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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

No. prev. doc.: 15058/16, 7630/17
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Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 1303/2013 as regards specific measures to provide additional assistance to Member States affected by natural disasters
- Preparation for trilogue

I. INTRODUCTION

1. On 30 November 2016, the Commission transmitted to the Council its proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards specific measures to provide additional assistance to Member States affected by natural disasters¹.

¹ Doc. 15058/16.

2. The Commission proposal introduces the possibility of a separate priority axis for reconstruction operations supported by the ERDF within an operational programme, with the possibility to finance such operations fully from the ERDF, thus without the need for national co-financing. Operations falling within this priority axis are those linked to reconstruction in response to major or regional natural disasters in line with and complementing the type of support available under Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund. It is worth noting that the proposal remains within the limits of the overall ERDF allocation for the 2014-2020 period and is therefore budgetary neutral.
3. The proposal was examined by the Structural Measures Working Party on 8 December 2016 under the Slovak Presidency, as well as on 12 January, 16 and 27 March 2017 under the Maltese Presidency.
4. On 29 March 2017, the Permanent Representatives Committee gave a mandate to the Presidency to start negotiations with the European Parliament. The mandate included only one change in relation to the original Commission proposal: the co-financing rate appearing both in recital (1) and Article 1 of the proposal was changed from 100% to 90%.
5. The position of the European Parliament was formally adopted at its Plenary session of 3-6 April 2017. The Chair of the REGI Committee (Ms. Mihaylova, ALDE, BG) is the rapporteur for the file.

II. STATE OF PLAY

6. The first trilogue on this file took place on 3 May 2017 in a constructive atmosphere. Based on the clear mandate received from the Permanent Representatives Committee, the Presidency defended the importance of safeguarding the co-financing principle, stressing that some level of national co-financing remains essential in Cohesion Policy.
7. The European Parliament strongly defended its only amendment: the existence of a ceiling on the total ERDF allocation for the 2014-2020 period, putting a limit to the financing of reconstruction operations following a natural disaster.

8. After some debate, both institutions agreed to further discuss and consult their respective constituencies for certain flexibility on the two proposed amendments (i.e. the one proposed by the Council and the one proposed by the European Parliament) in order to find a suitable compromise for both co-legislators.
9. Following informal contacts with delegations as well as with the European Parliament, the Presidency believes it is in a position to put forward a compromise proposal towards a successful conclusion of the negotiations.

III. CONCLUSION

10. Against this background, the Permanent Representatives Committee is invited to:
 - agree on the revised mandate with regard to the proposed regulation, as set out in the Annex to this note²;
 - invite the Presidency to continue negotiations with the European Parliament on the basis of the proposed revised mandate.

² Changes to the Commission proposal (doc. 15058/16) as proposed by the Presidency are indicated in **bold underlined** for additions and ~~strikethrough~~ for deletions in the Annex to this note.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 1303/2013 as regards specific measures to provide additional assistance to Member States affected by natural disasters

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 177 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

After consulting the European Economic and Social Committee³,

After consulting the Committee of the Regions⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In order to provide additional assistance to Member States affected by natural disasters, the possibility of introducing within an operational programme a separate priority axis with a co-financing rate of up to ~~100~~ **95** % should be provided under the European Regional Development Fund ('ERDF') investment priorities, set out in Regulation (EU) No 1301/2013 of the European Parliament and of the Council⁵.

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289).

- (2) The operations that may be co-financed under this separate priority axis are those linked to reconstruction in response to major or regional natural disasters as defined in Council Regulation (EC) No 2012/2002⁶ establishing the European Union Solidarity Fund.
- (3) For operations under the separate priority axis for natural disasters, a derogation to the general rules concerning the starting date of eligibility of expenditure in relation to expenditure that becomes eligible as a result of an amendment of a programme should be introduced to ensure the possibility to co-finance measures taken by Member State authorities directly after the disaster occurred and before the operational programme is amended.
- (4) In order to allow for the eligibility of expenditure incurred and paid from the date when the natural disaster occurred, even if this is before the entry into force of this Regulation, the corresponding provision on the starting date of eligibility of expenditure of beneficiaries should have retroactive effect.
- (5) Therefore, Regulation (EU) No 1303/2013 should be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 120 of Regulation (EU) No 1303/2013, the following paragraph is added.

'8. A separate priority axis with a co-financing rate of up to ~~400~~ **95** % may be established within an operational programme to support operations which fulfil the following conditions:

- a) the operations are selected by managing authorities in response to major or regional natural disasters as defined in Council Regulation (EC) No 2012/2002;
- b) the operations aim at reconstruction in response to the natural disaster; and
- c) the operations are supported under an ERDF investment priority.

The amount allocated to the operations referred to in the first subparagraph shall not exceed 10 % of the total ERDF allocation in a Member State for the 2014-2020 programming period.

By way of derogation from Article 65(9), expenditure for operations under this priority axis shall be eligible from the date when the natural disaster occurred.

⁶ Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3).

Where expenditure in relation to operations referred to in the first subparagraph has been included in a payment application submitted to the Commission before the establishment of the separate priority axis, the Member State shall make the necessary adjustments to the next payment application and, where appropriate, to the next accounts submitted following the adoption of the amendment to the programme.'

Article 2

Entry into force and application

This regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 1 shall apply from 1 January 2014.

Done at Brussels,

For the European Parliament

The President

For the Council

The President