



Council of the  
European Union

Brussels, 3 March 2016  
(OR. en)

6768/16

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**Interinstitutional File:**  
**2016/0069 (NLE)**

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COHAFA 9  
PROCIV 9  
ASIM 24  
JAI 183  
FIN 141

## PROPOSAL

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	3 March 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2016) 115 final
Subject:	Proposal for a COUNCIL REGULATION on the provision of emergency support within the Union

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Delegations will find attached document COM(2016) 115 final.

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Encl.: COM(2016) 115 final



Brussels, 2.3.2016  
COM(2016) 115 final

2016/0069 (NLE)

Proposal for a  
**COUNCIL REGULATION**  
**on the provision of emergency support within the Union**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The current sudden and massive influx of refugees and migrants into Europe has created an exceptional situation whereby large numbers of persons require urgent humanitarian assistance, going beyond the organisational capacity of the authorities of one or several Union Member States. The European Council of 18 and 19 February 2016 called for urgent action and concrete proposals from the Commission to put in place the capacity for the Union to provide humanitarian assistance within the EU based on the experience of the Commission's Humanitarian Aid and Civil Protection Department. Given immediate needs arising from the current migration and refugee crisis, this assistance will as a priority support countries facing large numbers of refugees and migrants but can also be used for any other emergency needs that may arise.

The migration and refugee crisis affecting the Union is a notable example of a situation where, in spite of the efforts undertaken by the Union in assisting the countries primarily concerned to address the root causes of such exceptional circumstances, the Union and its Member States have been directly affected in turn.

It is also a striking illustration of the type of impact that crises and disasters may have on the Union and its Member States and the ensuing need for the latter to be in a better position to respond to those taking into account the prevailing economic situation of the affected Member States as well as the economic impact of those disasters on the Member States.

The impact of both man-made and natural disasters within the Union is increasingly severe, linked to a number of factors, such as climate change, to which external factors and circumstances unfolding in the neighbourhood of the Union and other countries in the world may directly and severely contribute. Man-made or natural disasters may be of such a scale and impact that they can give rise to severe economic difficulties in one or several Member States; they can also occur in one or several Member States already facing for other reasons severe economic difficulties, with the ensuing result of exacerbating and aggravating even further the overall economic situation of the Member States concerned. In either case, the response capacity of the Member State concerned would be adversely affected so that the assistance being provided to people in need would in turn be negatively impacted.

The provision of the Treaty on the Functioning of the European Union (TFEU) concerning humanitarian aid (Article 214) can only be relied upon to adopt measures assisting affected people in third countries; there is therefore a need to determine whether existing Union instruments applicable within the EU would allow to meet the above-mentioned exceptional needs, and, if not, which alternative avenue would be open for Union action.

One instrument is the Union Civil Protection Mechanism (UCPM). The UCPM has been activated for the refugee and migration crisis. However, as needs are very similar in many participating states, the voluntary offers of assistance to the requests of in particular Greece, Slovenia and Croatia have remained insufficient.

A number of other EU instruments, such as the EU Solidarity Fund (EUSF), the Asylum, Migration and Integration Fund (AMIF), the Internal Security Fund (ISF) (in the context of

the migration crisis) or the European Fund for the Most Deprived (FEAD) can provide significant financial resources for assistance within Europe, thereby providing relief to Member States. However, these instruments are not targeted specifically to address large humanitarian needs. In particular, they primarily rely on the administrative and operational capacities of governments, who may already be under stress in financial and economic terms.

It is therefore appropriate for the Union, acting in a spirit of solidarity, to address the basic needs of disaster-struck people within the Union while minimising the economic impact on the affected Member States facing severe economic difficulties. As such, the provision of emergency support of a humanitarian nature within the Union is proposed to be based on Article 122(1) TFEU.

- **Consistency with existing policy provisions in the policy area**

There has been no measure previously adopted on the basis of Article 122(1) TFEU addressing the same underlying needs; there should therefore be no issue of consistency.

- **Consistency with other Union policies**

The Regulation is consistent with other Union policies as it seeks to complement and supplement those by addressing needs that would have otherwise remained unmet to a large extent.

