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

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States and countries negotiating their accession to the Union seriously affected by a major public health emergency
- Mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 13 March 2020, the Commission transmitted to the Council the proposal for a Regulation amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States and countries negotiating their accession to the Union seriously affected by a major public health emergency (doc. 6817/20).

2. In the context of the Commission's coordinated economic response to the COVID-19 outbreak, the objective of the proposal is to extend the scope of the EU Solidarity Fund to include major public health emergencies and to define specific operations eligible for financing. The EU Solidarity Fund will then be able to provide assistance to the population affected by a health emergency such as the COVID-19 one, to contribute to a rapid return to normal living conditions in the affected regions and to contain the spreading of infectious diseases.

II. PRESIDENCY COMPROMISE PROPOSAL

3. On 16 March 2020, the Permanent Representatives Committee held an exchange of views on the Union's coordinated response to the COVID-19 outbreak, including the proposal for amending the EU Solidarity Fund.
4. The Working Party on Structural Measures thoroughly examined the Commission proposal at its meeting on 17 March 2020. The majority of delegations gave support to the proposal, including preference for a speedy adoption of the legal act.
5. The Working Party did not object to the Presidency's approach of proceeding by taking over the Commission's proposal, as set out in the Annex to this note.

III. SUBMISSION TO COREPER

6. On that basis, the Permanent Representatives Committee is invited to:
 - confirm the agreement reached in favour of the compromise package concerning the proposal for a Regulation amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States and countries negotiating their accession to the Union seriously affected by a major public health emergency, as set out in the Annex to this note.

- authorise the Presidency to send a letter to the Chair of the European Parliament's Committee on Regional Development confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise text contained in the Annex (subject to revision by the legal linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.
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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States and countries negotiating their accession to the Union seriously affected by a major public health emergency

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 procedure,

Whereas:

- (1) The European Union Solidarity Fund ('the Fund') was established by Council Regulation (EC) No 2012/2002³. The Fund was created to provide financial assistance to Member States following major disasters as a concrete sign of European solidarity in situations of distress.
- (2) In the event of major public health emergencies, the Union should show its solidarity with the Member States and the population concerned by providing financial assistance to assist the population affected, contribute to a rapid return to normal living conditions in the affected regions and to contain the spreading of infectious diseases.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ L 311, 14.11.2002, p. 3.

- (3) The Union should also show solidarity in the event of major public health emergencies with the countries negotiating their accession to the European Union.
- (4) A major crisis situation may result from public health emergencies, in particular an officially declared virus pandemic. The Fund enables the Union to help in mobilising emergency services to meet people's immediate needs and contribute to the short-term restoration of damaged key infrastructure so that economic activity can resume in the disaster-stricken regions. That Fund is currently however limited to natural disasters causing physical damage and does not include major disasters due to biological hazards. Provision should be made to allow the Union to intervene in the event of major public health emergencies.
- (5) The objective of the action to be taken is to complement the efforts of the States concerned in such cases where the effects of a crisis situation are of such gravity that those States cannot tackle the situation with their own means alone. Since this objective cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, 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. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (6) In line with the principle of subsidiarity, action under this Regulation should be confined to major public health emergencies. These should be defined depending on the basis of the public expenditure necessary to address them.
- (7) Union assistance should be complementary to the efforts of the States concerned and be used to cover a share of the public expenditure committed to dealing with the most essential emergency operations resulting from the emergency situation.
- (8) In line with the principle of subsidiarity, Union assistance should only be awarded upon application of the affected State. The Commission should ensure equitable treatment of requests presented by the States.
- (9) The Commission should be able to take a rapid decision to commit specific financial resources and to mobilise them as quickly as possible. The existing provisions for making advance payments should therefore be strengthened by increasing their amounts.
- (10) This Regulation should enter into force as a matter of urgency on the day following that of its publication in the Official Journal of the European Union.
- (11) Regulation (EC) No 2012/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

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, human health, 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 a major public health emergency having taken place on the territory of the 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 “major public health emergency” means any life-threatening or otherwise serious hazard to health of biological origin in an eligible State seriously affecting human health and requiring decisive action to contain further spreading resulting in a public financial burden inflicted on the eligible State for emergency response measures estimated at over EUR 1 500 000 000 in 2011 prices, or more than 0.3% of its GNI.

4. 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.

5. 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.

6. For the purpose of this Article, harmonised statistical data provided by Eurostat shall be used.’.

2. In Article 3, paragraphs 1 and 2 are replaced by the following:

‘1. The assistance shall take the form of a financial contribution from the Fund. For each eligible 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 eligible 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 preventive infrastructure and measures of protection of cultural heritage;
- (d) cleaning up 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;
- (e) measures aiming at rapidly providing assistance, including medical, to the population affected by a major public health emergency and to protect the population from the risk of being affected, including prevention, monitoring or control of the spread of diseases, combating severe risks to public health or mitigating their impact on public health.

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 infrastructure or plant affected 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. In Article 4a, paragraph 3 is replaced by the following:

‘3. The amount of the advance shall not exceed 25% of the amount of the financial contribution anticipated and shall in no case exceed EUR 100 000 000. 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.’.

4. In Article 8, paragraph 3 is replaced by the following:

‘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, depending on the nature of the eligible disaster:

- (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 or public health emergencies, including the use of European 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 disaster and the measures taken or proposed to ensure environmental protection and resilience in relation to climate change, natural disasters and public health emergencies; and
- (d) any other relevant information on prevention and mitigation measures taken related to the nature of the natural disaster or public health emergency.

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.’.

Article 2

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 Brussels,

For the European Parliament
The President

For the Council
The President
