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from:	General Secretariat
to:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund - Outcome of the European Parliament's first reading (Strasbourg, 14 to 17 April 2014)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Rosa ESTARÀS FERRAGUT (EPP, ES), presented one compromise amendment (amendment 18) to the proposal for a Regulation, on behalf of the Committee on Regional Development. This amendment had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 16 April 2014, the plenary adopted the compromise amendment (amendment 18) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

European Union Solidarity Fund *I**

European Parliament legislative resolution of 16 April 2014 on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund (COM(2013)0522 – C7-0231/2013 – 2013/0248(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0522),
 - having regard to Article 294(2) and the third paragraph of Article 175 and Article 212(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0231/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 10 December 2013¹,
 - having regard to the opinion of the Committee of the Regions of 28 November 2013²,
 - having regard to the undertaking given by the Council representative by letter of 12 March 2014 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Regional Development and the opinion of the Committee on Budgets (A7-0078/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

Position of the European Parliament adopted at first reading on 16 April 2014 with a view to the adoption of Regulation (EU) No .../2014 of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund

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 the third paragraph of Article 175 and Article 212(2) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ Opinion of 10 December 2013 (not yet published in the Official Journal).

² Opinion of 28 November 2013 (not yet published in the Official Journal).

³ Position of the European Parliament of 16 April 2014.

Whereas:

- (1) The European Union Solidarity Fund ('the Fund') was established by Council Regulation (EC) No 2012/2002¹.
- (2) *It is important for the Union to have at its disposal a sound and flexible instrument to allow it to show solidarity, send a clear political signal and provide genuine assistance to citizens affected by major natural disasters that have serious repercussions on economic and social development.*
- (3) The Union's *declared intention to assist candidate countries on the path towards stability and sustainable economic and political development through a clear European perspective should not be set back by the adverse effects of major natural disasters.* The Union should, *therefore*, continue to show solidarity with *the third countries that are involved in accession negotiations with it, and with which an intergovernmental accession conference has been opened.* The inclusion of those countries in the scope of this Regulation entails, *as a consequence*, recourse to Article 212 of the Treaty on the Functioning of the European Union (TFEU) as *an additional* legal basis.

¹ Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3).

- (4) The Commission should be in a position to take a rapid decision to commit specific financial resources and to mobilise them as quickly as possible. Administrative procedures should be adjusted accordingly and limited to the minimum necessary. To that end, the European Parliament, the Council and the Commission concluded the Interinstitutional Agreement of 2 December 2013 on budgetary discipline, on cooperation in budgetary matters and on sound financial management¹.
- (5) The terminology contained in, and procedures laid down under, Regulation (EC) No 2012/2002 should be aligned with the provisions of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council².

¹ Interinstitutional Agreement between the European Parliament, the Council and the Commission of 2 December 2013 on budgetary discipline, on cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).

² Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (6) The definition of a natural disaster, which determines the scope of Regulation (EC) No 2012/2002, should be unambiguous.
- (7) Damage caused by other types of disaster that through a cascading effect are the direct consequence of a natural disaster should, for the purposes of Regulation (EC) No 2012/2002, be considered to be part of the direct damage caused by that natural disaster.
- (8) In order to codify established practice and to ensure equal treatment of applications financial contributions from the Fund should be awarded in respect of direct damage only.
- (9) A major natural disaster within the meaning of Regulation (EC) No 2012/2002 should be further defined as a disaster that has caused direct damage above a threshold expressed in financial terms. Such damage should be expressed in the prices of a reference year, or as a percentage of the gross national income (GNI) of the State concerned.

- (10) In order to better take into account the specific nature of natural disasters which, although ***having serious repercussions for the economic and social development of the regions concerned***, do not reach the minimum scale required to benefit from a financial contribution from the Fund, the criteria for regional natural disasters should be determined based on the damage calculable by reference to regional gross domestic product (GDP), ***whereby the specific structural social and economic situation, compounded by the special features of Guadeloupe, French Guiana, Martinique, Réunion, Mayotte, Saint-Martin, the Azores, Madeira and the Canary Islands, as outermost regions within the meaning of Article 349 TFEU, justifies the establishment for them of a special threshold of 1% of the GDP as a derogation.*** Those criteria should be determined in a clear and simple manner in order to reduce the possibility of applications being submitted which do not meet the requirements set out in Regulation (EC) No 2012/2002.

