COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION

European Union Solidarity Fund
Annual report 2002-2003
and
Report on the experience gained after one year of applying the new instrument

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FOREWORD

The European Union Solidarity Fund[1] was created in response to the extraordinary flooding disaster that hit central Europe during the summer of 2002 and entered into force on 15 November 2002[2]. Article 12 of the Regulation provides that a report on the activity of the Fund in the previous year be presented to the European Parliament and to the Council. This first annual report covers the 6 week period from the creation of the Fund until the end of 2002 and the year 2003.

Applying the Regulation to the 15 applications introduced since November 2002[3] required a degree of interpretation in the light of the concrete circumstance of the disaster under scrutiny. Council requested the Commission to draw up a report on the method used in applying the Regulation during the first year of experience. Two points should be given particular attention: (1) the appropriateness and justification of the Commission's method for determining in each case the amount of the aid, and (2) the way in which the Commission applied the specific criteria of the Regulation's provisions for the exceptional mobilisation of the Fund for "regional disasters"[4].

The following report is therefore composed of two main parts: Part one looks at the activity of the Fund in 2002 and 2003. Part two focuses on the method developed by the Commission for applying the Regulation. Particular attention is paid to the criteria for extraordinary regional disasters and to the method for determining the amount of the aid.

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1 In the following referred to as "the Fund".

2 Council Regulation (EC) N° 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund, OJ L 311/3 of 14.11.2002, in the following referred to as "the Regulation".

3 See overview tables in Annex 1 and 2

4 Article 2 (2) last subparagraph

BACKGROUND

1. THE COMMISSION RESPONSE TO THE SUMMER FLOODS OF 2002

The flooding that hit central Europe in the summer of 2002 was of unprecedented proportions. Many people lost their lives and direct damage alone caused in Austria, the Czech Republic and Germany as well as few weeks later in the south of France, added up to over € 15 billion. The socio-economic infrastructure of entire regions was disrupted and the natural and cultural heritage was damaged.

Very rapidly it became apparent that a solidarity-based response of the European Union going beyond the maximum use of existing Community instruments was required. Within two weeks of the "flood summit" on 18 August in Berlin that brought together the heads of government of the affected countries with the Danish Presidency, the Commission President and other Members of the Commission, the Commission presented a Communication to the European Parliament and the Council.[5] In this Communication the Commission proposed the creation of a new, specific instrument with mobilisation procedures specifically adapted to respond to the consequences of major catastrophes by rapidly mobilising new resources.

According to this proposal, the new Community instrument should be complementary to the efforts of the countries concerned and should be used to cover a share of the public expenditure caused by the disaster. The Fund should cover emergency relief action for any area affected by a major disaster, independently of its status under the Structural Funds. The amount of support would be related to the size of the disaster and would also take into account the relative prosperity of the region(s) concerned.

Action from the Fund was to focus primarily on short term reconstruction of destroyed infrastructures, including temporary shelter and immediate securing of damaged preventive infrastructures such as dams and dikes. Money from the Fund would be granted on request by the affected country as a global relief grant. The question whether a disaster has a dimension justifying intervention at European level and the amount of the aid would be decided by the budgetary authority upon a proposal by the Commission. The implementation of the grant would be carried out under the responsibility of the country and the regions concerned. The Fund would be subject to the normal Community rules on financial aid including issues of control.

As discussed at the Berlin meeting, the Fund was to be set up so as to be operational as quickly as possible and make available at least € 500 million in a first phase. The Fund could be extended to the countries with which accession negotiations are under way.

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[5] "The European Community response to the flooding in Austria, Germany and several applicant countries, A solidarity-based initiative", COM (2002) 481 final of 28.8.2002

At the special meeting of Member States' representatives on 29 August 2002 convened by the Danish Presidency they unanimously supported the idea of creating a specific Community instrument to respond to the consequences of major disasters by rapidly mobilising new resources. The European Parliament too expressed its full support for the creation of a special Community instrument and promised to process proposals promptly.

For completeness it should be recalled that from 1977 to 1997 the Community budget did contain a specific budget line destined to grant emergency aid to the populations of the Community that had become the victims of mainly natural disasters[6]. On average this budget line was allocated five million Euros per year. Following repeated criticisms by the Parliament that a permanent allocation of funds was not justified, given the unpredictability of expenses linked to extraordinary events, and considering that it had no legal base, the Commission discontinued to propose the budget line from 1998. Furthermore, the limited financial resources available resulted in that Community aid in most cases was only of a symbolic nature, which was contested by the Parliament for subsidiarity reasons.

