

DG ECHO Response plan to the impact of COVID-19 on the implementation of humanitarian aid.

The Covid-19 crisis is unprecedented in its scope and is now affecting most of the countries in which we operate. This health crisis has short and medium term consequences which we need to address.

DG ECHO's immediate concern is the protection and health of the staff of its partner organisations and its staff as well as populations that benefit from EU funded humanitarian projects, in compliance with the 'do no harm' principle.

You will find below information on the **different measures** that DG ECHO is taking to cope with these exceptional circumstances. As the reflections at EU and global level on **possible reallocation of existing funding or making fresh funding available** to fight the pandemic in countries where it is needed is still on-going, for the time being we have chosen to focus on two aspects that are under our control:

- **Communication between DG ECHO and its partners and contractors: Maintaining open lines of communication** to ensure proper support and timely response to arising issues of FPA partners and contractors;
- **Implementation: Supporting FPA partners** to ensure the continuous delivery of humanitarian assistance and **contractors** to implement their activities.

This document will be regularly updated.

Communication between FPA partners and contractors and DG ECHO staff is key: partners and contractors should maintain continuous contact with technical assistants in the field and desk officers in Brussels to discuss in detail the impact that this crisis is having on EU funded humanitarian operations.

In addition to this effort of streamlining DG ECHO response, and given the wide range of situations, we would need to **assess the needs on a case-by-case basis and are ready to propose ad hoc solutions when a general approach proves unsuitable.**

General considerations: we expect our partners to put in place plans for their life saving organisations to cope to the best of their ability with the situation. This would entail inter alia:

- Need for striking the right balance between *duty of care* and *do no harm* principle: managing risks, taking into consideration partners staff and affected communities while continuing operations.
- Monitoring and complying with national health policies, while respecting independence of action of humanitarian aid.

- Changing and adapting operating modalities to ensure as much as possible business continuity, including, where possible, by project tasks being executed remotely.
- Hold meetings remotely.
- Reduce local and international travel.
- In general, apply and, where needed, put in place precautionary measures to mitigate and manage risks.

I. COMMUNICATION BETWEEN DG ECHO AND ITS PARTNERS AND CONTRACTORS

How can a partner or a contractor contact DG ECHO in the current circumstances?

In DG ECHO HQ, all staff are teleworking. Via remote connections, we expect to be able to reply to emails, organise video conferences and make/receive phone calls on the usual landlines, despite the intensive use of the IT infrastructure.

Special measures have also been put in place for DG ECHO staff in the field. The aim is to guarantee business continuity while ensuring above all the safety and security of staff, both from partner organisations and of DG ECHO as well as of beneficiaries, following a *do no harm* approach, and in line with the health safety instructions of the host country. An increasing number of DG ECHO offices are on partial or total telework while, in case of partial telework, a team of essential staff continue working in the offices, on the basis of shifts. No external visitors are received. DG ECHO field staff are reachable via email, phone and video-conferencing.

How to send signed agreements in the current period?

For agreements sent by DG ECHO in April, May and beginning of June by email due to the pandemic, partners are receiving the two hand-signed originals by courier. They have to be counter-signed by the same person who signed the scanned copy and bear the same date as the scanned copy. One of the two originals has to be sent back to DG ECHO by courier within 15 calendar days following receipt.

Important: as of 15/06, all the agreements are sent by courier ONLY as per the usual procedure.

II. IMPLEMENTATION

Can COVID-19 be considered as *force majeure*?

Yes.

What about the eligibility of costs related to operation activities paid but cancelled as part of the COVID-19 precautions?

DG ECHO FPA partners and contractors should carry out the appropriate due diligence measures to ensure that the COVID-19 has minimum financial impact on on-going actions. Nevertheless, costs that could not be cancelled and which are not reimbursed from other sources should then be regarded as eligible costs. Units in charge should exercise their discretion in authorising delays in implementation or change to the action. The circumstances will have to be analysed on a case-by-case basis.

How does *force majeure* apply to a grant agreement?