More specifically, the Regulation is fully consistent and seeks to maximise synergies with Decision No 1313/2013/EU on a Union Civil Protection Mechanism (UCPM). In particular, any actions undertaken pursuant to this Regulation will need to be closely coordinated with UCPM activities where the latter has been activated in order to respond to natural or man-made disasters within the EU. This also holds true for the European Union Solidarity Fund (EUSF), the Asylum, Migration and Integration Fund (AMIF), the Internal Security Fund (ISF) or the European Fund for the Most Deprived (FEAD).

The Regulation is also consistent with the policies and principles that the Union pursues during its operations outside the Union, in the field of humanitarian aid.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis for this proposal is Article 122(1) of the Treaty on the Functioning of the European Union.

- Subsidiarity (for non-exclusive competence)

The objectives of the proposal cannot be sufficiently achieved by the Member States acting on their own. In the event of natural or man-made disasters with wide ranging humanitarian impacts affecting one or more Member States, the latter's response capacities may be overwhelmed and they may be unable to provide a sufficient response to humanitarian needs. Such an assumption is even stronger where said disasters, which naturally entail financial consequences, occur in Member States which are already facing severe economic difficulties. In either case, it appears both appropriate and necessary for the Union to act in a spirit of

solidarity in order to support the affected Member States to address any emerging humanitarian needs and, simultaneously, reduce the economic impacts upon them.

- Proportionality

The proposal does not go beyond what is necessary to achieve the objectives. It addresses gaps that have been identified during the ongoing migration and refugee crisis and proposes solutions in line with the mandate given by the European Council.

The administrative burden for the Union and the Member States is limited and does not go beyond what is necessary to achieve the objectives of the proposal.

- Choice of the instrument

Proposal for a Council Regulation.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Stakeholder consultations**

Given the extreme humanitarian urgency stemming from the ongoing migration and refugee crisis no stakeholder consultation was performed.

The Commission has based its proposal on data which it has come to possess in the course of the aforementioned crisis.

- **Collection and use of expertise**

This proposal is based to a large extent on the experience of the Humanitarian Aid and Civil Protection department of the European Commission.

- **Impact assessment**

Given the extreme humanitarian urgency stemming from the ongoing migration and refugee crisis no impact assessment was performed.

The Commission has based its proposal on data which it has come to possess in the course of the aforementioned crisis.

- **Fundamental rights**

This proposal is fully in line with the protection of fundamental rights; it actually seeks to contribute to upholding some of those rights, in particular human dignity and the rights to life and the integrity of the person.

#### 4. BUDGETARY IMPLICATIONS

An allocation of EUR 300 million would be required in 2016 to support Member States' actions to address outstanding humanitarian needs within the Union. Further needs are likely to arise if the migrant and refugee flows continue at the current level. The needs for 2017 and 2018 are estimated at EUR 200 million for each year.

#### 5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Actions receiving financial support under this Regulation shall be monitored regularly in order to follow their implementation.

Three years after the entry into force of the Regulation, the Commission shall submit an evaluation of the operation of this Regulation to the Council, together with suggestions for the future of the Regulation and, as necessary, proposals for amendments to it.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 specifies the purpose and scope of the proposal, which seeks to lay down the framework within which Union emergency support may be awarded, in a spirit of solidarity, in the event of natural or man-made disasters within the Union where the exceptional scale and impact of the disaster is such that it gives rise to severe wide-ranging humanitarian consequences. By contributing to addressing the basic needs of disaster-struck people within the Union, this Regulation therefore contributes to minimising the economic impact on Member States by addressing those needs.

Article 2 defines which actions would be eligible as emergency support under the proposed Regulation. In essence, the emergency support to be provided would consist of a needs-based response, complementing and supplementing the response of the affected Member States, aimed at preserving life, preventing and alleviating human suffering and maintaining human dignity, taking the form of any of the actions that can be provided under Council Regulation (EC) No 1257/96 concerning humanitarian aid. It also identifies which entities would be entrusted with the implementation of those actions (in effect the Commission or partner organisations, which can either be non-governmental organisations, international organisations or the specialised services of the Member States to the extent that those have relevant experience to implement support actions under the proposed Regulation).

Article 3 concerns the types of financial intervention under the proposed Regulation and the implementing procedures to be used to that effect. In keeping with the legal basis used for the proposal, the action envisaged by this Regulation responds notably to the desire to act in a spirit of solidarity, so that the provision of emergency support thereunder should be financed by the general budget of the Union as well as by contributions which may be made by other public or private donors, as external assigned revenue. Reference is made to the relevant provisions of the Financial Regulation applicable to the EU general budget to define the implementing procedures, which are direct and indirect management allowing thereby the Commission to award public procurement contracts to suppliers and service providers and

grants to non-governmental organisations (NGOs) and the specialised services of the Member States<sup>1</sup>, and entrust budget implementation tasks to international organisations.