2. THE COUNCIL REGULATION ESTABLISHING THE EUROPEAN UNION SOLIDARITY FUND

On 18 September, less than three weeks after the publication of the Communication, the Commission presented its proposal for the creation of the new European Union Solidarity Fund[7] based on Article 159(3) of the Treaty, which requires adoption by unanimity in the Council and consultation of the European Parliament, the European Economic and Social Committee and the Committee of the Regions, as well as on the basis of Article 308 of the Treaty, which requires unanimity in the Council and consultation of the European Parliament.

At the Council, the proposal was discussed by an ad-hoc group predominantly composed of the members of the Council's budget committee. Discussions were characterised by the desire to show solidarity and to adopt the new instrument in time to be able to mobilise the Fund for the four disasters at the origin of its creation before the end of the year. It was also considered, following the principle of subsidiarity, that the new instrument should only be a last resort and safeguards should be built in to avoid frequent use.

In parallel the Commission negotiated with Council and Parliament the revision of the Inter-institutional agreement in order to make available the necessary budget resources. The acceptance by Parliament of the legal base – the Council Regulation – was a de facto precondition for its adoption.

The Berend Report[8] expressing Parliament's support for the Commission's proposal was adopted by Plenary on 8 October 2002. A favourable Resolution of the

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6 Budget line B4-3400, *"Aides d'urgence à des populations de la Communauté victimes de catastrophes"*

7 Proposal for a Council Regulation establishing the European Union Solidarity Fund, COM(2002) 514 final of 18 September 2002

8 Report on the proposal for a Council regulation establishing the European Union Solidarity Fund, Committee on Regional Policy, Transport and Tourism A5-0341/2002 final

Committee of the Regions[9] and a favourable Opinion of the European Economic and Social Committee[10] followed.

As a result of the trilogue (see also chapter 3 below) that took place on 7 November 2002 a number of modifications to the Commission's proposal were introduced, the most important ones of which were:

– The scope of the Fund was limited "mainly" to major *natural* disasters as opposed to major *natural, technological or environmental* disasters as proposed by the Commission;

– The threshold for major disasters was substantially raised from damage estimated at over EUR 1 billion, in 2002 prices, or more than 0.5% of its Gross Domestic Product (GDP) to damage exceeding EUR 3 billion in 2002 prices or 0.6% of the country's Gross National Income (GNI);

– The criteria for exceptionally mobilising the Fund for regional disasters where damage remains below the threshold (so-called qualitative criteria) were considerably stiffened and the total annual allocation for such grants limited to EUR 75 million. The rather open formulation of the proposal ("Under very exceptional circumstances, can be included any disaster affecting a substantial part of the population of the region or state concerned") now reads:

  "… a region could also benefit from assistance from the Fund, where that region has been affected by an extraordinary disaster, mainly a natural one, affecting the major part of its population, with serious and lasting repercussions on living conditions and the economic stability of the region. Total annual assistance under this subparagraph shall be limited to no more than 7.5 % of the annual amount available to the Fund. Particular focus will be on remote or isolated regions, such as the insular and outermost regions as defined in Article 299(2) of the Treaty. The Commission shall examine with the utmost rigour any requests which are submitted to it under this subparagraph";

– The application deadline was extended from two months to 10 weeks;

– Eligible operations remained essentially unchanged but a provision was introduced following which payments from the Fund are in principle limited to finance measures alleviating *non insurable* damages;

– Regional and local authorities were excluded from being party together with the Commission and the beneficiary state to the agreement for implementing the grant;

– The period for implementing the grant was reduced from two to one year;

9 Resolution of the Committee of the Regions on the recent flood disasters in Europe and the establishment of the European Union Solidarity Fund, CoR 294/2002 fin of 10 October 2002

10 Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation establishing the European Union Solidarity Fund, CES 1185/2002 of 25 October 2002

– The provision was scrapped according to which the Commission would be empowered to exceptionally propose a supplementary grant when damages turn out to be substantially higher than initially estimated. A new provision was introduced for the opposite case of damage being substantially lower than estimated, whereby a corresponding amount of the grant would need to be reimbursed by the beneficiary state.

On 11 November 2002 the new Regulation establishing the European Union Solidarity Fund was adopted by the Council and entered into force on 15 November, the day following its publication in the Official Journal.

3. BUDGETARY ISSUES: FINANCING SOLIDARITY

To enable the use of the new Fund, which is mobilised outside the normal EU budget, two steps were required: to create a procedure and a financial instrument to make the money available and to create a budget line to which the money would be transferred for implementation.