Article 13 of the General Conditions applicable to humanitarian aid actions financed by the European Union (the General Conditions) defines "*force majeure*" as any unforeseeable exceptional situation or event beyond control, which prevents the partner or the Commission from fulfilling their obligation. This situation is not attributable to error or negligence on their part or on the part of implementing partners or contractors, and proves inevitable in spite of all due diligence.

Considering that this outbreak of COVID-19 fulfills the criteria (unforeseeable and exceptional situation beyond one's control preventing partners to fulfil their obligations under the agreement), we need nevertheless to recall that:

- Any default of a service, defect in equipment or material, delays in making them available or financial difficulties, cannot be invoked as *force majeure*, unless they stem directly from a relevant case of *force majeure*.
- The partner faced with *force majeure* must formally notify the Commission, as soon as the circumstances so allow, stating the nature of the situation and its foreseeable effects.
- The partner and DG ECHO must take the necessary measures to limit any damage due to *force majeure*.

Questions related to the eligibility of costs in the context of force majeure should be sent to echo-fpa-partners@dgecho-partners-helpdesk.eu with the desk officer in copy.

If actions are not suspended, costs may be incurred by partners to react to the COVID-19 crisis: would these costs be eligible?

Depending on possible rules adopted by the authorities (total/partial entry ban) of the country of operation, and availability of air transport, partners may have to opt for:

- Temporary teleworking from abroad (until the ban is lifted),
- Forced quarantine of staff in duty station,
- Change to the HR set-up (e.g. no expatriate presence).

In some cases, this situation may trigger the unforeseen use of remote management, which will have to be agreed by DG ECHO beforehand.

These re-arrangements may result in additional costs.

As a general rule, partners should comply with national regulations. The costs of such re-arrangements might be eligible if they comply with the eligibility criteria listed in Article 8 of the General Conditions, paying special attention to the fact that they have to be “reasonable, justified, and comply with the principle of sound financial management, in particular regarding economy and efficiency”.

Other impacts of the crisis (delays/cancellation of some activities) should be reported by partners early on (e.g. by mail) and included in the interim report: no specific modification request is necessary (unless it significantly changes the action). The need for a modification of the Single Form will be assessed later on a case-by-case basis.

Can a partner derogate from Annex III of the FPA (procurement rules) because of COVID-19?

Supply of goods for the humanitarian response may be rendered difficult if the rules enacted by the national authorities of the country of operation in relation with COVID-19 make the import of goods more difficult. It may also happen that procurement procedures cannot be carried out as described in the procurement policy of the partner (e.g. a sufficient number of suppliers to ensure competition is not available, national restrictions to circulation of goods, offers cannot be received by post, procurement staff confined, etc.).

In those cases, the partner will apply first the derogations available in its own procurement policy, fully respecting the internal procedures (decisions taken at the appropriate level, absence of conflict of interest, keeping proper records of the procedure, etc.).

Only if a derogation does not exist in the partner internal procedure will Article 6 a) of Annex III to the FPA apply. The necessary prior and written approval from the Commission of a temporary derogation can be obtained by contacting by email the desk officer. Such a derogation requires a specific condition that has to be requested in APPEL. However, in view of the circumstances, it can be introduced at a later stage (any time before the end of the action) whenever the conditions allow it.

Would it be possible to derogate from Annex III of the FPA (procurement rules) in case the use of HPC and importation of medical supply would not be possible anymore in view of importation's restrictions?

Before taking the decision to buy locally, partners are advised to check if any of ECHO registered HPCs is capable to import supplies in a given country.

Locally purchased drugs may still be compliant with the FPA quality assurance provisions if they meet the criteria set out in Article 4.2 of Annex III to the FPA, namely if the supplier is pre-certified (e.g. it complies with WHO Good Distribution Practices (GDP)) and the medical supplies are pre-qualified (e.g. they are compliant with WHO Good Manufacturing Practices (GMP)).

In this context, partners who have access to QUAMED database can use their Local Market Assessment (LMAs) as a basis for the selection of drugs from local suppliers.

