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'I' ITEM NOTE

From:	Presidency
To:	Permanent Representatives Committee (Part 2)
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Subject:	Proposal for a Decision of the European Parliament and of the Council amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism - Partial mandate for negotiations with the European Parliament

1. On 2 June 2020 the Commission submitted to the Council a proposal for a Decision of the European Parliament and of the Council amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism.
2. Acknowledging the need to conclude negotiations quickly on those provisions of the proposal that relate to the financial envelope for the period 2021 - 2027, to ensure their entry into force by 1 January 2021 and thus to enable funding of the Union Civil Protection Mechanism, the Presidency decided to prioritise the financial provisions of the proposal.

3. In addition, following the political guidance provided by the European Council on 21 July 2020, some horizontal provisions related to the Multiannual Financial Framework and to the Recovery package have been included in the text.
- Given that the proposal is an amending act to Decision 1313/2013/EU which has not been established for a specific duration, as a justified exception to the political guidance, the Union Civil Protection Mechanism has not been aligned with the duration of the next Multiannual Financial Framework 2021-2027.
4. At several informal meetings held between July and September 2020 the members of the Working Party on Civil Protection (PROCIV) discussed Articles 19, 19a, 21(3), 25, 27 and 30, Annex I, as well as the corresponding recitals of the above legislative proposal, and a compromise text related to these provisions, submitted by the Presidency. Following the written consultations launched on 29 September 2020, and which ended on 1 October 2020, the Working Party agreed on the Presidency compromise set out in the Annex.
5. The changes are indicated by **bold underlining** and ~~strike-through~~ as compared to the relevant parts of the Commission proposal. The parts of the above articles of the proposal indicated in ~~*italics strike-through*~~ are not covered by this Presidency compromise and are discussed together with the remaining part of the proposal.
6. COREPER is invited to:
- approve the compromise text as set out in the Annex, which will then form the partial mandate for negotiations with the European Parliament in the context of the ordinary legislative procedure of Article 294 TFEU;
 - enter the Council statement set out in the addendum to this document in the Coreper summary record.

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism

(Text with EEA relevance)

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 196 and Article 322(1)(a) 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,

Having regard to the opinion of the Court of Auditors

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

² OJ C , , p. .

Whereas:

- (1) The Union Civil Protection Mechanism ('the Union Mechanism') governed by Decision No 1313/2013/EU of the European Parliament and of the Council³ strengthens cooperation between the Union and the Member States and facilitates coordination in the field of civil protection in order to improve the Union's response to natural and man-made disasters.
- (2) Whilst recognising the primary responsibility of Member States for preventing, preparing for and responding to natural and man-made disasters, the Union Mechanism promotes solidarity between Member States in accordance with Article 3(3) of the Treaty on European Union.
- (2a) Decision No 1313/2013/EU was amended by Decision (EU) 2019/420⁴ which inter alia strengthened the Union's collective response to natural and man-made disasters by establishing a reserve of capacities known as 'rescEU', reinforced the re-named European Civil Protection Pool and enhanced disaster prevention and preparedness. Adequate financial appropriations are required in order to establish, deploy and operate rescEU capacities, which are defined under implementing acts. The Union also needs to be able to further develop the European Civil Protection Pool and cover additional costs stemming from adaptation grants and the operation of capacities committed to the European Civil Protection Pool.**
- (22) **Decision No 1313/2013/EU sets out a financial envelope for the Union Mechanism that constitutes the prime reference amount intended to cover programme expenditure until the end of the 2014-2020 budgetary period. The ~~That~~ financial envelope ~~should~~ set out in ~~Article 19 of Decision No 1313/2013/EU~~ needs to be replaced updated as from the date of applicability of [Council Regulation laying down the multiannual financial framework for the years 2021 to 2027] by the new figures provided therein ~~for in the Commission's updated proposal for the 2021-2027 multiannual financial framework ('MFF')~~.**

³ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

⁴ Decision (EU) 2019/420 of the European Parliament and of the Council of 13 March 2019 amending Decision No 1313/2013 on a Union Civil Protection Mechanism (OJ L 77, 20.3.2019, p. 1).