Article 3 further specifies that NGOs with which the Commission has concluded framework partnership agreements pursuant to Council Regulation (EC) No 1257/96 concerning humanitarian aid are deemed to be eligible for implementing actions under the proposed Regulation.

Article 4 identifies the costs eligible for Union financing under the proposed Regulation, which can either be directly related to the operational activities of the support actions to be implemented under the Regulation or indirectly related thereto when they concern the overheads and other administrative and management costs of the partner organisations. Union financing should also be available for expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the support to be provided under the proposed Regulation. It also specifies certain modalities for the award of grants (in particular the possibility to award grants with retrospective effect covering up to 100% of the eligible costs).

Article 5 lays down the principle that synergies and complementarity are to be sought with other instruments of the Union. While this provision is of general application with respect to all existing Union instruments, a certain number of such instruments are mentioned for illustrative purposes as they are particularly relevant in light of their subject matter when compared to that of the proposed Regulation.

Article 6 sets out the measures to be taken to ensure an adequate protection of the financial interests of the Union throughout the expenditure cycle. Such measures include the prevention, detection and investigation of irregularities, the recovery of funds lost, unduly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.

Article 7 requires that actions receiving financial support under this Regulation be monitored regularly in order to follow their implementation; it also provides for an evaluation of the operation of the proposed Regulation to be carried out after three years.

Article 8 determines the entry into force of the Regulation, which should occur on the day of its publication in the Official Journal due to the urgency of the matter.

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<sup>1</sup> See also the communication from the Commission to the European Parliament and the Council on public procurement rules in connection with the current asylum crisis (COM(2015) 454 final of 9.9.2015).

Proposal for a

## **COUNCIL REGULATION**

### **on the provision of emergency support within the Union**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 122(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Mutual assistance and support in the face of disasters is a fundamental expression of the universal value of solidarity between people and a moral imperative as such disasters may lead to a significant number of people being unable to meet their basic needs with potential severe adverse effects on their health and lives.
- (2) The impact of both man-made and natural disasters within the Union is increasingly severe. This is linked to a number of factors, such as climate change, but also to other contributing external factors and circumstances which are unfolding in the Union's neighbourhood. The migration and refugee situation currently affecting the Union is a notable example of a situation where, in spite of the efforts undertaken by the Union to address the root causes in third countries, the economic situation of Member States may be directly affected. This situation led the European Council on 19 February 2016, to call upon the Commission to put in place the capacity to provide humanitarian assistance internally, to support countries facing large numbers of refugees and migrants.
- (3) Man-made or natural disasters may be of such a scale and impact that they can give rise to severe economic difficulties in one or several Member States. They can also occur in one or several Member States already facing severe economic difficulties for other reasons, with the ensuing result of exacerbating and aggravating even further the overall economic situation of the Member States concerned. In either case, the response capacity of the Member State concerned would be adversely affected so that the assistance and support being provided to people in need would in turn be negatively affected.
- (4) While the Union is already in a position to grant support of a macro-financial nature to Member States, and express European solidarity to disaster-stricken regions through the European Union Solidarity Fund (EUSF), there is currently no appropriate instrument available at Union level to address humanitarian needs of disaster-stricken people within the Union, such as food assistance, emergency healthcare, shelter, water, sanitation and hygiene, protection and education, on a sufficiently predictable and



independent basis. Mutual assistance can be offered under the Union Civil Protection Mechanism but the operation of that Mechanism is based on voluntary contributions from Member States. There may also be assistance and support provided through existing Union policy and financing instruments, such as those aiming at establishing an area of freedom, security and justice in the Union. Any such assistance and support would however be accessory and ancillary to the pursuit of the principal policy objectives of the said instruments and be therefore limited in its scope and scale. It therefore seems appropriate for the Union to act in a spirit of solidarity to address the basic needs of disaster-stricken people within the Union and contribute to reducing the economic impact of those disasters on the Member States concerned.