- (11) For the purposes of determining direct damage, data with a harmonised format, provided by Eurostat, should be used in order to allow an equitable treatment of applications.
- (12) The Fund should contribute to the restoration of infrastructure to working order, to the cleaning up of disaster-stricken areas and to the costs of rescue services and temporary accommodation for the population concerned during the whole implementation period. ***The meaning of restoration of infrastructure to working order should be defined, and the extent to which the Fund will be able to contribute to the corresponding costs clarified.*** The time-frame during which it is possible to consider the accommodation of people made homeless by a natural disaster to be temporary should also be defined.
- (13) The provisions of Regulation (EC) No 2012/2002 should be aligned with the general Union funding policy in relation to value added tax.

- (14) It should also be specified *to what extent* it is possible for eligible operations *to* include expenditure for technical assistance.
- (15) In order to preclude beneficiary States from making a net profit from an intervention through the Fund, the conditions under which operations financed by the Fund are able to generate revenue should be specified.
- (16) Certain types of natural disaster, such as, *inter alia*, droughts, develop over an extended period of time before their effects are felt. Provisions should be laid down in order to allow the use of the Fund also in such cases.

- (17) It is important to ensure that eligible States make the requisite efforts to prevent natural disasters from occurring and to mitigate their effects, including by full implementation of relevant Union legislation on disaster risk prevention and management and the use of available Union funding for relevant investments. Provisions should therefore be laid down to make it possible for a failure, ***as established by a final judgment of the Court of Justice of the European Union***, by a Member State to comply with relevant Union legislation on disaster risk prevention and management after having received a financial contribution from the Fund for an earlier natural disaster, to result in the rejection of the application or a reduction of the amount of the financial contribution in the event of a further application in relation to a natural disaster of the same nature.
- (18) It is possible that Member States require financial support in response to a natural disaster more rapidly than is possible through the normal procedure. For this purpose, it is appropriate to provide for the possibility of making an advance payment upon request by the Member State concerned shortly after the application for a financial contribution from the Fund has been submitted to the Commission. The advance should not exceed a certain amount and it should be accounted for when the final amount of the financial contribution is paid out. ***Unduly paid advances should be repaid by the Member State within a determined short period of time***. The payment of an advance should not prejudice the outcome of the final decision on the mobilisation of the Fund.

- (19) Administrative procedures for the payment of a financial contribution should be as simple and time-efficient as possible. Detailed provisions on the implementation of the financial contribution from the Fund should therefore be contained, for Member States, in the implementing acts awarding that financial contribution. However, for beneficiary States which are not yet Member States, separate implementation agreements should be maintained for legal reasons.
- (20) ***The Commission should issue guidance in order to assist the Member States on how to effectively access and use the Fund, and how to apply the simplest way for assistance from the Fund.***
- (21) Regulation (EU, Euratom) No 966/2012 introduced changes in shared and indirect management, including specific reporting requirements which should be taken into account. Reporting obligations should reflect the short implementation period of the Fund operations. The procedures for the designation of the bodies responsible for the management and control of Union funds should reflect the nature of the instrument and not delay the payment of the financial contribution from the Fund. It is therefore necessary to derogate from Regulation (EU, Euratom) No 966/2012.

- (22) Provisions should be laid down to avoid double financing of operations financed by the Fund with other financial instruments of the Union or international legal instruments relating to the compensation of specific damage.
- (23) Declaring expenditure that countries have made from a financial contribution from the Fund should be as simple as possible. A single exchange rate should therefore be used throughout the implementation of the financial contribution for countries that are not members of the euro area.
- (24) In order to ensure uniform conditions for the implementation of Regulation (EC) No 2012/2002, implementing powers should be conferred on the Commission with respect to decisions on particular financial contributions or on any advance payments from the Fund to eligible States.

- (25) The provisions laid down in Regulation (EC) No 2012/2002 governing the protection of financial interests of the Union should be made more specific so as to clearly identify measures for the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used.
- (26) Since the objectives of this Regulation, namely to ensure Union-wide solidarity action to support natural disaster stricken States, cannot be sufficiently achieved by the Member States on an ad-hoc basis, but can rather, by reason of applying a systematic, regular and equitable method of granting financial support involving all Member States according to their capacity, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.
- (27) Regulation (EC) No 2012/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments

Regulation (EC) No 2012/2002 is amended as follows:

(1) Article 2 is replaced by the following:

"Article 2

1. At the request of a Member State or *of a* country involved in accession negotiations with the Union, *hereinafter referred to as 'eligible State'*, assistance from the Fund may be mobilised when serious repercussions on living conditions, the natural environment or the economy occur in one or more regions of that eligible State as a consequence of a major or regional natural disaster having taken place on the territory of the same eligible State or *of a* neighbouring *eligible State*. Direct damage caused *as* the direct consequence of a natural disaster shall be regarded as part of the damage caused by that natural disaster.

