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| From: | General Secretariat of the Council |
| To: | Delegations |
| No. prev. doc.: | 15942/24 |
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| Subject: | Proposal for a Regulation of the European Parliament and of the Council on RESTORE – Regional Emergency Support to Reconstruction amending Regulation (EU) 2021/1058 and Regulation (EU) 2021/1057 - Mandate for negotiations with the European Parliament |

Delegations will find attached the mandate for negotiations with the European Parliament on the abovementioned proposal, as agreed by the Permanent Representatives Committee at its meeting on 27 November 2024.

Changes compared to the Commission proposal are indicated in **bold underlined** for additions and in ~~strikethrough~~ for deletions.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**RESTORE – Regional Emergency Support to Reconstruction amending Regulation (EU)
2021/1058 and Regulation (EU) 2021/1057**

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 164, Article 175(3) and Article 178, 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,

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

Whereas:

- (1) The recent floods **and wildfires** in Central, Eastern and Southern Europe have had a devastating effect on the populations living in these regions. Extensive reconstruction works will be required in many cities, towns and villages to repair damaged infrastructure and equipment. Immediate measures will be needed to alleviate the social and economic consequences of such natural disasters. In addition, people are in an immediate need of the basic material they lost; and support to job maintenance will be needed to help employees and self-employed retain their jobs for a limited period of time in cases where they are not able to access their usual place of employment due to the occurrence of a natural disaster. In order to tackle the devastating effect of natural disasters on people's health, access to healthcare including for people who are not in imminent socio-economic vulnerability should also be allowed. Evidence suggests that the occurrence of natural disasters is likely to increase in the future. Therefore, it is appropriate to create a **temporary** framework that provides for flexibility and financial support while preserving the long term strategic nature of cohesion policy investments.
- (2) In order to quickly alleviate the burden on the national budgets of the Member States concerned and mitigate the risk of new territorial disparities, effective support is needed through the European Regional Development Fund ('ERDF'), ~~and~~ the European Social Fund Plus ('ESF+') **and the Cohesion Fund** to Member States, regions, local authorities and people severely affected by such natural disasters, in addition to the resources available from the European Union Solidarity Fund.
- (3) In order to provide additional flexibility to Member States affected by natural disasters a new specific objective under the Investment for jobs and growth goal should be provided to channel the financial support of the ERDF **and the Cohesion Fund** for the reconstruction in response to such disasters.

- (4) Policy objective 2, under which the new specific objective should be introduced, directly supports the objectives of the European Green Deal³. The EU Strategy on Adaptation to Climate Change⁴ aims at developing adaptation measures to manage climate change risks, usually in the form of disasters, such as floods, wildfire or droughts. The continuity and reinforcement of planned investments in disaster prevention and preparedness, as well as climate adaptation, should be ensured, in order to mitigate the impact of the increasingly frequent natural, including climate-induced disasters. Reconstruction efforts should not come at the expense of investments in structural long term disaster prevention and preparedness. The application of climate proofing and the “do no significant harm” principle should be ensured when investing in infrastructure to enhance the resilience of Union funded infrastructure in the face of future, more frequent and severe climate-induced disasters.
- (5) In accordance with the scope of support from the ERDF as set out in Regulation (EU) 2021/1058 of the European Parliament and of the Council⁵, support for the reconstruction in response to natural disasters under the new specific objective may cover the restoration of damaged or destroyed infrastructure, such as public infrastructure or investment in fixed capital for businesses and equipment, including at a different location or in a format that is not identical to the original, if necessary, in a resilient and sustainable manner. Furthermore, the restoration of natural areas, biodiversity and green infrastructure, including on Natura 2000 sites, may be supported. This may include relevant reforestation related measures.

The Cohesion Fund may also provide support for the new specific objective insofar as it is in line with the scope of support of the Cohesion Fund set out in Regulation (EU) 2021/1058 of the European Parliament and of the Council⁶.

³ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions ‘The European Green Deal’ - COM(2019) 640 final.

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘Forging a climate-resilient Europe - the new EU Strategy on Adaptation to Climate Change’ – COM(2021) 82 final.

⁵ Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60, ELI: <http://data.europa.eu/eli/reg/2021/1058/oj>).