- (5) Given the similarities of addressing basic needs of disaster-stricken people within the Union through the provision of emergency support and providing humanitarian aid to people affected by man-made or natural disasters in third countries, it is appropriate for all operations under this Regulation to be conducted in compliance with internationally agreed humanitarian principles. These actions constitute measures appropriate to the economic situation of the Member States facing those difficulties.
- (6) Given the need to act in a spirit of solidarity, the provision of emergency support under this Regulation should be financed by the general budget of the Union as well as by contributions which may be made by other public or private donors.
- (7) The reimbursement of expenses and award of public procurement contracts and grants under this Regulation should be implemented in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>2</sup> taking into account the specific nature of emergency support. It is therefore appropriate to provide that grants and public procurement contracts may be awarded directly or indirectly and that grants may finance up to 100 % of the eligible costs and be awarded with retroactive effect. The Commission should be able to finance emergency support operations of any organisation which, independently of its legal nature, private or public, possesses the requisite experience and use to that effect direct or indirect management, as appropriate.
- (8) It is further appropriate to rely on organisations with which the Commission has concluded framework partnership agreements pursuant to Council Regulation (EC) No 1257/96<sup>3</sup> in light of the relevance of the experience gained by those organisations in providing humanitarian aid in close coordination with the Commission.
- (9) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, unduly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (10) This Regulation should lay down the basis for providing financial support in the event of natural or man-made disasters in respect of which, in a spirit of solidarity, the

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<sup>2</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of 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 1605/2002 (OJ L 298, 26.10.2012, p. 1).

<sup>3</sup> Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 27.1996, p. 1).

Union would be better placed than Member States, acting alone and in an uncoordinated manner, to mobilise appropriate levels of financing and use those to implement operations of potentially life-saving nature in an economic, efficient and effective manner, allowing thereby a more effective action by reason of its scale and complementarity.

- (11) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of scale or effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (12) It is appropriate that the provision of emergency support under this Regulation be aptly monitored, relying, where need be, on the most relevant expertise available at Union level. It is also appropriate that the overall implementation of this Regulation be evaluated.
- (13) Given the urgency of the support needed this Regulation should enter into force immediately,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Subject matter and scope**

This Regulation lays down the framework within which Union emergency support may be awarded in the event of ongoing or potential natural or man-made disasters within the Union where the exceptional scale and impact of the disaster is such that it gives rise to severe wide-ranging humanitarian consequences.

#### *Article 2*

##### **Eligible actions**

1. Emergency support under this Regulation shall provide a needs-based emergency response, complementing the response of the affected Member States, aimed at preserving life, preventing and alleviating human suffering and maintaining human dignity wherever the need arises from disasters referred to in Article 1.
2. Emergency response may include any of the humanitarian aid actions which would be eligible for Union financing pursuant to Articles 2, 3 and 4 of Regulation (EC) No 1257/96 and may consequently encompass assistance, relief and, where need be, protection operations to save and preserve life in disasters or their immediate aftermath. It may also be used to finance any other expenditure directly related to the implementation of emergency support operations.

3. Emergency support under this Regulation shall be granted and implemented in compliance with the fundamental humanitarian principles of humanity, neutrality, impartiality and independence.
4. The actions set out in paragraph 2 shall be carried out by the Commission or by partner organisations selected by the Commission. The Commission may notably select as partner organisation non-governmental organisations, specialised services of the Member States or international agencies and organisations having the requisite expertise.

### *Article 3*

#### **Types of financial intervention and implementing procedures**

1. The Commission shall implement the Union's financial support in accordance with Regulation (EU, Euratom) No 966/2012. In particular, Union financing for support actions under this Regulation shall be implemented by means of direct or indirect management in accordance with points (a) and (c) respectively of Article 58(1) of that Regulation.
2. Emergency support under this Regulation shall be financed by the general budget of the Union and by contributions which may be made by other public or private donors as external assigned revenue in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012.
3. Union financing for support actions under this Regulation 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 Regulation (EC) No 1257/96.
4. Where the Commission implements emergency support operations through non-governmental organisations, the criteria concerning financial and operational capacity shall be deemed to be met where there is a framework partnership agreement in force between that organisation and the Commission pursuant to Regulation (EC) No 1257/96.

### *Article 4*

#### **Eligible Costs**

1. Union financing may cover any direct costs necessary for the implementation of the actions set out in Article 2, including the purchase, preparation, collection, transport, storage and distribution of goods and services under those actions.
2. The indirect costs of the partner organisations may also be covered in accordance with Regulation (EU, Euratom) No 966/2012.