2. For the purposes of this Regulation, a ‘major natural disaster’ means any natural disaster resulting, in an eligible State, in direct damage estimated either at over EUR 3 000 000 000 in 2011 prices, or more than 0,6 % of its GNI.
3. For the purposes of this Regulation, a ‘regional natural disaster’ means any natural disaster resulting, █ in a region█ at NUTS level 2 *of an eligible State*, in direct damage in excess of 1,5 % of that *region's gross domestic product (GDP)*.

By way of derogation from the first subparagraph, where the region concerned, in which a natural disaster has occurred, is an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union, 'regional natural disaster' means any natural disaster resulting in direct damage in excess of 1% of that region's GDP.

Where the natural disaster concerns several regions at NUTS level 2, the threshold shall be applied to the █ average GDP of those regions *weighted according to the share of total damage in each region*.

4. Assistance from the Fund may also be mobilised for any natural disaster in an eligible State which is also a major natural disaster in a neighbouring *eligible State*.
5. For the purpose of this Article harmonised statistical data provided by Eurostat shall be used.";

(2) Article 3 is amended as follows:

(a) Paragraphs 1, 2 and 3 are replaced by the following:

- "1. The assistance shall take the form of a financial contribution from the Fund. For each natural disaster a single financial contribution shall be awarded to an eligible State.
2. The aim of the Fund is to complement the efforts of the States concerned and to cover part of their public expenditure in order to help the eligible State to carry out, depending on the type of natural disaster, the following essential emergency and recovery operations:

- (a) restoring the working order of infrastructure and plant in the fields of energy, water and waste water, telecommunications, transport, health and education;
- (b) providing temporary accommodation and funding rescue services to meet the needs of the population concerned;
- (c) securing of preventive infrastructures and measures of protection of the cultural heritage;
- (d) cleaning up of disaster-stricken areas, including natural zones, ***in line with, where appropriate, eco-system based approaches, as well as immediate restoration of affected natural zones to avoid immediate effects from soil erosion.***

For the purposes of point (a), 'restoring the working order' means restoring infrastructure and plant to their condition prior to the occurrence of the natural disaster. Where it is not legally possible or economically justified to restore the condition prior to the occurrence of the natural disaster, or where the beneficiary State decides to relocate or improve the functionality of the affected infrastructure or plant in order to improve its capacity to withstand future natural disasters, the Fund may contribute to the cost of restoration only up to the estimated cost of returning to its status quo ante.

Costs in excess of the level of cost referred to in the second subparagraph shall be financed by the beneficiary State from its own or, where possible, from other Union funds.

For the purposes of point (b), 'temporary accommodation' means accommodation that lasts until the population concerned are able to return to their original homes following their repair or reconstruction.

3. Payments from the Fund are limited to financing measures alleviating non-insurable damage and shall be recovered if the cost of repairing the damage is subsequently met by a third party in accordance with Article 8(4).";
- (b) The following paragraphs are added:
- "4. Value added tax (VAT) shall not constitute eligible expenditure of an operation, unless it is non-recoverable under national VAT legislation.
 5. Technical assistance *for* management, monitoring, information and communication, complaint resolution, and control and auditing, shall not be eligible for a financial contribution from the Fund.

Costs relating to the preparation and implementation of operations referred to in paragraph 2, including costs relating to essential technical expertise, shall be eligible as part of project costs.

