

To [REDACTED]

Date May 22 2025

Subject Meijers Committee's urge to prevent criminalization of humanitarian assistance under the Facilitation Directive

Meijers  
Committee  
Standing  
committee of  
experts on  
international  
immigration,  
refugee and  
criminal law

Address  
Surinameplein  
124  
1058 GV  
Amsterdam

T 020 362 05 05

[Website](#)

[E-mail](#)

Dear permanent representatives to the EU,

In response to the European Commission's Facilitators Package, the Meijers Committee issued a [Comment](#) containing several recommendations addressing our concerns that the proposal could enable the criminalization of humanitarian assistance. One key recommendation was to amend Article 3(1) of the Facilitation Directive to explicitly exempt actions by natural or legal persons providing humanitarian assistance from the scope of the definition. We also proposed the inclusion of a specific definition of 'humanitarian assistance' under Article 2 ('Definitions') of the proposed amended Facilitation Directive.

On March 6, 2025, we issued a [letter](#) that addressed the need to reconcile the legal basis of the Facilitators Directive under Article 83 TFEU with safeguards aimed at preventing the criminalisation of humanitarian assistance. In this letter, we reacted to the confusion on whether Article 83 TFEU can serve as a basis for excluding criminalisation and argued that it in fact provides sufficient grounds to ensure that humanitarian actors are protected from prosecution. We stated that, in the absence of an exemption from criminalization under Article 83 TFEU, such obligations can be derived from the Charter of Fundamental Rights, which can limit the scope of criminalization, as well as from the constitutional traditions of Member States - particularly the principle of proportionality and *ultima ratio*.

Since then, based on our discussions with stakeholders, the focus has shifted from *whether* humanitarian workers should or can be exempted, to *how* such an exemption can be effectively incorporated into the Facilitation Directive. The exemption should make a clear distinction between humanitarian assistance and criminal behaviours, to ensure that the scope of the exemption does not further facilitate criminal networks or is abused by those networks. In this context, we welcome the [Draft Report of the LIBE Committee](#) which, in line with our above recommendations, proposes an exception for humanitarian assistance under the newly added Article 3(2)(a), along with an amendment providing a definition of 'humanitarian assistance' and a description of such actions under the new Recital 7(a).

The newly proposed Article 2(1)(2a) under the Draft Report defines humanitarian assistance as *"short-term or long-term actions taken to save lives, alleviate suffering and maintain human dignity during and after man-made crises and disasters, including actions to reduce vulnerabilities and promote and protect human rights, governed by the humanitarian principles of: humanity, impartiality, neutrality and independence"*.

The Meijers Committee wishes to contribute to this definition aiming to strengthen both legal clarity and political defensibility. We propose to define humanitarian assistance under Article 2(1)(2a) as follows: *"Humanitarian assistance" means short-term or long-term actions taken to save lives, alleviate suffering or maintain human dignity during and after crises or disasters, including actions to reduce vulnerability and promote and protect human rights. Such actions must be undertaken without the intention of financial or material gain and not for the purpose of*

*furthering organised criminal activity, and must be carried out in accordance with the humanitarian principles of humanity, impartiality, neutrality and independence”.*

By removing the term ‘man-made’, the proposed definition ensures that humanitarian assistance also encompasses actions relating to natural disasters, public health emergencies, or mixed causes, to which humanitarian actors frequently respond. Additionally, it enhances legal clarity by explicitly excluding actions carried out with the purpose of furthering organized criminal activity, thereby addressing concerns about the potential exploitation of the exemption by smuggling networks. At the same time, it avoids ambiguous language such as “coordination with”, which could criminalize legitimate humanitarian efforts conducted near irregular migration routes. Moreover, the use of the phrase “must be undertaken” emphasizes the intention behind the action, ensuring that protection is based on the actor’s humanitarian purpose rather than the consequences.

In light of these considerations, the Meijers Committee encourages the LIBE Committee to adopt a definition that safeguards genuine humanitarian action while clearly delineating boundaries to prevent the misuse of any exemption.

Best wishes,



Prof. Ashley Terlouw  
Chairwoman Meijers Committee