3. Union financing may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the support to be provided under this Regulation.
4. Union financing for support actions under this Regulation may cover up to 100% of the eligible costs.
5. Expenditure incurred by a partner organisation before the date of submission of an application for funding may be eligible for Union financing.

#### *Article 5*

### **Complementarity and consistency of Union action**

Synergies and complementarity shall be sought with other instruments of the Union, in particular with respect of those instruments under which some form of emergency assistance or support may be offered, such as Regulation (EU) No 661/2014 of the European Parliament and of the Council<sup>4</sup>, Decision No 1313/2013/EU of the European Parliament and of the Council<sup>5</sup>, Regulation (EC) No 1257/96, Regulation (EU) No 223/2014 of the European Parliament and of the Council<sup>6</sup>, Regulation (EU) No 513/2014 of the European Parliament and of the Council<sup>7</sup>, Regulation (EU) No 514/2014 of the European Parliament and of the Council<sup>8</sup>, Regulation (EU) No 515/2014 of the European Parliament and of the Council<sup>9</sup> and Regulation (EU) No 516/2014 of the European Parliament and of the Council<sup>10</sup>.

#### *Article 6*

### **Protection of the financial interests of the Union**

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by

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<sup>4</sup> Regulation (EU) No 661/2014 of the European Parliament and of the Council of 15 May 2014 amending Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund.

<sup>5</sup> Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

<sup>6</sup> Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (OJ L 72, 12.3.2014, p. 1).

<sup>7</sup> 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).

<sup>8</sup> Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

<sup>9</sup> 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).

<sup>10</sup> Regulation (EU) No 516/2014 of the European Parliament and of 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, 2.5.2014, p. 168).

the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors, who have received Union funds under this Regulation.
3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013<sup>11</sup> of the European Parliament and of the Council and Council Regulation (Euratom, EC) No 2185/96<sup>12</sup> with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under this Regulation.
4. Without prejudice to paragraphs 1, 2 and 3, contracts and grant agreements as well as agreements with international organisations and Member States' specialised services, resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

#### *Article 7*

#### **Monitoring and evaluation**

1. Actions receiving financial support under this Regulation shall be monitored regularly.
2. Three years after entry into force of this Regulation, the Commission shall submit an evaluation of the operation of this Regulation to the Council, together with suggestions for the future of this Regulation and, where appropriate, proposals for amendments to it.

#### *Article 8*

#### **Entry into Force**

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

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

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<sup>11</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>12</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

Done at Brussels,

*For the Council  
The President*

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a Council Regulation on the provision of **Emergency support within the Union**

#### 1.2. Policy area(s) concerned in the ABM/ABB structure<sup>13</sup>

NEW: 23 05 **Emergency support within the Union**

#### 1.3. Nature of the proposal/initiative

The proposal/initiative relates to **a new action**

The proposal/initiative relates to **a new action following a pilot project/preparatory action**<sup>14</sup>

The proposal/initiative relates to **the extension of an existing action**

The proposal/initiative relates to **an action redirected towards a new action**

#### 1.4. Objective(s)

##### 1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The objective of this Council Regulation is to lay down measures to respond to the urgent and exceptional humanitarian needs experienced in Member States as a result of a disaster or unexpected event such as the sudden and massive influx of third-country nationals into their territory.

##### 1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

###### Specific objective No 1

To provide emergency support within the Union to address urgent humanitarian needs in the form of assistance, relief and, where need be, operations to save and preserve life in disasters or their immediate aftermath.

To undertake actions aimed at facilitating or obtaining access to people in such need and the free flow of assistance.

###### ABM/ABB activity(ies) concerned

NEW: 23 05 **Emergency support within the Union**

<sup>13</sup> ABM: activity-based management; ABB: activity-based budgeting.

<sup>14</sup> As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

### 1.4.3. *Expected result(s) and impact*

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

The proposal will enable the European Union to address, within its territory, the urgent humanitarian needs of people as a consequence of crises, through the provision of emergency support in compliance with the fundamental humanitarian principles of humanity, neutrality, impartiality and independence.

### 1.4.4. *Indicators of results and impact*

*Specify the indicators for monitoring implementation of the proposal/initiative.*

Number of people benefitting from emergency support within the European Union [in absolute value or as percentage of the total of those needing assistance], per individual crisis.

