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COMMISSION IMPLEMENTING DECISION

of 12.8.2022

on an exceptional assistance measure regarding Bangladesh

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THE EUROPEAN COMMISSION,

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

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

Having regard to Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009², and in particular Article 23(6) thereof,

Whereas:

- (1) As of March 2022, over 926 000 Rohingya refugees fleeing violence in Myanmar's Rakhine state reside in Bangladesh living in the world's most densely populated refugee camp, in Cox's Bazar district. Levels of insecurity, inter and intra-communal tensions and conflicts remain significant with Rohingya women and children at risk of sexual and gender-based violence. Since 2020, in order to alleviate pressure in the main camps, the Government of Bangladesh has established refugee facilities on the island of Bhasan Char. So far, over 30 000 refugees have been relocated to the island from Cox's Bazar, with the number expected to double by the end of 2022. While significant funds have been invested by the Government of Bangladesh for accommodation and to improve the flood and cyclone protection measures to reinforce the physical safety of the location, there are significant gaps in the provision of key protection interventions in Bhasan Char, with special attention required for persons at risk, including children, women and older persons, as well as persons with special needs. The present situation makes it necessary to adopt an exceptional assistance measure regarding Bangladesh.
- (2) In order to ensure the implementation of the measure, it is necessary to adopt a financing decision. Article 110 of Regulation (EU, Euratom) 2018/1046 ('the Financial Regulation') establishes detailed rules on financing decisions.

¹ OJ L 193, 30.7.2018, p. 1.

² OJ L 209, 14.6.2021, p. 1.

- (3) The planned assistance is to comply with the conditions and procedures set out by the restrictive measures³ adopted pursuant to Article 215 TFEU.
- (4) The objective of the measure set out in this Decision is to improve the overall protection environment in Bhasan Char by ensuring that the Rohingya refugees relocated to the island are protected and can live in safety and dignity until a durable solution is achieved, in order to remedy exceptional and unforeseen situations as referred to in Article 4(4)(a) of Regulation (EU) 2021/947.
- (5) In accordance with points (a), (b), (g), (l), (m) and (n) of Annex IV, paragraph 1, second paragraph of Regulation (EU) 2021/947, the activities set out in this Decision will enhance the protection of the refugees and their ability to live in safety and dignity. The activities focus on preventing and responding to sexual and gender-based violence, strengthening the protective environment of children, monitoring the willingness of refugees to relocate and the provision of essential health services.
- (6) The effectiveness of the Union response to the situation referred to in recital (1) depends on the rapid and flexible implementation of an exceptional assistance measure of limited duration in accordance with Article 23(6) of Regulation (EU) 2021/947.
- (7) The measure provided for in this Decision is complementary to assistance provided under other Union short-term or long-term external assistance instruments. No fully adequate response can be provided under those instruments to the specific needs being addressed. Therefore, an effective response is required to enable early action in accordance with Article 4(4)(a) of Regulation (EU) 2021/947.
- (8) The measure provided for in this Decision is consistent with the Union strategic policy framework for Bangladesh. Synergies and complementarities are expected with other Union interventions, as detailed in point 7 of the Annex.
- (9) In order to provide specialised protection assistance to the refugees, it is necessary to use indirect management for the implementation of the measure.
- (10) The Commission is to ensure a level of protection of the financial interests of the Union with regard to entities and persons entrusted with the implementation of Union funds by indirect management as provided for in Article 154(3) of the Financial Regulation. To this end, such entities and persons are to be subject to an assessment of their systems and procedures in accordance with Article 154(4) of the Financial Regulation⁴ and, if necessary, to appropriate supervisory measures in accordance with Article 154(5) thereof before a contribution agreement can be signed.
- (11) It is necessary to allow for the payment of interest due for late payment on the basis of Article 116(5) of the Financial Regulation.
- (12) In order to allow for flexibility in the implementation of the measure, it is appropriate to define changes which should not be considered substantial for the purposes of Article 110(5) of the Financial Regulation.
- (13) The European Parliament and the Council have been informed of the exceptional assistance measure to be adopted by this Decision, in accordance with Article 25(3) of Regulation (EU) 2021/947,

³ www.sanctionsmap.eu. Note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy, the OJ prevails.

⁴ Except for the cases set out in Article 154(6) of the Financial Regulation, where the Commission may decide not to require an ex-ante assessment.

HAS DECIDED AS FOLLOWS:

Article 1
The measure

The financing decision for the implementation of the exceptional assistance measure regarding Bangladesh, for 2022, as set out in the Annex, is adopted.

The measure shall include the following action: Improve the protection environment of the Rohingya refugees relocated to Bhasan Char, set out in the Annex.

Article 2
Union contribution

The maximum Union contribution for the implementation of the measure for 2022 is set at EUR 3 000 000, and shall be financed from the appropriations entered in the budget line 14 02 03 10 of the general budget of the Union.

The appropriations provided for in the first paragraph may also cover interest due for late payment.

Article 3
Methods of implementation and entrusted entities or persons

The implementation of the actions carried out by way of indirect management, as set out in the Annex, may be entrusted to the entities or persons referred to or selected in accordance with the criteria laid down in point 6 of that Annex.

Article 4
Duration of the measure

The maximum duration of the exceptional assistance measure adopted under this Decision shall be 18 months. The authorising officer responsible may decide to extend this period twice by a further period of up to six months, up to a total maximum duration of 30 months, under the conditions laid down in Article 23(6) of Regulation (EU) 2021/947.

If the implementation of this measure or any of its components is suspended owing to ‘force majeure’ or circumstances beyond the control of the contracting authority and its implementing partner(s), the period of suspension shall not be taken into account for the calculation of the duration of the implementation of this measure.

Article 5
Flexibility clause

Increases or decreases of up to EUR 10 million not exceeding 20% of the contribution set in the first paragraph of Article 2 or cumulated changes⁵ to the allocations of specific actions not exceeding 20% of that contribution, as well as extensions of the implementation period shall not be considered substantial for the purposes of Article 110(5) of the Financial Regulation provided that these changes do not significantly affect the nature and objectives of the actions.

⁵ These changes can come from assigned revenue made available after the adoption of the financing decision.

The authorising officer responsible may apply the changes referred to in the first paragraph. Those changes shall be applied in accordance with the principles of sound financial management and proportionality.

Done at Brussels, 12.8.2022

For the Commission
Josep BORRELL FONTELLES
High Representative / Vice-President