

FPA Watch Group Meeting

20-09-01

Venue: Care International

Time: 2pm

Participants: Jane Backhurst, Clément (World Vision), Farida Chapman (IRC), Giovanna Solari, Ricardo Stefanori (CISP), Simonetta Risaio (Handicap International), Gaëlle Nizery (CARE International), Ad Ooms (ICCO), Isabelle Lefort (Atlas Log.), Frédéric Bonamy (Première Urgence), Sophie Dima (IISA), Annette Frick (ADRA), Pierre Gallien (ACF), Cinzia Laurelli, François Man (Save the Children UK), Barbara Sellier (Children Aid's Direct), Diannae White (EU COD).

1. Apologies

Jennifer Tangney (VOICE), Elvira Rodriguez (ACF), Laure Delcros (MSF International), Jean Saslawsky (MDM International), Encarnación Guirao (IRC Spain), Davide Martina (COOPI), Luca Aiolfi (CESVI) ; Will de Wolf (Caritas EU), Anne Colmant (Oxfam-Solidarité), Morton Ronnenberg (DanChurch Aid), Helen Holder (HelpAge International)

2. Minutes of previous meeting (30th August 2001)

Minutes accepted without alteration.

3. Explanation of political level meeting with Mrs. Adinolfi based on minutes provided prior to the meeting.

Gaëlle Nizery briefly explained the content of the meeting with Mrs. Adinolfi based on the minutes provided by VOICE. See Annex A.

Ad Ooms of ICCO regretted that a consultation on the meeting with Mrs. Adinolfi was not efficient prior to the meeting. He thought comments from Directors of FPA Watch Members would have been useful.

4. List of Eligible Expenditures: Staff

It was agreed following the political meeting with Mrs. Adinolfi that NGOs should no longer pursue lump sums, as ECHO would not change their position against lump sums. For such reason, the task force decided to concentrate on the draft of a list of eligible expenses for staff.

Simonetta Risaio outlined that the list is more a list of real costs incurred by NGOs rather than a list of eligible expenditures. But in terms of strategy we would ask ECHO to finance them all, so that in the end most of them remain on the list! If ECHO refuses to finance some of them they should explain the reasons why.

The group then commented the list. Most of the discussion concentrated on recruitment costs and training. The updated list would be presented to ECHO the day after.

Changes (see Annex B):

- It was agreed that we would add a line "other" in all sub-chapters.
- A sub-chapter for training would be added comprising (on-the-job training, security training, humanitarian training, other training linked to the operation)
- Recruitment costs (excluding salary of staff doing the recruitment) would be included

Additionally, we would explain to ECHO that we want to have flexibility in number of personnel, duration of employment and nature of position.

5. Preamble and Provisions: suggestions and comments from the Group

Pierre Gallien explained the status of the work on both documents. It only started recently. The task force really needs the input of FPA Watch Members.

Ad Ooms suggested that the preamble strongly state the necessity to have a link between relief, rehabilitation and development. Additionally, some one else emphasised that the regulation definition of Humanitarian Aid should be clearly mentioned in the preamble.

Pierre then outlined some first suggestions on the provisions:

- What is requested from ECHO and what is requested from NGOs should be put on equal footing.
- We should refer to the code of conduct/code of good administrative behaviour of EC civil servants (available at the following internet address:

http://europa.eu.int/comm/secretariat_general/code/index_en.htm)

- We should consider comments made by the European Parliament (Development Commission) on the evaluation of humanitarian aid For instance, the question on the number of partners ECHO should have... (The Imbeni report is available at the following internet address:

<http://www2.europarl.eu.int/omk/OM-Europarl?PROG=REPORT&L=EN&PUBREF=-//EP/NONSGML+REPORT+A5-2000-0191+0+DOC+WORD+V0//EN&LEVEL=3>).

- Reference to the regulation should also be made.

More comments were made on the provisions:

- An analysis of local capacity of beneficiaries should be added mentioning the necessity to strengthen local beneficiaries capacity.
- One suggested that the reference to the linkage between relief, rehabilitation and development be mentioned in a chapter on "quality" rather than on partnership
- Equally, some other points are not in the right chapters.
- Analysis of groups at risk should be emphasised. Some times, analyses are made on a too large population.
- Open a window for more dialogue to take place.

