



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.12.1995
COM(95)721 final

95/0119 (SYN)

Amended proposal for a
COUNCIL REGULATION (EC)
CONCERNING HUMANITARIAN AID

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

- On 31 May, the Commission sent the Council and Parliament a proposal for a regulation on humanitarian aid, which attempts to define the scope of humanitarian aid action, coordination arrangements and the ways in which the Community, Member States, international bodies and non-governmental organizations can cooperate.¹
- The proposal is based on Article 130w of the Treaty and subject to the cooperation procedure (Article 189c of same).
- In accordance with this procedure, Parliament delivered its opinion on first reading on 30 November 1995, submitting a total of 23 amendments.² Pursuant to Article 189a(2) of the Treaty, the Commission is submitting an amended proposal incorporating the changes which it has accepted.
- A number of these amendments are to do only with form, others with content. They seek mainly to:
 - avoid discrimination against under-privileged groups;
 - emphasize the idea of a continuum between short-term rehabilitation and long-term development;
 - step up coordination and consultation with humanitarian aid bodies, non-governmental organizations and international bodies;
 - recognize the fact that Member States and recipient countries can launch humanitarian operations in the same way that international and non-governmental organizations do;
 - set out clear objective criteria and other relevant factors for deciding which NGOs should be eligible for funding under the regulation;
 - bring the issue of coordination under one single article by including coordination with international United Nations organizations;
 - clarify the concept of comprehensive humanitarian aid plans;
 - send evaluation reports to the budgetary authority.

¹ COM (95) 201 final

² EP 213.938/fin

- The Commission has accepted as they stand the following amendments: n° 4, 5, 6 (second part), 8, 10, 11 (first part), 12 (first, second and fourth parts), 15, 17, 18 (second and third parts); and 19, 20 and 23.
- The following amendments have been accepted in substance but with different wording: n° 1, 6 (first part), 7, 9, 12 (third part), 13, 14 and 18 (first part).
- The Commission has not included the following amendments: n° 2, 3, 12 (fifth and six part), 16, 18 (final part), 21 and 22, either because they are already covered in substance by the proposal either because they should not be included in a Council regulation.

this

<p align="center">PROPOSAL FOR A COUNCIL REGULATION CONCERNING HUMANITARIAN AID (COM (95) 201 final)</p>	<p align="center"><u>AMENDED</u> PROPOSAL FOR A COUNCIL REGULATION CONCERNING HUMANITARIAN AID (after Parliament opinion on first reading)</p>
<p>THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty establishing the European Community, and in particular Article 130w thereof,</p> <p>Having regard to the proposal from the Commission,¹</p> <p>In cooperation with the European Parliament,²</p> <p>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;</p>	<p>No amendment</p>

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	<p><u>New recital</u></p> <p><u>Whereas the European Community, together with its operational partners and the Member States, have a responsibility to look into humanitarian aid strategies for those parts of the world affected by natural or man-made disasters or other comparable emergencies;</u></p>
<p>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;</p>	<p>No amendment</p>
<p>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;</p>	<p>No amendment</p>

<p>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;</p>	<p>No amendment</p>
<p>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;</p>	<p>No amendment</p>
<p>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;</p>	<p>Whereas the effectiveness and consistency of the Community and national prevention and intervention systems set up to meet the needs generated by natural <u>or man-made</u> disasters or comparable emergencies should therefore be ensured and reinforced;</p>

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, the sole aim of which is to prevent or relieve human suffering, is accorded to victims without discrimination on the grounds of race, <u>sex</u> , <u>age</u> , <u>physical state</u> , 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;	No amendment
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;	No amendment
	<u>New recital</u> <u>Whereas close dialogue should be fostered with the European Parliament;</u>
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;	No amendment

<p>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;</p>	<p>No amendment</p>
<p>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;</p>	<p>No amendment</p>
<p>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;</p>	<p>No amendment</p>
<p>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; provision is therefore made for the Commission, in certain circumstances, to be assisted in its decision-making by an advisory committee;</p>	<p>No amendment</p>
<p>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 fourth Lomé Convention remaining subject to the procedures and arrangements laid down in that Convention,</p>	<p>No amendment</p>

CHAPTER 1

Objectives and general principles of humanitarian aid

Article 1

In the course of its humanitarian action, the Community shall carry out non-discriminatory assistance, relief and protection operations 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 for as long as is necessary to meet the humanitarian needs arising from such situations. The Community shall also carry out operations to prepare for or prevent disasters or comparable emergencies.