Through the creation of a new flexibility instrument for disasters it became possible to address unforeseen and exceptional circumstances while maintaining the ceilings of the overall Financial Perspectives of Berlin. The new instrument was set up by a revision of the Inter-institutional Agreement, agreed at the trilogue held on 7 November 2002, in which the rules for its mobilisation were determined. They allow for the mobilisation of the Fund within the annual ceiling of 1 billion euros, over and above the relevant headings of the financial perspective whereby the necessary resources can be called only in case of mobilisation.

The new budget lines were located in Heading 3 (budget line B2-400) of the Financial Perspectives (internal actions) and in Heading 7 (budget line B7-090) for countries involved in accession negotiations.

PART 1: ANNUAL REPORT 2002-2003

1. IMPLEMENTATION OF THE FUND IN 2002

While Commission, Council and the European Parliament were still in the process of negotiating the proposed Regulation the Commission, in close contact with the authorities in Austria, the Czech Republic, France and Germany, was informally preparing the mobilisation of the Fund for these countries. Applications were informally received and analysed, and, where appropriate, additional information sought.

Equally, models for standardised grant decisions and implementation agreements and a method to determine the amount of the grants were developed (cf. Part 2 chapter 3).

This way it was possible to propose to the Parliament and Council as the Budgetary Authority a draft Amending and Supplementary Budget for mobilising the Fund only two days after the adoption of the Regulation[11]. The applications were summarised as follows (cf. overview table in Annex 1):

"**Germany**: The first damage caused by the floods was registered on 10 August 2002. More than 337 000 people and over 10 000 companies were directly affected, over 100 000 people had to be evacuated. The regions hardest hit were Saxony and Sachsen-Anhalt. Estimated total damage amounts to €9 151 million, of which approximately €5 000 million is public. The German authorities claim not to be in a position at this stage to give an indication of insurance coverage. Damages to public infrastructure amount to over €3 300 million. The cost of operations referred to in Article 3 of the regulation is estimated at approximately €1 500 million.

Austria: The first damage caused by the floods occurred on 6 August 2002. The regions most affected were Lower Austria, Upper Austria and Salzburg. More than 200 000 people and over 2 400 companies were affected. Estimated total damage amounts to €2 939 million, of which approximately €1 448 million is public. The Austrian request contains no information on insurance coverage. Damages to public infrastructure amount to nearly € 600 million.

The **Czech Republic**: The first damage caused by the floods occurred on 5 August 2002. Estimated total damage amounts to €2 341 million, of which approximately € 770 million is public. € 800-1000 million are estimated to be covered by insurance. Other Community sources expected to help cover the damage amount to € 51 million (PHARE, ISPA, SAPARD). An EIB loan of up to € 400 million is also expected.

France: Torrential floods occurred in the Languedoc-Roussillon region on 8 and 9 September 2002. By far most hardly hit was the *département du Gard* to which the French application is limited. In this *département* the first damage caused by the floods was registered on 8 September 2002. 295 municipalities (out of 353) were

[11] Preliminary Draft Supplementary and Amending Budget N° 5 to the Budget for 2002, SEC(2002) 1221 final of 13.11.2002

affected representing 94% of the population of the *Gard*. 8000 households found themselves without shelter. Estimated total damage amounts to **€834.5 million**, of which approximately €275 million is public. The French authorities state not to be in a position at this stage to give an indication of insurance coverage (some 50 000 damage claims from individuals or companies have been registered). Damages to public infrastructure amount to over €200 million. The cost of operations referred to in Article 3 of the regulation is estimated at approximately €225 million the bulk of which relates to infrastructures."

While Austria, Czech Republic and Germany all met the "major disaster" criterion the flooding in France was proposed under the "regional disaster" criterion.

On the basis of a method developed by the Commission for determining in an equitable manner the amount of aid (explained in detail in Part 2), considering in particular the amount of total damage and the relative prosperity of the beneficiary country, the amounts proposed and decided were:

Austria	€134 million
Czech Republic	€129 million
France	€21 million
Germany	€444 million
Total 2002	**€728 million**

The amending budget was adopted without modification by the European Parliament on 21 November 2002.

The four grant decisions were signed by Mr Barnier in the name of the Commission on 11 December.

In parallel the Commission negotiated with the four countries the agreements for the implementation of the grants based on model agreements developed by the Commission previously. The purpose of the agreements is to lay down a number of provisions in order to safeguard the financial interest of the Community, in particular as concerns financial control. They determine the authorities in the beneficiary state responsible for implementing the grant and define the types of operations in conformity with Article 3 of the Regulation for which the beneficiary intends to use the grant. For candidate countries the implementation agreement includes the provisions of the grant decision which is not directly applicable to them because they are not yet Member States.