⁶ **Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60, ELI: <http://data.europa.eu/eli/reg/2021/1058/oj>).**

- (6) In the context of reconstruction in response to natural disasters, operations based on the “build back better” principle – should be prioritised in the selection process. That principle entails the use of the recovery, rehabilitation and reconstruction phases after a disaster to increase the resilience of communities through integrating disaster risk reduction measures, as indicated in the Sendai Framework for Disaster Risk Reduction 2015-2030. At the same time, it should be ensured that support to the selected operations remains proportionate and presents the best relationship between the amount of support and the objective of ensuring disaster resilience. Furthermore, in case a Member State is eligible for support from the European Union Solidarity Fund to finance essential emergency and recovery operations restoring infrastructure to their condition prior to the occurrence of the natural disaster, the ERDF **and the Cohesion Fund** support may be used in a complementary manner **with the European Union Solidarity Fund** to improve the functionality of the infrastructure affected in order to enhance its capacity, sustainability and resilience to withstand future natural disasters. In general, the ERDF **and the Cohesion Fund** support should increase the resilience and risk preparedness.
- (7) In order to exclude overpayment, Member States should ensure that support covered by the ERDF, ~~or~~ the ESF+ **and the Cohesion Fund** does not overlap with support received from other national or Union instruments or private insurance schemes.
- (8) In order to respond to the impact of natural disasters, Member States should be allowed through dedicated priorities to provide a focused, fast and immediate help to alleviate the negative socio-economic consequences of such disasters. In addition, Member States should be able to support, either within or outside the dedicated priority, temporary measures for people directly affected by those disasters in the form of food and/or basic material assistance without the obligation of accompanying measures; and, where strictly necessary and justified, short-time work schemes for employees and self-employed affected by the consequences of natural disasters to retain their jobs even without active measures (unless the latter are imposed by national law) as well as measures to provide access to healthcare including for people who are not in imminent socio-economic vulnerability. Therefore, it is

appropriate to provide for flexibilities for these temporary measures for a limited period of time under Regulation (EU) 2021/1057 of the European Parliament and of the Council⁷.

- (9) The resources to support the response to natural disasters should be programmed under a dedicated priority with a co-financing rate of up to ~~40~~95%. It should be recalled that Member States may make use of the possibilities for transferring allocations between cohesion policy funds provided for in Regulation (EU) 2021/1060 of the European Parliament and of the Council⁸ in order to increase resources available under these dedicated priorities. They may also reallocate resources from any of the policy objectives while respecting regulatory rules.
- (10) The overall resources programmed under the dedicated priorities should be limited to a maximum of 10% of the initial total national allocation of the Member State for the ERDF ~~and~~ the ESF+ ~~and the Cohesion Fund~~. They may be programmed through one or more programme amendments and may be linked to one or more disasters. The principle that payments by the Commission are to be made in accordance with budget appropriations and subject to available funding should continue to apply.
- (11) In order to provide immediate support for investments for reconstruction in response to natural disasters as well as to alleviate the negative socio-economic consequences of such natural disasters, an additional amount of exceptional pre-financing should be provided with respect to the dedicated priorities. The rules applicable to those amounts of exceptional pre-financing should be consistent with the rules applicable to pre-financing provided for in Regulation (EU) 2021/1060.

⁷ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (OJ L 231, 30.6.2021, p. 21, ELI: <http://data.europa.eu/eli/reg/2021/1057/oj>).

⁸ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159, ELI: <http://data.europa.eu/eli/reg/2021/1060/oj>).

- (12) In order to enable Member States to fully address the consequences of natural disasters occurring as from ~~from~~ **between** 1 January 2024 **and 31 December 2025**, their managing authorities should be allowed to select for support operations that have been physically completed or fully implemented before the application for the funding under the programme is submitted to the managing authority, provided that the operation is in response to such natural disaster.
- (13) Regulations (EU) 2021/1058 and (EU) 2021/1057 should therefore be amended accordingly.
- (14) In view of the devastating effects of the current natural disasters and the urgency to provide immediate support to Members States, it is considered necessary to use the exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (15) Given the urgency of the situation related to the natural disasters, it is appropriate that this Regulation enters into force on the date of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2021/1058 is amended as follows:

1. Article 3 is amended as follows:

(a) in paragraph 1, point (b), the following point (x) is added:

“(x) supporting investments aimed at reconstruction in response to a natural disaster that occurred as from **between** 1 January 2024 **and 31 December 2025**”;

(b) the following paragraph is inserted:

“1b. For the purposes of paragraph 1, point (b)(x), of this Article, a natural disaster, shall be understood as a major or regional natural disaster as defined in Article 2(2) and (3) of Council Regulation (EC) No 2012/2002*. This may include a natural disaster resulting in direct damage below the thresholds set out in Article 2(2) and (3) of that Regulation, provided that it was recognised by a competent public authority of the Member State as a natural disaster.