6. *Where revenue is generated from operations referred to in paragraph 2 with a financial contribution from the Fund, the* total financial contribution from the Fund shall not *exceed* the total *net costs* of emergency and recovery operations borne by the beneficiary State. The beneficiary State shall include a statement to that effect in the report on the implementation of the financial contribution from the Fund pursuant to Article 8(3).
7. On 1 October each year, at least one-quarter of the annual amount of the Fund should remain available in order to cover needs arising until the end of the year.";

(3) Article 4 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. As soon as possible and no later than *twelve* weeks after the first occurrence of damage as a consequence of a natural disaster, the responsible national authorities of an eligible State may submit an application for a financial contribution from the Fund to the Commission providing, as a minimum, all available information on:

- (a) the total direct damage caused by the natural disaster and its impact on the population, the economy and the environment concerned;
- (b) the estimated cost of the operations referred to in Article 3(2);
- (c) any other sources of Union funding;

- (d) any other sources of national or international funding, including public and private insurance coverage which might contribute to the costs of repairing the damage;
- (e) ***a short description of*** the implementation of Union legislation on disaster risk prevention and management related to the nature of the natural disaster;"



(b) The following paragraphs are inserted:

"1a. In justified cases the responsible national authorities may submit, after the deadline referred to in paragraph 1, additional information in order to complete or update their application.

1b. The Commission shall prepare guidance on how to access and implement the Fund effectively. The guidance shall be drawn up by 30 September 2014 and shall provide detailed information on the procedures for drafting the application, including requirements for the information to be submitted to the Commission. The guidance shall be made public on the websites of the relevant Directorate Generals of the Commission and the Commission shall ensure its wider dissemination to eligible States.

- 1c. In the event of a progressively unfolding natural disaster, the deadline referred to in paragraph 1 shall run from the date on which the public authorities of the eligible State take official action for the first time against the effects of the natural disaster **or** from the date they declared a state of emergency.";

(c) Paragraphs 2 to 5 are replaced by the following:

- "2. On the basis of the information referred to in paragraph 1, and any clarifications to be provided by the eligible State, the Commission shall assess whether the conditions for mobilising the Fund are met and shall determine the amount of any possible financial contribution from the Fund as quickly as possible ***and no later than six weeks after receipt of the application, counting from the date of receipt of the complete application and excluding the time needed for translation,*** within the limits of the financial resources available.

If the Commission *decides on a financial* contribution from the Fund based on an application received after ...⁺ for a natural disaster *falling under the scope of this Regulation*, it may reject a further application for a *financial* contribution relating to a natural disaster of the same nature or reduce the amount to be *made available* where the Member State is the subject of infringement proceedings and *the Court of Justice of the European Union has delivered a final judgment that the Member State concerned has* failed to implement Union legislation on disaster risk prevention and management, which *is directly linked* to the nature of the natural disaster suffered.

The Commission shall treat all applications for a financial contribution from the Fund in an equitable manner.

⁺ OJ: please insert the date of the entry into force of this Regulation.

3. When the Commission has concluded that the conditions are met for providing a financial contribution from the Fund, the Commission shall without delay submit to the European Parliament and the Council the necessary proposals for mobilisation of the Fund and to authorise the corresponding appropriations. Those proposals shall include:

- (a) all available information, as referred to in paragraph 1;**
- (b) all other relevant information in the possession of the Commission;**
- (c) a demonstration that the conditions of Article 2 are met; and**
- (d) a justification of the amounts proposed.**

The decision to mobilise the Fund shall be taken jointly by the European Parliament and the Council as soon as possible after the submission of the proposal by the Commission.

Both the Commission, on the one hand, and the European Parliament and the Council, on the other hand, shall endeavour to minimise the time taken to mobilise the Fund.

4. Once the appropriations are made available by the European Parliament and the Council, the Commission shall *adopt a decision, by means of* an implementing *act*, awarding the *financial* contribution from the Fund and shall pay that financial contribution immediately and in a single instalment to the beneficiary State. If an advance has been paid pursuant to Article 4a only the balance shall be paid.
5. The eligibility period for expenditure shall begin on the date of the first occurrence of damage as referred to in paragraph 1. In the event of a progressively unfolding natural disaster, the eligibility period for expenditure shall begin on the date at which the public authorities of the eligible State took action for the first time or from the date they declared a state of emergency, as referred to in paragraph 1c.";

(4) The following Article is inserted:

■

"Article 4a

1. When submitting an application for a financial contribution from the Fund to the Commission, a Member State may request the payment of an advance. The Commission shall make a preliminary assessment of whether the application fulfils the conditions laid down in Article 4(1) and verify the availability of budgetary resources. Where those conditions are fulfilled and sufficient resources are available, the Commission may adopt a decision, ***by means of an implementing act***, awarding the advance and pay it out without delay before the decision referred to in Article 4(4) has been taken. The payment of an advance shall be made without prejudice to the final decision on the mobilisation of the Fund.