Article 1

Where local authorities are unable or unwilling to guarantee the survival and protection of the affected groups of people, the Community's humanitarian aid shall include non-discriminatory assistance, relief and protection operations 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 for as long as is necessary to meet the humanitarian needs arising from such situations.

The Community's humanitarian aid shall also include operations to prepare for or prevent disasters or comparable emergencies.

<p><u>Article 2</u></p> <p>The principal objectives of the humanitarian aid referred to in Article 1 shall be:</p> <p>(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;</p> <p>(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;</p> <p>(c) to take any steps necessary to facilitate or obtain freedom of access to the recipients and the free flow of aid;</p> <p>(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;</p>	<p><u>Article 2</u></p> <p>No amendment</p> <p>No amendment</p> <p>No amendment</p> <p>No amendment</p> <p>to carry out short-term rehabilitation and reconstruction work, <u>which takes account where possible of long-term development goals</u>, 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;</p>
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<p>(e) to cope with short- and longer-term 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;</p> <p>(f) to ensure preparedness for disasters or comparable emergencies and set up a suitable rapid-warning and intervention system;</p> <p>(g) to carry out operations to protect the victims of fighting or comparable emergencies.</p>	<p>(e) to cope with <u>the consequences of</u> short- and longer-term population movements (refugees, <u>internally</u> displaced people and returnees) caused by natural and man-made disasters and handle schemes to assist repatriation to, and resettlement in the country of origin <u>when the conditions laid down in international conventions have been met</u>;</p> <p>(f) to <u>prevent</u> and prepare for disasters or comparable emergencies and set up a suitable rapid-warning and intervention system;</p> <p>(g) to carry out operations to protect the victims of fighting or comparable emergencies <u>in accordance with current international conventions</u>.</p>
<p><u>Article 3</u></p> <p>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 the recipients of the aid.</p> <p>It may also be used to finance any other expenditure directly related to the implementation of humanitarian operations, including the cost of publicizing aid.</p>	<p><u>Article 3</u></p> <p>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, <u>including the building of homes or shelters for affected groups of people</u>; the costs associated with the expatriate or local staff employed for those operations; the storage, <u>international or national</u> shipment, logistics and distribution of relief and any other action aimed at facilitating or obtaining freedom of access to the recipients of the aid.</p> <p>It may also be used to finance any other expenditure directly related to the implementation of humanitarian operations.</p>

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 4

Community aid may also be used to finance:

- feasibility studies into humanitarian operations and the evaluation of humanitarian aid projects and plans;
- the monitoring of humanitarian aid projects and plans;
- No amendment
- measures to strengthen Commission 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;
- activities to improve consultation and coordination between the European Community, its operational partners and their representative organizations;
- No amendment
- the publicizing of humanitarian operations.

<p><u>Article 5</u></p> <p>Community financing under this Regulation shall take the form of grants.</p>	<p><u>Article 5</u></p> <p>No amendment</p>
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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 6

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

<u>Article 7</u>	<u>Article 7</u>
<p>1. The humanitarian partners eligible for funding under this Regulation shall be non-governmental organizations satisfying the following conditions:</p> <p>(a) They must be legally recognized in their country of origin as independent non-profit-making associations.</p> <p>(b) They must have their headquarters in a Community Member State or, exceptionally, a non-member country.</p>	<p>1. <u>The non-governmental organizations eligible for Community funding to carry out the activities laid down by this Regulation must:</u></p> <p>(a) <u>be independent non-profit making associations in accordance with the legislations of the Community Member State in which they are situated;</u></p> <p>(b) <u>have their registered headquarters in a Community Member State or in one of the countries in receipt of Community aid. The headquarters must be the actual centre for all decisions relating to activities financed under this Regulation. Exceptionally, the headquarters may be in a non-Member State.</u></p>
<p>2. When determining an NGO's suitability for Community funding, account shall be taken of the following factors:</p> <p>(a) its administrative and financial management capacities;</p> <p>(b) its technical and logistical capacity in relation to the planned operation;</p> <p>(b) its technical and logistical capacity in relation to the planned operation;</p>	<p>No amendment</p> <p>No amendment</p> <p>No amendment</p>