On the occasion of the European Council on 12 December Mr Barnier and the foreign Ministers of Austria, France and Germany signed the respective implementation agreements. The implementation agreement with the Czech Republic was signed in Brussels by Mr Barnier on 18 December and on 19 December by the Czech Finance Minister in Prague. Payments in full were carried out within the following days.

While the Regulation does not foresee any specific monitoring activities it is the general duty of the Commission to regularly evaluate the activities for which it has the political and budgetary responsibility. It was therefore considered important to verify progress of implementation on the ground. To this end visits to all beneficiary countries and the main affected regions were carried out in May (Berlin and Dresden, Vienna and Prague) and July (Nîmes) 2003. These visits were intended to serve a double purpose: for the beneficiaries to raise any issues where they felt that guidance from the Commission was required; and for the Commission to see whether the implementation system was adequate and whether progress was sufficient to expect full implementation of the grant within the year available. The Commission also asked for and received progress reports from the implementing authorities which they had established for internal purposes.

2. IMPLEMENTATION OF THE FUND IN 2003

In 2003 the Commission received in all 10 new applications to mobilise the Fund (cf. overview table in Annex 2)[12].

In July 2003 the Commission proposed to mobilise the Fund for the second time[13] for a package of three disasters relating to the eruption of Mount Etna and the Molise and Apulia earthquake in Italy, and the sinking of the Prestige tanker and subsequent oil pollution in Spain. While this package was still under discussion the Commission also proposed to mobilise the Fund for the forest fires that started in August 2003 in Portugal[14]. The two proposals were subsequently merged into a single Amending Budget[15]. The essential reasons for proposing the mobilisation the Fund were the following[16]:

Prestige oil spill: On 13 January 2003 the Spanish authorities presented an application to mobilise the Fund following the disaster caused by the sinking of the Prestige oil tanker starting on 19 November 2002. The disaster was of non-natural origin and therefore fell outside the main field of application of the Fund. The Spanish authorities have, however, demonstrated that its specific circumstances, in particular the extent and nature of damage caused, the uncertainty of when a solution to the source of the continuing pollution could be put in place, and the long-term negative effects on the stricken region, were such that the mobilisation of the Fund appeared justified. The Commission services considered that direct damage should be estimated at € 436 million (adjusted figure to take account of IOPC compensations and deducting certain indirect damage from the figure initially presented). A particular circumstance of the Prestige case was that verifying whether the case fulfilled all the criteria set out in the regulation for “regional disasters” met with an objective difficulty. As the pollution directly affected mostly the sea and the beaches it appeared difficult to give a reasonable definition of “the affected region” as called for by Article 2.2 of the Regulation and to verify whether “the major part of the population” living in that area has been affected. On the other hand, serious and

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12 This report is essentially limited to those cases decided during the reporting period. The other cases will be dealt with in greater detail in the report on the year when they were decided.

13 Preliminary Draft Amending Budget N° 5 to the Budget for 2003, SEC(2003) 886 final of 30.7.2003

14 Preliminary Draft Amending Budget N° 6 to the Budget for 2003, SEC(2003) 1059 final of 25.9.2003

15 Final adoption of Amending Budget N° 5 of the European Union for the financial year 2003, OJ L 310/1 of 26.11.2003

16 For full text see APBR 5/2003

lasting repercussions on living conditions and the economic stability have been recorded for the area near the coast, where a large part of the population of the 4 autonomous regions are concentrated These effects impacted on the economy as a whole but also affect the living conditions of a great number of people. For these reasons the Commission came to the conclusion that in this particular case the regulation should be applied in view of the extraordinary character and circumstances of the disaster and its clearly demonstrated negative consequences and that therefore the mobilisation of the Solidarity Fund appeared justified.

Molise and Apulia Earthquake: The disaster started on 31 October 2002 and application to mobilise the Fund was presented on 13 January 2003 within the retroactive period set out in article 13 of the Regulation. The disaster was of natural origin and therefore falls within the main field of application of the Fund. Direct damage was estimated at € 1 558 million. The region affected by the disaster was clearly identified as 65 municipalities in the province of Campobasso/Molise and 14 municipalities in the province of Foggia/Apulia). The population of the affected region thus defined was 243 000 inhabitants of which the great majority were directly affected. While in general it would not appear justified to mobilise the Fund for regional disasters affecting geographic areas or numbers of population that do not reach a significant level, this element should be assessed case by case considering also the relative size of the damage and the severity of its repercussions. In the present case the high amount of direct damage, as well as the rather isolated character of the area justified to conclude that a significant level has been reached. Serious and lasting repercussions on living conditions and the economic stability of the region were demonstrated: The affected region - while not qualifying as “remote” – was characterised by its rather isolated location. The Italian authorities demonstrated that the effects of the earthquake on the affected area, which before the quake was already characterised as being especially weak and socially fragmented, were of such severity that the mobilisation of the Fund appeared justified.