Where the natural disaster resulting in direct damage below the thresholds set out in Article 2(2) and (3) of Council Regulation (EC) No 2012/2002 occurred after [date of entry into force of this Regulation], it shall be understood as a natural disaster provided that it was recognised by a competent public authority of the Member State within 12 weeks following the date of the first occurrence of damage as a consequence of that natural disaster.

The resources allocated under the specific objective referred to in paragraph 1, point (b)(x), of this Article shall be programmed under dedicated priorities of programmes under the Investment for jobs and growth goal corresponding to the respective policy objective. The resources allocated under this specific objective and the dedicated priorities established in accordance with Article 12b(2) of Regulation (EU) 2021/1057 shall be limited for the whole programming period to a maximum of 10% of the initial total national allocation of the ERDF ~~and~~ the ESF+ ~~and the Cohesion Fund~~. The corresponding programme amendment shall be submitted within ~~six~~four months of the date of the first occurrence of damage as a consequence of the natural disaster or, where the natural disaster occurred before [date of entry into force of this Regulation], within ~~six~~four months of the entry into force of this Regulation XXX/XXX [amending the ERDF/CF Regulation].

The Commission shall pay ~~25~~30% of the allocation to the priority referred to in the second subparagraph of this paragraph as set out in the decision approving the programme amendment as exceptional pre-financing in addition to the yearly pre-financing for the programme provided for in Article 90(1) and (2) of Regulation (EU) 2021/1060. That exceptional pre-financing shall be paid within 60 days of the adoption of the Commission decision approving the programme amendment, subject to the availability of funds. Where the allocation to that priority is subsequently increased, an additional pre-financing amount shall be paid corresponding to ~~25~~30% of the increase.

In accordance with Article 90(5), first subparagraph, of Regulation (EU) 2021/1060, the amount paid as exceptional pre-financing shall be cleared from the Commission accounts no later than with the final accounting year.

In accordance with Article 90(6) of Regulation (EU) 2021/1060, any interest generated by the exceptional pre-financing shall be used for the programme concerned in the same way as the ERDF **or the Cohesion Fund** and shall be included in the accounts for the final accounting year.

In accordance with Article 97(1) of Regulation (EU) 2021/1060, the exceptional pre-financing shall not be suspended.

In accordance with Article 105(1) of Regulation (EU) 2021/1060, the pre-financing to be taken into account for the purposes of calculating amounts to be de-committed shall include the exceptional pre-financing paid.

By way of derogation from Article 112(3) of Regulation (EU) 2021/1060, the maximum co-financing rate for a dedicated priority established to support the specific objective referred to in paragraph 1, point (b)(x), of this Article shall be ~~100~~95%.

Member States shall ensure that support from another national or Union instrument or private insurance scheme received for operations selected under the specific objective referred to in paragraph 1, point (b)(x), of this Article is deducted from the expenditure included in the payment application submitted to the Commission.

By way of derogation from the first sentence of Article 63(6) of Regulation (EU) 2021/1060, the managing authority may select for support, under the dedicated priority, operations that have been physically completed or fully implemented before the submission of an application for funding to the managing authority, provided that the operation provides a response to a natural disaster which occurred as from 1 January 2024.

* Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3, ELI: <http://data.europa.eu/eli/reg/2002/2012/oj>).”;

(c) paragraph 3 is replaced by the following:

“3. The Cohesion Fund shall support PO 2 and 3, ~~including~~ **except** for the specific objective set out in paragraph 1, point (b)(x), **insofar as it is in line with the scope of support as set out in Article 6.**”;

2. in Table 1 of Annex I, the following row is added under policy objective 2:

“

| | | | |
|--|---------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|---------------------------------------------------------|
| | (x) supporting investments aimed at reconstruction in response to a natural disaster that occurred as from 1 January 2024 | Any RCO listed for specific objectives under POs 1 to 4 | Any RCR listed for specific objectives under Pos 1 to 4 |
|--|---------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|---------------------------------------------------------|

”.

