to allow changes which should not be considered substantial for the purposes Article 110(5) of the Financial Regulation.
- (18) The measures provided for in this Decision are in accordance with the opinion of the Humanitarian Aid Committee established by Article 17(1) of Council Regulation (EC) No 1257/96,

HAS DECIDED AS FOLLOWS:

Article 1

Union-funded humanitarian aid actions in 2023

1. The annual financing decision for the humanitarian aid actions of the Union for 2023, as set out in the Annex, is adopted.
2. An amount of EUR 350 000 000, to be spent as food and nutrition assistance funded under this Decision, is to be counted towards the Union's minimum annual commitment for the year 2023 under the Food Assistance Convention.

⁷ Except for the cases of Article 154(6) of the Financial Regulation, where the Commission may decide, not to require an ex-ante assessment.

Article 2
Union contribution

3. The maximum Union contribution for the implementation of the Union-funded humanitarian aid actions for 2023 is set at EUR 1 710 952 967, and shall be financed from the appropriations entered in the following lines of the general budget of the Union:
 - (a) budget line 14 03 01: EUR 1 632 922 967;
 - (b) budget line 14 03 02: EUR 78 030 000.
4. The amount referred to in the first paragraph may include contributions from other donors to the general budget of the Union as external assigned revenue as provided for in the relevant agreements signed with such donors.
5. The appropriations provided for in the first paragraph may also cover interest due for late payment.
6. The implementation of this Decision is subject to the adoption of amending letter 1/2023.
7. The implementation of this Decision is subject to the availability of the appropriations provided for in the draft general budget of the Union for 2023, following the adoption of that budget by the budget authority or as provided for in the system of provisional twelfths.

Article 3
Methods of implementation and entrusted entities or persons

1. The implementation of the actions carried out by way of indirect management, as set out in the Annex, may be entrusted to the entities or persons referred to or selected in accordance with the criteria laid down in point 4 of the Annex.
2. In cases where the Union finances humanitarian aid operations of a non-governmental organisation in accordance with Article 7 of Council Regulation (EC) No 1257/96, when determining the criteria for the award of financing, the Authorising Officer responsible shall, before awarding financing, verify that the organisation satisfies the eligibility and suitability criteria, as specified by the Authorising Officer responsible pursuant to the Financial Regulation. This verification shall also confirm whether the non-governmental organisation is able to provide humanitarian aid in accordance with the humanitarian principles.
3. The verification referred to in paragraph 2 can take the form of a certificate to be awarded by the Authorising Officer responsible.
4. In cases where the Union finances humanitarian aid operations of a Member State's specialised agency in accordance with Article 9 of Council Regulation (EC) No 1257/96, before awarding the first financing, the Authorising Officer responsible shall verify whether the agency has legal personality and sufficient operational capacity. Where the agency is governed by private law, the Authorising Officer responsible shall also, before awarding the first financing, verify the financial capacity of the agency to provide humanitarian assistance or equivalent international relief outside the Union. The verification by the Authorising Officer responsible shall be done in accordance with the humanitarian principles set out in the European Consensus on Humanitarian Aid.

Article 4
Flexibility clause

1. Cumulated changes⁸ to the allocations to specific actions not exceeding 20 % of the maximum contribution set in Article 2 of this Decision shall not be considered to be substantial within the meaning of Article 110(5) of the Financial Regulation, where those changes do not significantly affect the nature of the actions and the objective of the present measure. The increase of the maximum contribution set in Article 2 of this Decision shall not exceed 20 %.
2. The Authorising Officer responsible may apply the changes referred to in the first paragraph. Those changes shall be applied in accordance with the principles of sound financial management and proportionality.

Article 5
Grants

1. Grants may be awarded without a call for proposals in accordance with the conditions set out in the Annex. They may be awarded to the bodies selected in accordance with point 2 of the Annex.
2. The Authorising Officer responsible may, in accordance with Article 190(3) of the Financial Regulation, authorise the full financing by the Union of grants when this will be necessary to achieve the objectives of the related action. Due consideration shall be given to the nature of the activities to be undertaken, the availability of other donors and other relevant operational circumstances, from which it would appear that financing in full is essential for the action concerned to be carried out. Justification shall be provided in the award decision.
3. The eligibility of costs prior to the submission of grant applications, and which is prior to the date of adoption of this Decision, shall be authorised as of the date set out in the Annex.

Done at Brussels, 15.12.2022

For the Commission
Janez LENARČIČ
Member of the Commission

⁸ These changes may come from assigned revenue made available after the adoption of this Decision.