Mount Etna eruption: The application was presented on 13 January 2003 within the retroactive period set out in article 13 of the Regulation following the eruption of Mount Etna starting on 26 October and subsequent earthquakes and downfall of ash over a period of several months. The disaster was of natural origin and therefore fell within the main field of application of the EUSF. The Commission services considered that total direct damage should be estimated at € 849 million (adjusted figure after deducting ineligible indirect damage).The region affected was defined as the province of Catania with a population of 1,069,000 inhabitants, of which 920,000 (86%) were directly affected. Severe damage through earthquake tremors and lava was recorded in 14 municipalities affecting 160 000 people, rendering over 3000 habitations and a number of public buildings unsafe and causing damages of an estimated € 590 million to private property and public buildings and infrastructure. Serious and lasting repercussions on living conditions and the economic stability of the region were due (i) to the persistence of eruptive and seismic activity over several months and (ii) to the amount of work involved in repairing damage – expected to exceed two years - and assessing the health effects of exposure to the ashes. The expected economic fall out of € 3 billion was expected to have spill-over effects on the Sicilian economy as a whole. Losses in agriculture, the primary economic resource of Catania province with over 30 000 employed, are estimated at 50% of the current season. The general slow-down of the economy is of the order of 35% and tourist reservations, vital to the island's economy, are down by up to 80%. The closing or much reduced activity of Catania airport was considered to be particularly harmful. The Catania province is part of Sicily whose living conditions and economy are characterised by their insular and distant geographic location, limited accessibility and partly seclusion form the centres of the Italian economy, factors which render the Sicilian economy particularly vulnerable.

Forest fires in Portugal: The disaster started on 20 July 2003. The formal application was received on 13 August 2003 within the regulatory deadline and completed by further information received on 22 August. The disaster consisted of a large number of fires of major proportion on forest and agricultural areas, due to very high temperatures and low atmospheric humidity. It claimed 18 lives. It was estimated that the fires destroyed 270,000 hectares of forest and 25,000 hectares of agricultural land causing loss of profits and salaries for about 45,000 persons. Direct damage to Portugal was estimated at € 946.489 million. Since this amount is larger than 0.6% of the Portuguese GNI (i.e. larger than €718.120 million) the disaster was found to qualify as a "major disaster" within the meaning of the Regulation. The cost of essential emergency operations eligible under Article 3(2) of the Regulation has been estimated at € 79.579 million.

The mobilisation of the following amounts was proposed and decided on the basis of the established method:

	Amount of grant
Italy – Molise/Apulia earthquake	€ 30.826 million
Italy – Mount Etna eruption	€ 16.798 million
Spain - Prestige	€ 8.626 million
Portugal – forest fires	€ 48.539 million
Total	**€ 104.789 million**

A further application from Italy relating to severe flooding in several regions in **Northern Italy** was rejected on the grounds that the application deadline of 10 weeks after the first damage had been missed. Furthermore, the information provided was not sufficient to verify whether the criteria for extraordinary regional disasters were effectively met.

The amending budget was adopted without modification by the European Parliament on 8 October 2003. The grant decisions were signed by Mr Barnier in the name of the Commission for Portugal on 17 November 2003, for the two Italian cases on 5 December 2003 and for Spain on 12 December 2003.

The implementation agreement with Portugal was signed by Mr Barnier and the Portuguese State Secretary for European Affairs in Brussels on 17 November. The grant was paid out in full within the following days. For Italy and Spain the signing of the agreements (in written procedure) was underway at the moment this report was being drafted.

Within the reporting period final decisions on five cases received in 2003 were still pending[17]:

Two were based on the major disaster criterion: the disaster in **Malta** following storm and flooding in September and the application from **Greece** relating to extreme weather conditions during the winter months of 2002/2003.

In September **France** presented an application, based on the regional disaster criterion, relating to the forest fires which struck different parts of south-eastern France and Corsica during July and August 2003.

The **Spanish** application relating to the summer forest fires was initially based on the extraordinary regional disaster criterion which the Commission regarded as not met. At the time when this report is drafted the Commission services are in the process of assessing whether the evidence provided permits to apply the neighbouring country criterion for those Spanish fires that were located in the vicinity to the Portuguese border.