## 1.5. **Grounds for the proposal/initiative**

### 1.5.1. *Requirement(s) to be met in the short or long term*

The current proposal for a Council Regulation aims at complementing the existing Union instruments and legal bases, and namely to provide in a more targeted way, emergency support to people within the Union to address urgent humanitarian needs as a consequence of a crisis in one or more Member States.

The provision of emergency support within the European Union might be necessary in the context of disasters where the exceptional scale and impact is such that it gives rise to severe, wide-ranging humanitarian consequences.

### 1.5.2. *Added value of EU involvement*

The objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of scale or effects, be better achieved at Union level, through the adoption of measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

The EU's added value comes, inter alia, in the form of:

- reducing the loss of human life, environmental, economic and material damage.
- immediate assistance to people within the European Union as a consequence of natural or man-made disasters.
- a more effective and rapid response to requests for assistance within the Union, through non-governmental and International Organisations, or specialised services of Member States selected by the Commission.
- a better visibility of the EU's response to crises.



### 1.5.3. *Lessons learned from similar experiences in the past*

Recent experience during the migration and refugee crisis demonstrates that a void exists in the current set of legal/financial instruments, is not sufficient and needs to be complemented to address in a more targeted way urgent humanitarian needs within the European Union. The proposed instrument is necessary in view of the existing refugees/migration crisis and for any other future crisis of a similar nature.

### 1.5.4. *Compatibility and possible synergy with other appropriate instruments*

A number of EU instruments, such as the Solidarity Fund, the Asylum, Migration and Integration Fund (AMIF), the Internal Security Fund (ISF) or the European Fund for the Most Deprived (FEAD) can provide in emergency situations, significant financial resources for assistance within Europe, thereby providing relief to Member States. These instruments can provide emergency assistance in the form of grants for, amongst others shelter and accommodation-related purposes as well as core relief items. However, they are not targeted specifically to address large humanitarian needs. In particular, they rely primarily on the administrative and operational capacities of governments, who may already be under stress in financial and economic terms.

It is therefore appropriate to establish a dedicated instrument aimed at addressing the basic humanitarian needs of disaster-stricken people within the Union while minimising the economic impact on the affected Member States facing severe economic difficulties.

Synergies and complementarities will be ensured with the above-mentioned instruments, as well as with the ERDF and the Union Civil Protection Mechanism.

The scope of this proposal goes beyond the current migration crisis.

## 1.6. Duration and financial impact

Proposal/initiative of **limited duration**

- Proposal/initiative in effect from
- Financial impact from YYYY to YYYY

Proposal/initiative of **unlimited duration**

- Implementation with a start-up period from [date of entry into force]/2016
- With an evaluation clause after 3 years.

## 1.7. Management mode(s) planned<sup>15</sup>

**Direct management** by the Commission

- by its departments;
- by the executive agencies

**Indirect management** by entrusting budget implementation tasks to:

- international organisations and their agencies (UN entities, ICRC, IFRC, IOM);
- the EIB and the European Investment Fund;
- bodies referred to in Articles 208 and 209 of the Financial Regulation;
- public law bodies;
- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
- *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

N/A

<sup>15</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:  
<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

Actions receiving financial assistance under this proposal shall be monitored regularly.

The Commission shall prepare and submit to the Council:

- an evaluation report 3 years after the entry into force of the regulation;

Reporting is also ensured through different layers such as the Annual Activity Report (including Declaration of Assurance), the annual evaluation report and release of all individual evaluation reports, the annual report on Audits.

### **2.2. Management and control system**

#### *2.2.1. Risk(s) identified*

Risks may be linked to the adequate implementation of the internal control system set up as described in 2.2.2.

#### *2.2.2. Information concerning the internal control system set up*

For the current legislation, an existing internal control system is foreseen to be used for guaranteeing that funds available under new action are used properly and in line with appropriate legislation

The system is setup as follows:

1. Internal control system within DG ECHO, focused on the compliance with valid administrative procedures and legislation in force in the area of civil protection. Internal control standards are used for this purpose. Monitoring is constant with regular follow-up of projects, selection and assessment of partners, review of partners, compliance assessments and reporting. A yearly mid-term review is also ensured to identify any discrepancy with target and any potential change with the annual work programme. Output oriented systems are already in place to ensure monitoring and reporting on i) the implementation of the disaster prevention framework ii) the level of readiness for disasters iii) the speed, degree and adequacy of intervention.