- (25) **Percentages for adaptation for allocation of financial envelope laid down in** Annex I to Decision No 1313/2013/EU ~~is **are**~~ not flexible enough to allow the Union to properly adjust investments in prevention, preparedness and response ~~and thus it is deleted~~. Investment levels to be allocated to the different phases of the disaster risk management cycle need to be determined in advance. This absence of flexibility prevents the Union from being able to react to the unpredictable nature of disasters. **Therefore, Annex I should be deleted. The Commission should ensure a significant allocation of funds to prevention and preparedness actions in order to guarantee continued investments and long-term sustainability in these areas of the disaster management cycle.**
- (24) In accordance with Regulation (European Union Recovery Instrument) and within the limits of resources allocated therein, recovery and resilience measures under the Union Civil Protection Mechanism should be carried out to address the unprecedented impact of the COVID-19 crisis **on the Member States**⁵. Such additional resources should be used in such a way as to ensure compliance with the **objectives and** time limits provided for in Regulation [ERI].
- (24a) The Commission reports on the implementation of the budget of the Union Civil Protection Mechanism in accordance with Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council (the "Financial Regulation")**⁶.
- (18) In order to promote predictability and long-term effectiveness, when implementing Decision No 1313/2013/EU, the Commission should adopt annual or multi-annual work programmes indicating the planned allocations. This should help the Union to have more flexibility in budget execution and thereby enhance prevention and preparedness actions. **In addition, the projected future allocations should be presented and discussed on a yearly basis in the committee assisting the Commission in accordance with Regulation (EU) No 182/2011.**

⁵ OJ L

⁶ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (23) While prevention and preparedness measures are essential to enhance the robustness of the Union in facing natural and man-made disasters, the occurrence, timing and magnitude of disasters is by its nature unpredictable. As shown in the recent COVID-19 crisis, financial resources requested to ensure an adequate response may significantly vary from year to year and should be made available immediately. Reconciling the principle of predictability with the need to react rapidly to new needs consequently means adapting the financial implementation of the programmes. Consequently, it is appropriate to authorise carry-over of unused appropriations, limited to the following year and solely devoted to response action, in addition to Article 12(4) of the Financial Regulation.
- (19) **Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Decision. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern other conditionalities to protect the budget [and the European Union Recovery Instrument (the ‘European Recovery Instrument’)].⁷**

⁷ **This recital may have to be updated pending the outcome of negotiations on the conditionality regime.**

In particular, in accordance with Regulations (EU, Euratom) 2018/1046⁸ ('the Financial Regulation') and (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁹ and Council Regulations (Euratom, EC) No 2988/95¹⁰, (Euratom, EC) No 2185/96¹¹ and (EU) 2017/1939¹², the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, the imposition of administrative penalties. In ~~particular, in~~ accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office ('EPPO') may investigate and prosecute offences against the financial interests of the Union, as provided for in Directive (EU) 2017/1371¹³ of the European Parliament and of the Council.

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- ⁸ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1)
- ⁹ 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)
- ¹⁰ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1)
- ¹¹ 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)
- ¹² Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1)
- ¹³ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29)

In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, and the European Court of Auditors, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights. For that reason, agreements with third countries and territories and with international organisations, and any contract or agreement resulting from the implementation of this Decision, should contain provisions expressly empowering the Commission, the European Court of Auditors, EPPO and OLAF to conduct such audits, on-the-spot checks and inspections, in accordance with their respective competences and ensuring that any third parties involved in the implementation of Union funding grant equivalent rights.

- (20) Third countries which are members of the European Economic Area may participate in Union programmes in the framework of the cooperation established under the Agreement on the European Economic Area, which provides for the implementation of the programmes by a decision under that Agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Decision to grant the necessary rights for and access to the authorising officer responsible, OLAF, EPPO and the European Court of Auditors to comprehensively exert their respective competence.

(26) Decision No 1313/2013/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

Decision No 1313/2013/EU is amended as follows:

(12) Article 19 is amended as follows:

(a) the following paragraph is inserted:

‘1a. The financial envelope for the implementation of the Union Mechanism for the period 2021 to 2027 shall be EUR ~~4 268 282 000~~ **1 263 000 000** in current prices.’;

(b) paragraph 2 is replaced by the following:

‘2. Appropriations resulting from reimbursement made by the beneficiaries for disaster response actions shall constitute assigned revenue within the meaning of Article 21(5) of the Financial Regulation.’;

(c) paragraph 4 is replaced by the following:

‘4. The financial envelope referred to in paragraphs 1 and 1a shall be allocated to cover actions on preventing, preparing for and responding to natural and man-made disasters.’;

(d) paragraphs 5 and 6 are deleted.