In November **Italy** presented another application under the "regional disaster criterion" relating to flooding in Friuli Venzia-Giulia.

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17 The Commission decided on these cases on 9 March 2004, see overview table in annex 2

PART 2: HOW THE REGULATION WAS APPLIED

Until the end of November 2003, i.e. within its first year of application, the Commission received a total of 14 applications to mobilise the Solidarity Fund. Five of these applications were based on the main criterion of "major natural disaster" set out in Article 2 (1) first subparagraph of the Regulation [18]. One application, relating to the 2003 forest fires in Spain, was based on the "neighbouring country" criterion set out in Article 2 (1) second subparagraph of the Regulation, while the remaining eight applications[19], i.e. the majority of cases, were based on the "regional disaster" criterion set out in Article 2 (1) third subparagraph of the Regulation. Only one disaster, the oil spill resulting from the sinking of the Prestige tanker, was of non-natural origin. In each case the Commission had to assess whether the conditions in the Regulation for mobilising the Fund were met.

For major disasters the Regulation foresees a single decisive criterion for eligibility: the amount of damage caused which allowed the Commission to complete its examination in very short time. All other cases, requesting the exceptional mobilisation of the Fund required a much more detailed examination and additional information had to be requested from the applicant State which proved very time-consuming. The necessity, in some cases, to have applications and subsequent information translated before they could be processed led to further delays.

The analysis of the requests showed that certain key notions introduced by the Regulation require interpretation in order to be applicable in practice. The Commission has applied the Regulation as described in Chapter 1 below, not least in order to ensure an equitable treatment of all cases as called for by Article 4 (2) of the Regulation. Equally, to ensure equitable treatment a method had to be developed of how to determine the amount of aid once it has been concluded that a disaster qualifies for Solidarity fund aid. The method developed by the Commission and its rationale are described in Chapter 3 below.

1. GENERAL NOTIONS

The following notions were found to require a more precise definition:

Nature of the disaster

The Fund should "mainly (be) mobilised when a major natural disaster …occurs" (Art. 2.1)

While non-natural disasters are not excluded the Regulation reserves aid from the Fund "mainly" for natural events. This means that disasters other than natural can

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[18] In 2002 : flooding in Austria, Germany and the Czech Republic ; in 2003 : forest fires in Portugal, flooding and storm in Malta

[19] In 2002 : flooding in the Département du Gard/France; in 2003 : flooding in Northern Italy, eruption of Mount Etna, earthquake in Molise and Apulia, extreme weather conditions in Greece, sinking of the Prestige/Spain, forest fires in France and flooding in Friuli Venezia-Giulia/Italy.

qualify for Solidarity Fund assistance but this requires a special justification. This criterion was introduced into the Regulation among other reasons in order to avoid conflicts with the "polluter pays" principle and not to undermine legal liability for damages caused. If a state applies for aid from the Fund in spite of a non-natural incident it must give reasons why the intervention of the Fund might nevertheless be justified (e.g. bankruptcy of the liable party). The fact that the liable party was not sufficiently insured should not in itself be a sufficient reason.

Damage threshold

To qualify as "major", disasters must meet the lower of the double threshold of damage exceeding € 3 billion or 0.6% of GNI. Smaller disasters are eligible only under the "neighbouring country" or the "regional disaster" criteria (see paragraphs 2.1 and 2.2 below).

Cumulating several events

The Regulation relates to individual events (*a* disaster). Cumulating a number of events over a longer period of time and possibly of different nature is not accepted. For this reason the Greek authorities were asked to review their application which was initially based on the "major disaster" criterion and relates to numerous events caused over a period of three months by extreme weather conditions (frost, heavy snowfall, storm etc), in order to see whether any of the individual events could qualify as extraordinary regional disaster[20].

A number of events of the *same* nature happening during a relatively short period not exceeding a few weeks may be accepted as *a single major* disaster provided the events were due to the *same* (not just *similar*) underlying reason even if different regions of a country are affected. This reasoning was applied in the case of the forest fires in Portugal in the summer of 2003. However, the conditions to be met under the "regional disaster" criterion are different from those applicable to major disasters. For this reason cumulating geographically dispersed events as *one regional* disaster is not accepted, even if the different events are of the same nature.

Calculation of threshold

"Damage estimated at over EUR 3 billion in 2002 prices or more than 0.6% of its GNI" (Art. 2.2 subparagraph 1)

To reflect 2002 prices the Commission applies a deflator to the 3 billion figure. The most recent deflator used in the Community budget in 2003, based on the macro-economic evolution in the Union, is 1.8%. Thus 3 billion in 2002 prices correspond to 3.054 billion in 2003 prices (3 x 1.018).

