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COUNCIL REGULATION (EU) 2016/369
of 15 March 2016
on the provision of emergency support within the Union
(OJ L 70, 16.3.2016, p. 1)

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COUNCIL REGULATION (EU) 2016/369
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Article 1

Subject matter and scope

1. This Regulation lays down the framework within which Union emergency support may be awarded through specific measures appropriate to the economic situation in the event of an ongoing or potential natural or man-made disaster. Such emergency support can only be provided where the exceptional scale and impact of the disaster is such that it gives rise to severe wide-ranging humanitarian consequences in one or more Member States and only in exceptional circumstances where no other instrument available to Member States and to the Union is sufficient.

2. Emergency support provided under this Regulation shall be in support of, and complementary to, the actions of the affected Member State. To this end, close cooperation and consultation with the affected Member State shall be ensured.

Article 2

Activation of the emergency support

1. The decision about the activation of the emergency support under this Regulation in case of an ongoing or potential disaster shall be taken by the Council on the basis of a proposal by the Commission, specifying where appropriate the duration of the activation.

2. The Council shall immediately examine the proposal of the Commission referred to in paragraph 1 and shall decide, in accordance with the urgency of the situation, on the activation of the emergency support.



Article 3

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 as a result of a disaster referred to in Article 1(1). Without prejudice to the activation period as referred to in Article 2(1), emergency support may also be granted in view of addressing needs in the aftermath of a disaster or preventing its resurgence.

2. Emergency support, as referred to in paragraph 1 of this Article, 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 necessary, protection operations to save and preserve

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life in disasters or in their immediate aftermath. It may also be used to finance any other expenditure directly related to the implementation of emergency support under this Regulation. In particular, emergency support may be used to finance the actions laid down in the Annex.

3. Without prejudice to paragraph 4, 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 referred to in paragraph 2 shall be carried out by the Commission or by partner organisations selected by the Commission. The Commission may in particular select, as partner organisations, non-governmental organisations, specialised services of Member States, national authorities and other public bodies, international organisations and their agencies and, where appropriate and necessary for the implementation of an action, other organisations and entities having the requisite expertise or active in the sectors relevant for disaster relief, such as private service providers, equipment manufacturers as well as scientists and research institutions. In doing so, the Commission shall maintain close cooperation with the affected Member State.

*Article 4***Types of financial intervention and implementing procedures**

1. The Commission shall implement the Union's financial support in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁽¹⁾. 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 62(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 Member States and by other public or private donors as external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046.

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 195 of Regulation (EU, Euratom) 2018/1046. 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.

⁽¹⁾ 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 966/2012 (OJ L 193, 30.7.2018, p. 1).

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4. Where the Commission implements emergency support operations through non-governmental organisations, the criteria concerning financial and operational capacity shall be deemed to be satisfied where there is a framework partnership agreement in force between that organisation and the Commission pursuant to Regulation (EC) No 1257/96.

5. Emergency support under this Regulation may be granted in any of the following forms:

- (a) joint procurement with Member States as referred to in Article 165(2) of Regulation (EU, Euratom) 2018/1046 whereby Member States may acquire, rent or lease fully the capacities jointly procured;
- (b) procurement by the Commission on behalf of Member States based on an agreement between the Commission and Member States;
- (c) procurement by the Commission, as wholesaler, by buying, stocking and reselling or donating supplies and services, including rentals, to Member States or partner organisations selected by the Commission.

6. In the event of a procurement procedure as referred to in point (b) of paragraph 5, the ensuing contracts shall be concluded by either of the following:

- (a) the Commission, whereby the services or goods are to be rendered or delivered to Member States or to partner organisations selected by the Commission;
- (b) the participant Member States whereby they are to directly acquire, rent or lease the capacities procured for them by the Commission.

7. In the event of procurement procedures as referred to in points (b) and (c) of paragraph 5, the Commission shall follow the rules set out in Regulation (EU, Euratom) 2018/1046 for its own procurement.

▼ B*Article 5***Eligible Costs****▼ M1**

1. Union financing may cover any direct costs necessary for the implementation of the eligible actions set out in Article 3, including the purchase, preparation, collection, transport, storage and distribution of goods and services under those actions as well as investment costs of actions or projects directly related to the achievement of the objectives of the emergency support activated in accordance with this Regulation.

2. The indirect costs of the partner organisations may also be covered in accordance with Regulation (EU, Euratom) 2018/1046.

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3. Union financing may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the emergency support to be provided under this Regulation.

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4. Union financing for emergency 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 6***Complementarity and consistency of Union action**

Synergies and complementarity shall be sought with other instruments of the Union, in particular with respect to those instruments under which some form of emergency assistance or support may be offered, such as Regulation (EC) No 2012/2002, Decision No 1313/2013/EU, Regulation (EC) No 1257/96, Regulation (EU) No 223/2014 of the European Parliament and of the Council⁽¹⁾, Regulation (EU) No 513/2014 of the European Parliament and of the Council⁽²⁾, Regulation (EU) No 514/2014 of the European Parliament and of the Council⁽³⁾, Regulation (EU) No 515/2014 of the European Parliament and of the Council⁽⁴⁾ and Regulation (EU) No 516/2014 of the European Parliament and of the Council⁽⁵⁾.

*Article 7***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 the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

⁽¹⁾ Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived (OJ L 72, 12.3.2014, p. 1).

⁽²⁾ 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).

⁽³⁾ 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 Integration Fund 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).

⁽⁴⁾ 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).

⁽⁵⁾ 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, 20.5.2014, p. 168).

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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 ⁽¹⁾ of the European Parliament and of the Council and Council Regulation (Euratom, EC) No 2185/96 ⁽²⁾ 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 8***Monitoring and evaluation**

1. Actions receiving financial support under this Regulation shall be monitored regularly. At the latest 12 months after the activation of the emergency support for a specific situation in accordance with Article 2, the Commission shall present a report to the Council and, where appropriate, proposals to terminate it.

2. By 17 March 2019, 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 to amend or terminate it.

*Article 9***Entry into Force and activation**

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

2. The Council hereby decides to activate the emergency support under this Regulation as of the day of its entry into force for the current influx of refugees and migrants into the Union, for a period of three years.

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

⁽¹⁾ 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).

⁽²⁾ 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).

▼ M1*ANNEX***Eligible actions**

The following actions may be financed in case of pandemics with large-scale effect:

- (a) temporary reinforcement of the medical workforce, exchange of medical professionals, hosting foreign patients or other type of mutual support;
- (b) deployment of temporary healthcare facilities and temporary extension of existing healthcare facilities to relieve pressure on existing structures and increase overall healthcare capacity;
- (c) activities to support the administration of large-scale application of medical tests and prepare the necessary scientific testing strategies and protocols;
- (d) setting up temporary quarantine facilities and other appropriate measures at the Union borders;
- (e) development, production or purchase and distribution of medical products;
- (f) increases and conversions of production capacities for medical products as referred to in point (e) to address supply shortages;
- (g) maintenance of the stock of medical products as referred to in point (e) and their disposal;
- (h) actions to support the necessary steps to obtain approval for the use of the medical products as referred to in point (e) if required;
- (i) actions to develop appropriate methods to track the development of the pandemic and the results of measures implemented to address it;
- (j) organisation of ad-hoc clinical trials of potential therapies or diagnostics according to trial standards agreed at Union level;
- (k) scientific validation of medical products, including potential new testing methods.

The above list is not exhaustive.