No derogation from the minimum quality assurance for medical supplies can be granted. However, when the quality of purchases cannot be assured, Article 6 c) of Annex III to the FPA provides for an alternative solution. In the current situation, if the partner is unable to demonstrate compliance with internationally accepted product standards, it may demonstrate instead that the supplies offer the best quality available. This includes at least compliance with the 'do-no-harm' principle and the standards accepted by the national or regional regulatory authorities.

DG ECHO must be consulted on these exceptional cases without delay. DG ECHO will assess the situation per action/partner/country, which means that no *blank checks* will be given to partners.

Can on-going actions be modified as a result of the COVID-19? Can actions for which the contracts are already signed or about to be signed be still adapted?

Units in charge should exercise their discretion in authorising delays in implementation or change to the action. The circumstances will have to be analysed on a case-by-case basis

In all new projects, partners are asked to integrate COVID-19 as **a risk** in section about risk and assumptions, with **potential mitigation measures** identified.

Redirection of funding within an ongoing action can also be envisaged if a partner considers necessary to adapt an existing agreement to the COVID-19 response. Change in activities are normally 100% flexible (unless they qualify as substantial changes to the action). However, certain changes (e.g. to results or beneficiaries) normally trigger an amendment (see Article 12 of the General Conditions). In the current circumstances, if such changes are considered necessary, the partner must inform the technical assistant or the desk and get the approval of

the desk by email (light modification procedure). The related MR could be made in APPEL at a later stage before the end of the Action.

In case of multiple modifications (other than unilateral changes) granted by email in successive stages linked to an evolving situation, one consolidated MR will regularise all enacted changes as soon as the circumstances allow to process a contract amendment.

Partners may consider activating the crisis modifiers of their action to prepare their COVID-19 response, when such feature exists in their grant agreements. DG ECHO will have a flexible approach in the threshold for the ‘Crisis Modifier’ result including in Disaster Preparedness actions. ‘Crisis Modifier’ activation entailing project modifications that require DG ECHO agreement will be processed by desk officers following the ‘light’ procedure mentioned above.

Will it be possible to get derogations to reporting modalities when compliance with standard procedures is made exceedingly difficult?

The COVID-19 crisis would not as such suffice to justify departing from reporting requirements: if the action takes place, the assumption is that reporting can be ensured. However, flexibility as to the timeline of such reporting could be envisaged on a case-by-case basis. If partners request a deadline extension for interim and of final report on the grounds of COVID-19-related force majeure, ECHO’s approval will be given by email only (from desk officer).

In the current circumstances, how will DG ECHO audit plan be implemented in 2020?

The plan will be implemented taking account of the current constraints. In agreement with the audit firms acting on behalf of DG ECHO and the partners, audits during 2020 will focus on legality and regularity to comply with the requirements of the Annual Activity Report of the Commission. The audit firms will agree with the partners, after discussion with DG ECHO, on the best modalities to perform the checks, giving priority as much as possible to desk reviews.

Can the partner ask for a suspension of the on-going EU-funded humanitarian action because of COVID-19? Can the partner propose to suspend activities while ensuring operational presence?

Article 14.1 of the General Conditions refers to the suspension of the action by the partner, with a specific mention of *force majeure*: ***The Humanitarian Organisation may suspend the implementation of the Action or any part thereof if exceptional circumstances make such implementation impossible or excessively difficult, in particular in the event of force***

majeure, a serious threat to the safety and security of humanitarian workers or beneficiaries, or the inability to ensure compliance with the humanitarian principles.

In such cases, and including if measures are adopted in the countries of operation which prevent partners to carry out the intended actions, full or partial suspension of the implementation of the action can be requested by the partner.

The partner should inform DG ECHO of its intention to suspend; partners must in any event explain the reasons for suspending the implementation of an action and seek to identify a possible date of resumption, after having exhausted alternative possibilities to implement the action.