For Gross National Income (GNI) the Commission uses harmonised EUROSTAT figures for the second year prior to the date of application which can generally be regarded as reliable. Where no reliable recent GNI figure is available GDP will be used (applied in no case so far).

[20] At the moment when this report was drafted the formal Commission decision on this case was still pending.

Concept of insurability

"Payments from the Fund are in principle limited to ... non insurable damages" (Art. 3.3)

The argument following which anything is insurable if only the premiums are high enough does not reflect reality, is not a feasible approach and in the Commission's view is not what the legislator had in mind. The reason for introducing the concept of non-insurability into the Regulation was rather not to undermine the "polluter-pays" principle and the individual's obligation to take sufficient precautionary measures. In this way it was intended to avoid that the Solidarity Fund should step in to cover damage which should reasonably have been insured or for which there is a clear liability. For a number of reasons, however, this idea still proved difficult to apply in practice.

For one, no uniform insurance market exists across countries eligible for the Fund. For certain risks insurance coverage may be on offer or even obligatory in some countries whereas in others nothing comparable exists[21]. In the private sector it is already nearly impossible to know within 10 weeks what is in effect insured; even more difficult is it to know what *could* have been insured, i.e. was insurable. However, as the Fund intervenes for public costs only this provision is of minor relevance. Public authorities on the other hand do not, as a general rule, ensure their assets, even if in some cases insurance may have been available. The Commission considers that the intention of the legislator was not to upset Member States' general practice.

For these reasons the Commission, when examining Fund applications, contented itself with information on whether any of the eligible emergency operations proposed were effectively insured or otherwise covered, e.g. by international instruments like the International Oil Pollution Compensation Funds IOPC (as in the case of the Prestige). Where this was the case the Commission deducted the relevant amount from the total cost of eligible emergency operations (in order to avoid double financing) *and* from the amount of total direct damage thus leading to a reduction of the grant (cf. Chapter on the calculation method below; relevant in the case the Prestige and the fires in Portugal). Ex-post adjustments may need to be made once the beneficiaries have submitted their final reports which must contain all relevant information.

Deadline for applications

"…no later than ten weeks after the first damage" (Art. 4.1)

Applications must be made within 10 weeks of the starting date of a disaster. This deadline is calculated from the date of the first damage which needs to be confirmed by the applicant country and is checked by the Commission against other information available. Within the deadline applications must be *received* at the Commission, documented by the registration stamp for incoming mail. This practice is in line with the rules for other Community financial instruments such as the Structural Funds and

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21 In this context the Commission undertook to carry out a study on the insurance systems applied in the Member States

reflects general practice in the Member States. To reflect the nature of the Fund as an emergency instrument the Commission, however, does accept submission by electronic mail. In this case the date of receipt is that automatically generated by the email server.

If it is found that damage attributable to the disaster was caused prior to the 10 week deadline the applications is considered inadmissible. This was applied in the case of the application introduced by Italy relating to flooding in Northern Italy.

Applications should contain all the information required by the Regulation. If this is not possible supplementary information may be submitted at a later date, as early as possible. To be admissible applications must, however, provide a minimum of information: identification of the disaster, location, starting date, otherwise the application is rejected. Where this was not the case the application was deemed to have been received only at the moment this basic information was submitted.

While all “major disaster” applications to date could be processed very speedily this was not always the case with applications based on the “regional disaster” criterion. In all such cases the Commission had to request supplementary information from the applicant State at least once in order to be able to verify the much more detailed requirements imposed by the Regulation. In some cases replies were incomplete or received only after months, which – together with the need (in some cases) for translation - lead to delays of up to one year which is contrary to the nature of the Fund as an emergency instrument.

In order to remedy this unsatisfactory situation the Commission will, in the future, set a time limit for supplementary information and conclude its assessment of the application no later than four months after its introduction on the basis the information available to it at that time (cf. conclusions of this report).

Definition of damage

“Total damage” (Art 4.1(a))

When assessing the size of the disaster only direct damage is considered, leaving aside indirect damage such as losses in income and production due to the interruption of economic activities (salaries, company revenue, cancellations in the tourism sector), reduced contributions to social security systems, loss of future crops (while destroyed present crops are accepted). Hypothetical damage such as a fictive price attached to lost recreational value of burnt forests (“5 Euros per lost visit”) is not taken into consideration either.