The task force will draft a new preamble as well as new provisions based on the comments received by the FPA Watch.

6. Questions & Answers with Pablo Ibañez, ECHO 5

Pablo Ibañez started with mentioning the informality of the meeting. Before answering questions, he made a presentation of the evolution of the FPA revision.

An internal financial regulation was adopted by the EC years ago. This internal document is very powerful since it produces upshots on Member States. For the first time ever, the EC is operating a complete revision of the regulation through the co-decision procedure (both the Council and the European Parliament - EP have to adopt the regulation). 2 documents are involved:

- the regulation itself
- the implementing modalities

Since ECHO grants are not contracts and since the regulation does not foresee implementing modalities, ECHO rules fall under the implementing modalities. ECHO received a draft of the implementing modalities and was disappointed: the document contains no derogation to humanitarian aid. This means that ECHO should apply the rules of the vade-mecum on grants. Those rules imply for instance that ECHO should proceed with calls for proposals, that administrative costs would be up to 7% and that a contribution from the NGO would be requested (at least 10%).

As a consequence, ECHO requested that derogations on humanitarian aid be introduced. They are not willing to start the inter-service consultation before an agreement is reached on the financial regulation. The latter will only be solved by the end of November. Therefore, in the mean time, ECHO believes it is wiser to negotiate only one article of the FPA - art. 34 on the duration of the FPA. ECHO would like the present FPA to be prolonged until an undetermined date. This would allow for an inter-service consultation on the whole FPA documents during at least 3 months at the beginning of 2002.

Pablo Ibañez stressed the fact the end result of the financial regulation will be highly influenced by

the Council and the EP. Therefore, NGOs could approach their own governments and MEPs to emphasise the importance of having derogation for Humanitarian Aid.

However, there is no guarantee that the financial regulation will be adopted soon. The co-decision procedure can be very long if all the parties involved do not agree. With a modification of art. 34, ECHO would be covered by the present FPA in any case.

Details of the FPA:

During the meeting with Mrs. Adinolfi, the message was very clear that operational contracts were one thing and that partnership was something separate. Indeed, partnership involves a sustainable dialogue between both parties. The dialogue would be more on horizontal issues. If NGOs want to develop this partnership they should be initiating it. According to ECHO more flexibility was allowed to NGOs with the suppression of lump sums.

Additionally, the Director of ECHO committed to review the practice on administrative costs. However, a digressive scale for these costs cannot be avoided. As a consequence, ECHO will work on a system to include 80% of projects (projects under 1 million EURO) in the 7% margin for administrative costs. For projects above 1 million there would be a scale for 5% of admin costs and one for 3% of admin costs.

Furthermore, 2% for local administrative costs is achieved.

Lump sums for communication equipment will not be allowed anymore. NGOs will be able to put real costs for such equipment in the security line item of the budget so that problems of equipment ownership are avoided.

As far as vehicles are concerned, ECHO will not allow for lump sums either. ECHO is willing to contribute to the depreciation of the vehicle but will never pay for the purchase of it. There will however be a lump sum for running costs which will vary according to the price of the vehicle. Pablo added that the percentage of depreciation could vary from one year to another. But this depreciation table will not be drawn up by ECHO. The latter just proposed a table for trucks with a depreciation over 5 years and a table for other vehicles with a depreciation over 3 years.

Overall, ECHO will propose 3 different types of fixed percentages or fixed rates:

1. contribution to real costs (vehicles - percentage of depreciation)
2. fixed percentage of total budget (administrative costs)
3. maximum real costs (staff)

In order to satisfy controls by the EC, NGOs will be requested to provide a list of expenses under these fixed rates.

About staff:

ECHO is working on a system of maximum costs up to 6000 € without distinction for local or expatriate staff. The system includes a table of professional categories with indicative amounts per category. If the NGO puts in the budget higher costs than the ones suggested in the table, they would have to justify. An expatriate would qualify as such if he/she meets 2 out of the 3 following criteria established by ECHO:

- Nationality different from the country of operation
- Residence different from the country of operation
- Work contract signed in a different country than the country of operation

These criteria are important for determining additional costs related to expatriation.

