EU Solidarity Fund: technical adjustments

2013/0248(COD) - 15/05/2014 - Final act

PURPOSE: to amend Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund with a view to simplifying its functioning and making it more visible to citizens.

LEGISLATIVE ACT: Regulation (EU) No 661/2014 of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund.

CONTENT: the objective of this Regulation is to ensure Union-wide solidarity action to support natural disaster- stricken States and to apply a systematic, regular and equitable method of granting financial support involving all Member States according to their capacity.

Therefore, the Regulation establishing the Solidarity Fund has been amended as follows:

Eligible states: the Union should 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. 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.

Moreover, the Union should also continue to show solidarity with the **third countries** that are involved in accession negotiations with it. **Direct damage** caused as the direct consequence of a natural disaster shall be regarded as part of the damage caused by that natural disaster.

Major natural disaster: a “major natural disaster” means any natural disaster resulting, in an eligible State, in direct damage estimated either at over EUR 3 million in 2011 prices, or more than 0.6% of its gross national income (GNI).

Regional natural disaster: 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).**

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.

Outermost region: 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 in Guadeloupe, French Guiana, Martinique, Réunion, Mayotte, Saint-Martin, the Azores, Madeira and the Canary Islands should be set at **1% of the GDP**.

Eligible contribution: for each natural disaster a **single financial contribution** shall be awarded to an eligible State.

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:

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- **restoring the working order of infrastructure** and plant in the fields of energy, water and waste water, telecommunications, transport, health and education; 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.
- **providing temporary accommodation** and funding rescue services to meet the needs of the population concerned;
- **securing preventive infrastructure** and measures of protection of cultural heritage;
- **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.

VAT and technical assistance: value added tax (VAT) shall not constitute eligible expenditure of an operation, unless it is non- recoverable under national VAT legislation. Technical assistance for management, monitoring, information and communication, complaint resolution, and control and auditing, should not be eligible for a financial contribution from the Fund. Costs relating to the preparation and implementation of operations, including costs relating to essential technical expertise, should be eligible as part of project costs.

Time-limit for application: this deadline is extended from 10 weeks to **12 weeks** after the first occurrence of damage as a consequence of a natural disaster.

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

Access to the Funds: the Commission shall 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. It shall prepare guidance by **30 September 2014** and 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.

Time-limit for decision: 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 no later than **six weeks** after receipt of the application.

When the Commission has concluded that the conditions are met for providing a financial contribution from the Fund, it 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:

- all available information;
- all other relevant information in the possession of the Commission;
- a demonstration that the conditions in the text are met; and
- 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.

If the Commission decides on a financial contribution from the Fund based on an application received after **28 June 2014** 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.

Advance amount: 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 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. The payment of an advance shall be made without prejudice to the final decision on the mobilisation of the Fund.

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 million**.

When adopting the draft general budget of the Union for a given financial year, the Commission shall propose to the European Parliament and the Council to mobilise the Fund in an amount up to a maximum of **EUR 50 million** for the payment of advances and propose to enter the corresponding appropriations into the general budget of the Union.

Deadline for use of funds granted: 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.

No later than six months after the expiry of the eighteen months period referred to above, 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.

Implementing acts: 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.

ENTRY INTO FORCE: 28.06.2014.