Article 2

In Regulation (EU) 2021/1057 a new Article 12b is added as follows:

“Article 12b

Support for alleviating the negative socio-economic consequences of natural disasters

1. Member States may use the ESF+ to provide support to alleviate the negative socio-economic consequences of natural disasters that occurred ~~as from~~ **between** 1 January 2024 **and 31 December 2025**. For the purpose of this article, a natural disaster shall be understood as a major or regional natural disaster as defined in Article 2(2) and (3) of Council Regulation (EC) No 2012/2002*. This may include a natural disaster resulting in direct damage below the thresholds set out in Article 2(2) and (3) of that Regulation, provided that it was recognised by a competent public authority of the Member State as a natural disaster. **Where the natural disaster occurred after [date of entry into force of this Regulation], it shall be understood as a natural disaster provided that it was recognised by a competent public authority of the Member State within 12 weeks following the date of the first occurrence of damage as a consequence of that natural disaster.**

* Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3, ELI: <http://data.europa.eu/eli/reg/2002/2012/oj>);

2. For the purpose of paragraph 1, resources may be programmed under dedicated priorities of programmes concerned. Overall resources to such dedicated priorities allocated from the ESF+, ~~and the ERDF~~ **and the Cohesion Fund** pursuant to Article 3, paragraph 1b, of Regulation (EU) 2021/1058 shall be limited for the whole programming period to a maximum of 10% of the initial total national allocation of the ERDF **and**, the ESF+ ~~and the Cohesion Fund~~. The corresponding programme amendment shall be submitted within ~~six~~**four** months of the date of the occurrence of the natural disaster or, where the natural disaster occurred before [*date of entry into force of this Regulation*], within ~~six~~**four** months of the entry into force of this Regulation XXX/XXX [amending the ESF+ Regulation].
3. The dedicated priority as referred to in paragraph 2 may support any of the specific objectives as set out in Article 4(1) of this Regulation.
4. Where strictly necessary and as temporary measures, short-time work schemes aiming at providing a response to the consequences of natural disasters without the need to combine with active measures as well as access to healthcare including for people who are not in imminent socio-economic vulnerability may be eligible for financing for a maximum of 18 months from the date when the natural disaster occurred.
5. By way of derogation from Article 19(4), Member States shall not be required to complement the delivery of food or basic material assistance by accompanying measures under the specific objective set out in Article 4(1), point (m), of this Regulation, in case such delivery is to respond to consequences of natural disasters. In the case of a natural disaster, such delivery of food and basic material assistance without accompanying measures may be eligible for financing for a maximum of 6 months from the date when the natural disaster occurred and in any case after 1 January 2024.

6. By way of derogation from the first sentence of Article 63(6) of Regulation (EU) 2021/1060, the managing authority may select for support, under the dedicated priority, operations that have been physically completed or fully implemented before the submission of an application for funding to the managing authority, provided that the operation provides a response to a natural disaster which occurred as from 1 January 2024.
7. The Commission shall pay ~~25~~30% of the allocation to the dedicated priority referred to in paragraph 2, as set out in the decision approving the programme amendment as exceptional pre-financing in addition to the yearly pre-financing for the programme provided for in Article 90(1) and (2) of Regulation (EU) 2021/1060. That exceptional pre-financing shall be paid within 60 days of the adoption of the Commission decision approving the programme amendment, subject to the availability of funds. Where the allocation to that priority is subsequently increased, an additional pre-financing amount shall be paid corresponding to ~~25~~30% of the increase.

In accordance with Article 90(5), first subparagraph, of Regulation (EU) 2021/1060, the amount paid as exceptional pre-financing shall be cleared from the Commission accounts no later than with the final accounting year.

In accordance with Article 90(6) of Regulation (EU) 2021/1060, any interest generated by the exceptional pre-financing shall be used for the programme concerned in the same way as the ESF+ and shall be included in the accounts for the final accounting year.

In accordance with Article 97(1) of Regulation (EU) 2021/1060, the exceptional pre-financing shall not be suspended.

In accordance with Article 105(1) of Regulation (EU) 2021/1060, the pre-financing to be taken into account for the purposes of calculating amounts to be de-committed shall include the exceptional pre-financing paid.

8. By way of derogation from Article 112(3) of Regulation (EU) 2021/1060, the maximum co-financing rate for a dedicated priority established to support the alleviation of the negative socio-economic consequences of natural disasters pursuant to paragraph 2, shall be ~~40~~95%.

Member States shall ensure that support from another national or Union instrument or private insurance scheme received for operations selected in response to natural disasters, is deducted from the expenditure included in the payment application submitted to the Commission.”.

Article 3

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

For the Council

The President

The President