There will be a distinction between staff directly involved with the beneficiaries (in Chap I) and support staff (in Chap II). Some staff can be involved both with beneficiaries and support. Therefore, ECHO will require that staff in Chap I be directly working with beneficiaries 80% of their time.

The activity-based approach that ECHO will endorse will mean that there will have to be a clear distinction of staff tasks in the new budget so that the staff ration in terms of results can be

analysed.

Last but not least, Pablo mentioned that psychological assistance to returning expatriate staff is necessary and will be eligible as real costs.

Art. 22 (see Annex C):

Pablo Ibañez drew the attention of the FPA Watch on art. 22 as it relates to eligibility or ineligibility of expenses. ECHO is open to new suggestions from NGOs on the wording of this article.

Paragraph 5 refers to ineligibility of funding in case of professional shortcomings, a clear inability to meet operational needs or evident disregard for the procedures.

Paragraph 6 refers to ineligibility of supplies, services and equipment purchase in case procurement rules are not followed.

If the ECHO Desk and/or the ECHO representative believe some costs are ineligible and identify them in the "operational fiche" (fiche op), then they would notify the NGO (Mise en demeure) and request further explanation from the NGO (within 15 days) before effectively considering the costs as ineligible. The whole procedure will be in the user's guide. For such cases, an arbitration system would be essential.

The approach is clearly results oriented.

Additionally, paragraph 7 focuses on sanctions that ECHO would take in case of serious incompetence on the part of the NGO. ECHO could indeed decide to consider ineligible the administrative costs.

Arbitration:

With such article an arbitration system is more than necessary. However, it is highly probable that the clause on arbitration will disappear since EuropeAid is against it. Therefore, Pablo suggests that NGOs:

1. defend the clause and demonstrate that other services of the EC use it.
2. define practicalities on how to use arbitration.

Document 14:

ECHO approved 400 derogations so far. Another 30 are on a waiting list. For some countries like Iraq and North Korea, document 14 will never apply. However, transparency is still required even if document 14 is not applicable.

Meeting Closed at 6pm

Annex A:

Report of the meeting with Mrs. Adinolfi - 7th September 2001

Participants: Mrs. Adinolfi, Mrs. Smith, Mr. Ibanez (ECHO), Nino Sergi (Intersos), Jean Luc Bodin (ACF), Anne Simon (CARE International), Alexandre Kamarotos (Mdm), Will de Wolf (Caritas International), Rafa Vila San Juan, Laure Delcross, (both MSF), Kathrin Schick (VOICE).

Mrs. Adinolfi opened the meeting, explaining that the revised version of the FPA would be consulted with Commissioner Nielsen before it will go to the Interservice.

Anne Simon introduced the concerns of the NGOs concerning the revision of the FPA and that not all elements of the final version were dealt with. There is a feeling among the NGOs that we might lose the control over the final outcome of the revision. After the consultation process the following important issues remain of strong concern to all NGOs:

Administration, Lump Sums, Procurement, Arbitration, Co-financement.

It was difficult to interpret the concept of partnership in a positive sense in relationship to the FPA. There is also a concern that the administrative burden of the new rules will create a bigger gap between the mandate and the implementation.

Mrs. Adinolfi explained that ECHO's mandate for the revision stressing the need for accountability, transparency and simplification of the rules while complying with the financial regulations of the Commission for the new FPA. The revised FPA should reflect competence, quality and professionalism. The main change in approach are the stricter demands to reporting and monitoring.

Concerning lump sums:

ECHO has to comply with the financial regulations and has to develop a concept which permits the financial rules to be applied. Now the system is not transparent. Personnel has to be paid on the basis of its qualifications. Better qualified personnel will also result in a better quality of services rendered to the beneficiaries.

ACF raised the concern that costs for planning, administration and the training of employing high qualified personal and the high turnover specific to the HA sector were not taken into account any longer. That such a part of the real costs would have to be covered by our own funds.