By way of best practice, as soon as such a situation occurs, the partner is strongly recommended to inform DG ECHO (desk officer or TA) by email, even if the partner is not sure yet that a suspension is needed. This first message is important to set the possible starting date of the suspension. When the decision to suspend the action is taken, the partner will inform immediately DG ECHO via APPEL, using the "**Request suspension**" (for more information, check the FPA guidelines).

It is important to stress that a suspension lasting longer than one-third of the implementation period of the Action does not result in an automatic termination of the Specific Grant Agreement. This will be assessed on a case-by-case basis.

Partial suspensions (e.g. with respect to one or several results) can also be considered. Please note that, in such case, the partner **should not use** the functionality "Request suspension" in APPEL as this would suspend the entire action but the **modification request** functionality (MR) (for more information, check the [FPA guidelines](#)).

Costs related to the suspended activities, which are expected to be incurred during the suspension (such as, for instance, for 'Education in Emergency' possible costs related to the payment of incentives to teachers), could be covered by DG ECHO provided the type and range of costs are justified and communicated in advance to DG ECHO. Partners will list those costs in the suspension request. DG ECHO will then officially confirm their eligibility in its reply to the suspension request.

Partners should first discuss with DG ECHO possible redirection of the project activities, including in certain cases to help address COVID-19, before considering suspension.

Whenever feasible, DG ECHO should privilege partial suspensions, allowing partners to continue operating through a reprogramming of activities or areas of interventions, as appropriate, while leaving the possibility of resuming planned activities as soon as the situation allows. Time-extensions through light Modification Request procedures should be favoured to this end.

Notifications of events that could lead to suspension or suspension itself should be sent to the relevant technical assistant or to the desk officer.

Can force majeure also be evoked for services contracts?

In the case of *force majeure* affecting the implementation of a contract, the authorising officers can allow for a substitute performance or delayed performance.

According to the General Conditions of the Commission's service contract (Art. II.14.2), if the contractor is unable to fulfil its contractual obligations owing to *force majeure*, it has the right to remuneration only for the services actually provided. Before agreeing to a contractor's claim about the application of the provision on *force majeure* for services to be rendered under a service contract, DG ECHO responsible unit will ask the contractor for supporting documents justifying the remuneration claimed.

In the context of the COVID-19 crisis, will DG ECHO grant deadlines extensions for submission of proposals or tenders?

Due to the COVID-19 outbreak, DG ECHO responsible units may consider an extension of the deadlines for submission of proposals or tenders under on-going EU award procedures on a case-by-case basis.

The decision for extending calls deadlines will take into account inter alia the remaining period for submission and the potential impact on the deadlines for committing appropriations.

FPA 2021: what if the applicant does not manage to submit the ex-ante assessment by 01 July 2020?

It is difficult at this stage to assess the duration of the COVID-19 outbreak and its possible impact on the submission of ex-ante assessment reports (dates and number) as part of the 2021 FPA application process. DG ECHO will make all possible efforts to ensure a smooth transition towards the 2021 FPA. We are looking at a range of solutions, including the possibility for applicant NGOs to submit proposals in response to 2021 Humanitarian Implementation Plans even though their applications are still pending. Other options in relation to provisional FPA status may also be considered. We will get back to applicants with more details as soon as possible.

For specific questions on the 2021 FPA and its application process, please contact ECHO-APPEL@ec.europa.eu, mentioning "FPA 2021" in the title of your email.

How to ensure advocacy in order to guarantee that people in need are treated, protected and included in Covid-19 national strategies?

It is important to encourage DG ECHO partners to advocate towards all relevant national authorities to include the most vulnerable groups in the COVID-19 response (conflict-affected populations, IDPs, refugees and asylum seekers) and take into account their specific vulnerabilities, such as age, gender, possible disabilities, but also specific living conditions, restricted access to services, etc. In its advocacy towards the national authorities, DG ECHO will also make sure to stress that the response to COVID-19 should be inclusive and could not in any circumstances discriminate against certain groups. Promoting such an inclusive approach that leaves no one behind is part of DG ECHO policy.