2. audit of grants and contracts awarded under the Instrument by auditors of DG ECHO

3. Evaluation of activities by external experts. ex-post-evaluation of the Civil Protection legal instruments.

The actions can also be audited by external entities: OLAF for fraud cases and the Court of Auditors.

2.2.3. *Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error*

The **estimated cost of ECHO's control strategy** represents **2.7%** of ECHO's 2015 **budget**. The main components of this indicator are:

- The total staff costs of ECHO experts in the field, plus those of the financial and operational units multiplied by the estimated portion of time (50%) dedicated to quality assurance, control and monitoring activities;

- the total resources in ECHO's external audit sector devoted to audits and verifications

Taking into account the very limited cost of such controls together with the quantifiable (corrections and recoveries) and unquantifiable (deterrent effect and quality insurance effect of controls) benefits linked to these, the Commission is able to conclude **that the quantifiable and unquantifiable benefits from controls largely outweigh the limited cost of these.**

This is confirmed by the **1.33%** multi-annual residual error rate reported by the Commission for its humanitarian aid and civil protection department (NB: draft AAR 2015).

2.3. **Measures to prevent fraud and irregularities**

An anti-fraud strategy was issued in 2013 as foreseen in the EC's overall anti-fraud strategy, and is currently being reviewed (NB: revision is foreseen every two years).

The strategy relies on a set of controls aimed at preventing and detecting fraud. There are essentially embedded in those measures intended to ensure the legality and regularity of the transactions. For instance, assessment of the ECHO partners' approach to fraud prevention and detection is part of the audit programme followed in the implementation of audit strategy.

The anti-fraud strategy establishes sets objectives and the corresponding action plan aiming at enhancing the ability of the current control architecture to prevent and detect fraud, namely as regards: -awareness raising both internally and with external actors; reinforcing risk-based controls; - enhancing cooperation with partners; - managing the risk of diversion of aid; - and, capacity building through training and guidance. Actions taken included the provision of training sessions to staff in HQ and at field aimed at raising awareness and building capacity. Likewise, fraud awareness has been included in training regularly provided by ECHO to partners.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
			from EFTA countries <sup>17</sup>	from candidate countries <sup>18</sup>	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	Heading 3 - SECURITY AND CITIZENSHIP	Diff./Non-diff. <sup>16</sup>				
3	23 05 01 Emergency support within the Union	Diff	NO	NO	NO	NO
3	23 01 04 03 Emergency support within the Union – support expenditure	Diff	NO	NO	NO	NO

<sup>16</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>17</sup> EFTA: European Free Trade Association.

<sup>18</sup> Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework		Number	Heading 3 Security and Citizenship					TOTAL
			2016	2017	2018	2019	2020 and subsequent years	
• Operational appropriations								
23 05 01 Emergency support within the Union	Commitments	(1)	297	198	198	p.m.	p.m.	693
	Payments	(2)	238	217	198	40	p.m.	693
23 01 04 03 Emergency support within the Union – Support expenditure <sup>19</sup>	Commitments	(3)	3	2	2	p.m.	p.m.	7
	Payments							
<b>TOTAL appropriations</b>	Commitments	=1+3	300	200	200	p.m.	p.m.	700
	Payments	=2+3	241	219	200	40	p.m.	700
• TOTAL operational appropriations		(4)	297	198	198	p.m.	p.m.	693

<sup>19</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

	Payments	(5)	238	217	198	40	p.m.	<b>693</b>
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	3	2	2	p.m.	p.m.	<b>7</b>
<b>TOTAL appropriations under HEADING 3</b> of the multiannual financial framework	Commitments	=4+ 6	300	200	200	p.m.	p.m.	<b>700</b>
	Payments	=5+ 6	241	219	200	40	p.m.	<b>700</b>

<b>Heading of multiannual financial framework</b>	<b>5</b>	<b>‘Administrative expenditure’</b>				
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EUR million (to three decimal places)

	2016	2017	2018	2019	2020 and subsequent years	TOTAL
• Human resources <sup>20</sup>	2.020	3.030	3.030	p.m.	p.m.	<b>8.080</b>
• Other administrative expenditure	0.17	0.20	0.20	p.m.	p.m.	<b>0.57</b>
<b>TOTAL</b>	2.190	3.230	3.230	p.m.	p.m.	<b>8.650</b>