<p>(c) its experience in the field of humanitarian aid;</p> <p>(d) the results of operations carried out by the NGO concerned, and in particular those financed by the Community;</p> <p>(e) its readiness to take part, if need be, in the coordination system set up for a humanitarian operation;</p> <p>(f) its ability to work with humanitarian agencies in the countries concerned;</p> <p>(g) whether it has signed the framework partnership agreement with the Community in the field of humanitarian aid.</p>	<p>No amendment</p> <p>(d) the results of <u>previous</u> operations carried out by the NGO concerned, and in particular those financed by the Community;</p> <p>(e) its readiness to take part, if need be, in the coordination system set up for a humanitarian operation;</p> <p>(f) its ability and readiness to work with humanitarian agencies and grassroots communities in the countries concerned;</p> <p>Deleted</p> <p>(g) <u>its independence and impartiality in administering humanitarian aid;</u></p> <p>(h) <u>if needs be, a track record in the country concerned.</u></p>
<p><u>Article 8</u></p> <p>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.</p>	<p><u>Article 8</u></p> <p>The Community may also finance humanitarian operations by international agencies and organizations.</p>

<p><u>Article 9</u></p> <p>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.</p>	<p><u>Article 9</u></p> <p>9.1 <u>Where appropriate</u>, the Community may also finance humanitarian operations by the European Commission or <u>specialist</u> Member State agencies.</p> <p>9.2 In accordance with the financial rules in force, the Commission may administer funds made available to it by the Member States in accordance with procedures agreed beforehand by the Commission and the Member State concerned.</p>
<p><u>Article 10</u></p> <p>In the course of its humanitarian action, the Community shall endeavour to develop partnership and cooperation with non-member countries.</p>	<p><u>Incorporated into Article 12 (ex Article 13) under a new paragraph, 12.3</u></p>
<p><u>Article 11</u></p> <p>1. The administrative procedures for the management and implementation of operations under this Regulation shall be adopted by the Commission.</p> <p>2. Aid shall only be granted to the organizations referred to in Articles 7, 8 and 9 if they undertake to comply with the conditions transmitted to them by the Commission regarding its allocation and implementation.</p>	<p><u>Article 10</u></p> <p>1. No amendment</p> <p>2. Aid shall only be granted to the organizations <u>and agencies</u> referred to in Articles 7, 8 and 9 if they undertake to comply with the conditions transmitted to them by the Commission regarding its allocation and implementation.</p>

<p><u>Article 12</u></p> <p>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.</p>	<p><u>Article 11</u></p> <p>No amendment to the text</p>
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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.

Article 12

1. In order to guarantee and enhance the effectiveness and consistency of Community and national humanitarian aid systems, the Commission may take any useful step to promote close coordination between its activities and the Member States' both at decision-making level and on the ground. To that end, the Member States and the Commission shall keep each other routinely informed.
2. The Commission shall ensure that the humanitarian activities financed by the Community are coordinated with those of international organizations and agencies, particularly those which form part of the United Nations.
3. The Commission shall endeavour to develop humanitarian aid cooperation between the Community and non-member donor countries.

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 global humanitarian aid plans shall be adopted under the procedure laid down in Article 15.

Article 13

1. The Commission shall appraise, decide upon, administer, monitor and evaluate 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 global humanitarian aid plans designed to provide a coherent framework for action in a country or region suffering a prolonged humanitarian emergency shall be adopted under the procedure laid down in Article 14.

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. The Commission representative shall submit to the committee a draft of any decisions to be taken under Article 14(2). 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. Once a year, on the basis of a paper presented by the Commission representative, there will be a discussion on the general guidelines for humanitarian operations in the year ahead.

Article 14

No amendment to the text

<p>In the committee, 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.</p> <p>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.</p>	<p>No amendment to the text</p>
<p><u>Article 16</u></p> <p>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.</p>	<p><u>Article 15</u></p> <p>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 <u>and to the budgetary authority.</u></p>
<p><u>Article 17</u></p> <p>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.</p>	<p><u>Article 16</u></p> <p>No amendment to the text</p>

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.

Article 17

No amendment to the text

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11

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