(13) The following Article is inserted:

‘Article 19a

Resources from the European Union Recovery Instrument¹⁴

- (1)** Measures referred to in [Article ~~1(2)~~ (d) and (e)]¹⁵ of Regulation [ERI] shall be implemented under this Decision through an amount amounts of up to EUR 2 056 000 000 in current prices referred to in point ~~[(iv~~ iii) of Article ~~32~~¹⁶(2)(a)]¹⁶ of that Regulation, subject to its [Article ~~4-3~~(4-3), (4), (7) and (8 2)]¹⁷.
- (2)** ~~These amounts~~ This amount shall constitute external assigned revenue ~~in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council~~ as set out in [Article 3(1)]¹⁸ of Regulation [ERI].
- (3)** Measures referred to in paragraph 1 shall be eligible for financial assistance in accordance with conditions set out in this Decision and shall be implemented in full respect of the objectives of [ERI Regulation].
- (4)** Without prejudice to conditions of eligibility of actions in favour of third countries set out in this Decision, the financial assistance referred to in this Article may be granted to a third country only where that assistance is implemented in full respect of the objectives of [ERI Regulation], regardless of whether that third country participates in the Union Mechanism or not.’;

¹⁴ References to the draft Council Regulation on ERI are in line with the text of a preliminary lawyer-linguist revision (not issued yet). They might be further adjusted to reflect the final text of the Regulation.

¹⁵ Corresponds to Art. 2(1)(e) and (f) of document 9785/1/20 REV 1.

¹⁶ Corresponds to point (iii) of Art. 3(2)(a) of document 9785/1/20 REV 1.

¹⁷ Corresponds to Art. 4(3),(4), (7) and (9) of document 9785/1/20 REV 1.

¹⁸ Corresponds to Art. 4(1) of document 9785/1/20 REV 1.

- (15) ~~Article 21 is amended as follows:~~ **the fourth subparagraph of Article 21(3) becomes a new paragraph and is amended as follows:**

“3a. The financial assistance referred to in this article may be implemented by multi-annual work programmes. For actions extending beyond one year, budgetary commitments may be broken down into annual instalments.”

- (18) Article 25 is replaced by the following:

‘Article 25

Types of financial intervention and implementing procedures

1. The Commission shall implement the Union's financial support in accordance with the Financial Regulation.
- ~~2. The Commission shall implement the Union's financial support in accordance with the Financial Regulation in direct management or in indirect management with bodies referred to in Article 62(1)(c) of the Financial Regulation.~~
3. Financial support under this Decision may take any of the forms laid down in the Financial Regulation, in particular the form of grants, procurement or contributions to trust funds.
4. In order to implement this Decision, the Commission shall adopt annual or multi-annual work programmes, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2). The annual or multi-annual work programmes shall set out the objectives pursued, the expected results, the method of implementation and their total amount. They shall also contain a description of actions to be financed, an indication of the amount allocated to each action and an indicative implementation timetable. With regard to the financial support referred to in Article 28(2), the annual or multi-annual work programmes shall describe the actions foreseen for countries referred to therein.

However no annual or multi-annual work programmes shall be required for actions falling under the disaster response laid down in Chapter IV, which cannot be provided for in advance.

4a. For the purposes of transparency and predictability, the budgetary execution and the projected future allocations shall be presented and discussed on a yearly basis in the Committee referred to in Article 33. The European Parliament shall be kept informed.”

5. In addition to Article 12(4) of the Financial Regulation, commitment and payment appropriations, which have not been used by the end of the financial year for which they were entered in the annual budget shall be automatically carried over and may be committed and paid up to 31 December of the following year. The carried-over appropriations shall be used solely for response actions. The carried-over appropriations shall be used first in the following financial year.’

- (19) Article 27 is replaced by the following:

‘Article 27

Protection of the financial interests of the Union

Where a third country participates in the Union Mechanism by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.’

(20) Article 30 is amended as follows:

(a) Paragraph 2 is **deleted** ~~replaced by the following:~~

~~‘2. The power to adopt delegated acts referred to in Article 6(5) and in the second subparagraph of Article 21(3) shall be conferred on the Commission until 31 December 2027.’~~

(b) paragraph 4 is replaced by the following:

‘4. The delegation of power referred to ~~in Article 6(5) and~~ in the ~~second~~ **third** subparagraph of Article 21(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the Decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.’

(c) paragraph 7 is replaced by the following:

‘7. A delegated act adopted pursuant to ~~Article 6(5) or the second~~ **third** subparagraph of Article 21(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.’

(23) Annex I is deleted.

Article 2

Entry into force

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

However, points (a) and (c) of Article 1(12) shall apply from 1 January 2021.

~~*Article 3*~~

Addressees

~~This Decision is addressed to the Member States.~~

Done at Brussels,

For the European Parliament
The President

For the Council
The President