<b>TOTAL appropriations under HEADING 5</b> of the multiannual financial framework	2.190	3.230	3.230	p.m.	p.m.	<b>8.650</b>
	(Total commitments = Total payments)					

EUR million (to three decimal places)

	2016	2017	2018	2019	2020 and subsequent years	TOTAL
<b>TOTAL appropriations under HEADINGS 1 to 5</b> of the multiannual financial framework	302.190	230.230	230.230	p.m.	p.m.	<b>708.650</b>
	243.190	222.230	203.230	40	p.m.	<b>708.650</b>

<sup>20</sup>

2016: 25 in total (16AD, 4AST, 5CA) for May-December. 2017 and 2018: 25 in total each year (16AD, 4AST, 5CA)





Subtotal for specific objective No 2																				
<b>TOTAL COST</b>																				

### 3.2.3. Estimated impact on appropriations of an administrative nature

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	2016 <sup>23</sup>	2017	2018	2019 and subsequent years	TOTAL
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<b>HEADING 5 of the multiannual financial framework</b>					
Human resources	2.020	3.030	3.030	p.m.	<b>8.080</b>
Other administrative expenditure	0.170	0.200	0.200	p.m.	<b>0.570</b>
<b>Subtotal HEADING 5 of the multiannual financial framework</b>	<b>2.190</b>	<b>3.230</b>	<b>3.230</b>	<b>p.m.</b>	<b>8.620</b>

<b>HEADING 3<sup>24</sup> of the multiannual financial framework</b>					
Human resources					
Other expenditure of an administrative nature	3	2	2	p.m.	<b>7</b>
<b>Subtotal HEADING 3 of the multiannual financial framework</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>p.m.</b>	<b>7</b>

<b>TOTAL</b>	<b>5.190</b>	<b>5.230</b>	<b>5.230</b>	<b>p.m.</b>	<b>15.620</b>
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

<sup>23</sup>

Year N is the year in which implementation of the proposal/initiative starts.

<sup>24</sup>

Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

### 3.2.3.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

	2016	2017	2018	2019	2020
<b>• Establishment plan posts (officials and temporary staff)</b>					
23 01 01 01 (Headquarters and Commission's Representation Offices)	20	20	20	p.m.	p.m.
XX 01 01 02 (Delegations)					
XX 01 05 01 (Indirect research)					
10 01 05 01 (Direct research)					
<b>• External staff (in Full Time Equivalent unit: FTE)<sup>25</sup></b>					
XX 01 02 01 (AC, END, INT from the 'global envelope')	5	5	5	p.m.	p.m.
XX 01 02 02 (AC, AL, END, INT and JED in the delegations)					
<b>XX 01 04 yy<sup>26</sup></b>	- at Headquarters				
	- in Delegations				
XX 01 05 02 (AC, END, INT - Indirect research)					
10 01 05 02 (AC, END, INT - Direct research)					
Other budget lines (specify)					
<b>TOTAL</b>	<b>25</b>	<b>25</b>	<b>25</b>	p.m.	p.m.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Needs assessment activities, development of technical specifications for essential capacities, analysis of financing proposals, monitoring of projects, coordination with humanitarian implementing partners, operational coordination during emergencies, etc.
External staff	Support to the above-mentioned activities

<sup>25</sup> AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JED= Junior Experts in Delegations.

<sup>26</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

### 3.2.4. *Compatibility with the current multiannual financial framework*

- The proposal/initiative is compatible with the current multiannual financial framework, but may entail the use of special instruments as defined in the MFF Regulation .
- The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

The initiative requires funding in the range of EUR 700 million over three years: EUR 300 million in 2016, EUR 200 million in 2017, EUR 200 million in 2018, for emergency support within the European Union.

A new chapter (23 05) and two new budget lines (23 05 01 – Emergency support within the Union) and 23 01 04 03 – Emergency support within the Union – support expenditure) will be created for this purpose.

- The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

[...]

### 3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	2016	2017	2018	2019 and subsequent years				Total
Member States	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
TOTAL appropriations co-financed	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

### 3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on miscellaneous revenue (external assigned revenues)

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative <sup>27</sup>						
		2016	2017	2018	2019 and subsequent years			
Article 23 05 01	<i>New budget line</i>	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

23 05 01
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<sup>27</sup>

As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.