2. **■** The amount of the advance shall not exceed 10 % of the amount of the financial contribution anticipated and shall in no case exceed EUR 30 000 000. Once the definitive amount of the financial contribution has been determined, the Commission shall take into account the sum of the advance prior to the balance of the financial contribution being paid. The Commission shall recover unduly paid advances.
3. ***Any repayment due to be made to the general budget of the Union shall be effected before the due date indicated in the order for recovery drawn up in accordance with the Article 78 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council *. The due date shall be the last day of the second month following the issue of the order.***
4. ***When adopting the draft general budget of the Union for a given financial year, the Commission shall, where necessary in order to ensure the timely availability of budgetary resources, propose to the European Parliament and the Council to mobilise the Fund in an amount up to a maximum of EUR 50 000 000 for the payment of advances and propose to enter the corresponding appropriations into the general budget of the Union.***

*The budgetary arrangements shall comply with the ceilings referred to in Article 10 (1) of Council Regulation (EU, Euratom) No 1311/2013**.*

* *Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).*

** *Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).'';*

(5) Article 5 is replaced by the following:

"Article 5

1. An **implementing act** adopted pursuant to Article 4(4) shall contain in its Annex detailed provisions for the implementation of the financial contribution from the Fund.

Those provisions shall describe, in particular, the type and location of operations to be financed by the Fund following a proposal by the eligible State.

2. Before paying out a financial contribution from the Fund to an eligible State that is not a Member State, the Commission shall conclude a delegation agreement with that State laying down detailed provisions for the implementation of the financial contribution from the Fund referred to in paragraph 1 in accordance with Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012*, as well as the obligations relating to natural disaster risk prevention and management.

3. Responsibility for selecting individual operations and implementing the financial contribution from the Fund shall lie with the beneficiary State, in accordance with this Regulation, in particular Article 3(2) and (3), the implementing act referred to in Article 4(4) and, where applicable, the delegation agreement referred to in paragraph 2 of this Article.
4. The financial contribution from the Fund to a Member State shall be implemented within the framework of shared management in accordance with Regulation (EU, Euratom) No 966/2012. The financial contribution from the Fund to an eligible State that is not a Member State shall be implemented within the framework of indirect management in accordance with that Regulation.

5. Without prejudice to the Commission's responsibility for implementing the general budget of the Union, beneficiary States shall take responsibility for the management of operations supported by the Fund and the financial control of the operations. The measures they take shall include:
- (a) verifying that management and control arrangements have been set up and are being implemented in such a way as to ensure that Union funds are being used efficiently and correctly, in accordance with the principles of sound financial management;
 - (b) verifying that the financed actions have been properly carried out;
 - (c) ensuring that expenditure funded is based on verifiable supporting documents, and is correct and regular;
 - (d) preventing, detecting and correcting irregularities and recovering amounts unduly paid together with interest on late payments where appropriate. They shall notify any such irregularities to the Commission, and keep the Commission informed of the progress of administrative and legal proceedings.

6. Beneficiary States shall designate bodies responsible for the management and control of the operations supported by the Fund in accordance with Articles 59 and 60 of Regulation (EU, Euratom) No 966/2012. In doing so they shall take into account criteria on internal environment, control activities, information and communication, and monitoring. Member States may designate the bodies already designated under Regulation (EU) No 1303/2013 of the European Parliament and of the Council **.

Those designated bodies shall provide the Commission with the information set out in Article 59(5) or Article 60(5) of Regulation (EU, Euratom) No 966/2012 covering the whole of the implementation period when submitting the report and the statement referred to in Article 8(3) of this Regulation.

7. The beneficiary State shall make the financial corrections required where an irregularity is ascertained. The corrections made by the beneficiary State shall consist of cancelling all or part of the financial contribution from the Fund. The beneficiary State shall recover any amount lost as a result of an irregularity detected.

8. Without prejudice to the powers of the Court of Auditors or the checks carried out by the beneficiary State in accordance with national laws, regulations and administrative provisions, *the* Commission **I** may carry out on-the-spot checks on the operations financed by the Fund. The Commission shall give notice to the beneficiary State with a view to obtaining all the assistance necessary. Officials or other servants of the Member State concerned may take part in such checks.
9. The beneficiary State shall ensure that all supporting documents regarding expenditure incurred are kept available for the Commission and the Court of Auditors for a period of three years following the *closure* of the assistance from the Fund.

* Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

** Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).";

(6) Article 6 is replaced by the following:

"Article 6

- 1. The beneficiary State shall be responsible for coordinating the financial contribution from the Fund to the operations referred to in Article 3, on the one hand, with assistance from the European Structural and Investment Funds, the European Investment Bank and other Union financing instruments, on the other.**
2. The beneficiary State shall ensure that expenditure reimbursed in accordance with this Regulation shall not be reimbursed through other Union financing instruments in particular through instruments of cohesion, agricultural or fisheries policy.
3. Damage repaired under Union or international instruments relating to the compensation of specific damage shall not be eligible for assistance from the Fund for the same purpose.";

(7) Article 7 is replaced by the following:

"Article 7

Operations financed by the Fund shall be compatible with the provisions of the Treaty and instruments adopted under it, with Union policies and measures, in particular in the fields of financial management, public procurement, ***environmental protection, natural disaster risk prevention and management, climate change adaptation including, where appropriate, eco-system based approaches***, and with pre-accession assistance instruments. ***Where applicable, operations financed by the Fund shall contribute*** ■ ***to the objectives of Union in those fields.***";

(8) Articles 8 and 9 are replaced by the following:

"Article 8

1. The financial contribution from the Fund shall be used within *eighteen months* from the date on which the Commission has disbursed the full amount of the assistance. Any part of the financial contribution remaining unused by that deadline or found to be used for ineligible operations shall be recovered by the Commission from the beneficiary State.
2. Beneficiary States shall seek all possible compensation from third parties.
3. No later than six months after the expiry of the *eighteen months* period referred to in paragraph 1, the beneficiary State shall present a report on the implementation of the financial contribution from the Fund with a statement justifying the expenditure, indicating any other source of funding received for the operations concerned, including insurance settlements and compensation from third parties.

The implementation report shall detail :

- (a) the preventive measures, *taken* or proposed by the beneficiary State to limit future damage and to avoid, to the extent possible, a recurrence of similar natural disasters, including the use of Union *Structural and Investment Funds* for this purpose ■ ;
- (b) the state of implementation of relevant Union legislation on disaster risk prevention and management ■ ;
- (c) *the* experience gained from the natural disaster and the measures taken or proposed to ensure *environmental protection and* resilience in relation to climate change and natural disasters; *and*

(d) any other relevant information on prevention and mitigation measures taken related to the nature of the natural disaster.

The implementation report shall be accompanied by an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards, establishing that the statement justifying the expenditure gives a true and fair view and that the financial contribution from the Fund is legal and regular, in line with Article 59(5) and Article 60(5) of Regulation (EU, Euratom) No 966/2012.

At the end of *the* procedure referred to in the first subparagraph, the Commission shall *carry out a closure of* the assistance from the Fund.

4. Where the cost of repairing the damage is subsequently met by a third party, the Commission shall require the beneficiary State to reimburse a corresponding amount of the financial contribution from the Fund.

Article 9

Applications for a financial contribution from the Fund and the implementing acts referred to in Article 4(4), as well as the delegation agreement, reports and any other related documents shall express all amounts in euros.

Amounts of expenditure incurred in national currencies shall be converted into euros at the exchange rates published in the C series of the *Official Journal of the European Union* for ***the day on which the related implementing act has been adopted by the Commission.*** Where no exchange rate is published in the *Official Journal of the European Union* for ***the day on which the related implementing act has been adopted by the Commission,*** conversion shall be made at the average of the monthly accounting rates established by the Commission, determined over that period. This single exchange rate shall be used throughout the implementation of the financial contribution from the Fund and as the basis for the final implementation report and the statement on the implementation and the elements required under Article 59(5) or Article 60(5) of Regulation (EU, Euratom) No 966/2012 of the financial contribution.";

(9) In Article 10, paragraph 2 is replaced by the following:

"2. In the event of a significantly lower valuation of the damage incurred, as shown by new elements, the beneficiary State shall reimburse the corresponding amount of the financial contribution from the Fund to the Commission.";

(10) Article 11 is replaced by the following:

"Article 11

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all funding beneficiaries, contractors, subcontractors who have received Union funds under this Regulation.
3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council * and Council Regulation (Euratom, EC) No 2185/96 ** with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a contract concerning Union funding.

4. Without prejudice to paragraphs 1, 2 and 3, delegation agreements with third countries, contracts and decisions awarding a financial contribution from the Fund resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

* Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

** Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).";

(11) Articles 13 and 14 are deleted.

Article 2
Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ,

For the European Parliament
The President

For the Council
The President