Mrs. Adinolfi commented that she was aware that the new rules could have negative effects for NGOs and that ECHO therefore had looked for other ways to solve this and introduced the more general budget line for local administration costs on top of the normal administration costs. Eventual training costs had to be project specific.

Mr. Ibanez informed that there was no possibility to introduce an extra line for training, but that they were looking for other mechanisms to give back that option outside the FPA.

Concerning the costs of satellite telephones Mrs Adinolfi accepted that they were necessary in certain situations where security was an issue.

In relation to procurement the NGOs stressed that there are big problems having to ask for exemptions all the time. ECHO asked for a dossier of case studies 40 to 60 which could show that the rules can not be implemented or that they affect security.

It was also said that the NGOs should exploit to a stronger degree the existing flexibility existing in the FPA in the way that not everything was written down.

Mrs Adinolfi then went on to explain ECHO's concept of partnership and possibilities for extended dialogue in the future, this turn in the discussion did not permit to discuss the pending issues of arbitration and cofinancement.

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Annex B:

New list of eligible expenses for staff

Period covered includes briefing and debriefing

Remuneration:

1. Salary and/or allowances
2. Social Security
3. Taxes
4. Rest Periods
5. Insurance, except war insurance, (for example: health care, invalidity, death, assistance, social liability)
6. Salary during briefing and debriefing and/or allowances
7. Termination costs
8. Other

Travel:

Employee and family (if applicable):

1. International return trip to operation
2. Airport taxes

3. Visa and translation of official documents
4. National Travel to Operation (from national airport to project for example)
5. Travel Insurance
6. Travel for rest periods
7. Other

(It was agreed to include the cost of internal flights in the Local Transport budget line - we need to make this explicit in the line Other)

Subsistence:

1. Accommodation (for example rent, housekeeping, maintenance, charges)
2. Per Diem or Living Costs - (including family)
3. School fees
4. Costs related to expatriation
5. Other

Medical Costs:

Employee and family (if applicable):

1. Medication
2. Vaccination
3. Hospitalisation (not covered by insurance)
4. Counselling
5. Psychological debriefing
6. Other

Training:

1. On-the-job training
2. security training
3. humanitarian training
4. other specific training linked to the operation

Follow-up costs and redeployment of expatriates

Recruitment costs (excluding salary of staff doing the recruitment)

Annex C:

Article 22: Eligibility of expenditure

1. The expenses eligible for financing are listed in the annex.
2. The operation contract shall stipulate the date from which expenditure is eligible.

In general, expenditure is eligible from the start-up date of the operation up to three months after the end of the operation, as long as expenditure has been committed during the period of implementation of the operation on the ground.

2. At the express and duly substantiated request of the humanitarian organisation, the date of eligibility may be prior to the start-up date of the operation. This eligibility date can then be:
 - either the date on which ECHO receives the financing request of the humanitarian organisation;
 - or the date of the decision of the Commission;
 - or the date expressly stipulated in that Commission decision.

4. In exceptional cases and for emergency or extremely urgent humanitarian operations, ECHO may consider eligible expenditure incurred by the humanitarian organisation before the date on which ECHO receives the request for financing.

5. In accordance with Article 8 of the General Conditions, ECHO reserves the right to declare staff expenditure ineligible, in full or in part, in the event of serious professional shortcomings, a clear inability to meet operational needs or evident disregard for the applicable procedures on the part of

the aforementioned staff responsible for implementation of the project.

6. ECHO reserves the right to consider ineligible expenditure incurred by the humanitarian organisation in relation to supplies, services or equipment, in full or in part, in cases where the provisions of Articles 9, 10, 11 and 12 of the General Conditions are not met.

7. In cases where the objectives of the operation have not been achieved as a result of serious incompetence on the part of the humanitarian organisation, without prejudice to the application of other administrative measures, such as the termination of the Framework Partnership Agreement signed with the humanitarian organisation, ECHO reserves the right to consider ineligible the general administrative expenditure referred to in Article 21(5) of the General Conditions.