It is left to the applicant country to determine the amount of the damage according to its national practice. For fixed assets this usually means “cost of reconstruction” (for buildings, infrastructures in particular) whereas for other goods such as destroyed mobile assets the current value of the asset should be used. Ecological damage may be taken into consideration to the degree that there is a real cost attached to it, e.g. for cleaning-up operations. The intervention cost of emergency services is considered part of total damage.

Direct damage as basis for verifying whether the threshold to mobilise the Fund is reached was chosen for the following reasons: There is no generally accepted concept of indirect damage. Reliable estimates of direct damage within the 10 week application deadline have proven to be sufficiently difficult to produce; using indirect damage would lead to enormous distortions, further delays and possibly a greater need for ex-post corrections and recoveries.

Actual or expected payments from insurance or international sources such as the IOPC (not other EU grants though) towards emergency operations eligible under Article 3 of the Regulation will however be deducted from total damage (applied in the Prestige case). Donations, however, should remain without effect on the total damage figure, as otherwise the readiness to make donations might be undermined. Equally, EIB loans have no effect on total damage.

The Commission assesses the plausibility of figures on damage and will check damage figures against information from other sources whenever possible. Where appropriate the Commission adjusted the figures provided by the applicant State before using them as a basis for determining the amount of the aid. Other information is however not available in all cases and the Commission has no specific expertise in this field. It may be appropriate in the future to recur to independent external expertise but for this specific credits will have to be made available.

Eligible cost

"Estimated cost of operations" (Art 4.1(b))

The purpose of grants from the Fund is to cover a share of the beneficiary States' public expenditure. Grants may only be used to finance the cost of certain essential emergency operations as defined in Article 3(2) and must therefore never exceed the amount of that cost. The selection of such operations (as specified in the implementation agreement) is left to the beneficiary country. As public expenditure will in all cases have to finance more than just the cost of emergency operations the requirement of the Regulation to limit the grant to cover "a share" of public expenditure seems to be fulfilled. In any event, this provision does not impose a co-financing obligation for individual operations. Equity considerations suggest to discuss a limitation of the grant to a certain proportion of the total costs of eligible operations, as estimated at the moment of the proposal to mobilise the Fund. This issue will be further explored at the forthcoming conference on the Solidarity Fund to be organised in autumn 2004. In the light of these discussions the Commission would come up with appropriate proposals.

The estimated amount of emergency operations may not exceed what is regarded immediately necessary (restoration to working order) and will not, as a general rule, cover the cost of full reconstruction. It is however recognised that there may be cases where the only feasible solution is full reconstruction. If reconstruction is used to introduce improvements the additional cost may in no case be claimed to the Fund. Where equipment needs to be replaced (e.g. vehicles of the rescue services destroyed during the operation) only the current value of this equipment may be claimed.

The share of essential emergency operations in relation to total damage has been found to vary considerably depending on the nature of the disaster and the characteristics of the affected territory (cf. annexes 1 and 2). The one extreme was the case of the Prestige oil spill where practically no private or public assets were damaged and costs related almost exclusively to (eligible) cleaning up operations. In this case eligible operations represented 95% of total damage. By contrast, in the case of the Portuguese forest fires, the bulk of damage was caused to private property forests, the share of eligible operations thus representing only 8% of total damage.

Coordination with other financial instruments

"Any other sources of Community funding" (Art 4.1(c))

Information on disaster related funding from other Community sources – in particular of operations eligible for Fund aid - is sought for two reasons: to ensure a coordinated approach of these instruments, thus maximising their efficiency, and to avoid double financing. The Commission has repeatedly encouraged applicant States to make use of the Structural Funds, the Cohesion Fund or the pre-accession instruments where the disaster-stricken region is eligible for assistance under one of these instruments. Within the regulatory limits of these instruments the Commission was and is willing to be as flexible as possible to redirect funding to help mitigate the consequences of a disaster and – more importantly – to put greater emphasis on disaster prevention policies. The EAGGF-Guarantee may also contribute to disaster relief via derogations concerning 1st pillar measures (e.g. through anticipated payments, agricultural use of land set aside) and the specific restoration measures under Rural Development.

"Other sources of national or international funding including public and private insurance coverage" (Art 4.1(d))

Applicant countries are asked to provide an estimate of other public and private sources, including insurance coverage, which might help to repair the damage. It proved extremely difficult to receive any reliable data within 10 weeks of a disaster on insurance coverage as private claims usually take much longer to be introduced and even longer to be settled. What applicants usually can provide however is whether any of the public damage was insured – which normally is not the case.

The government of Saxony together with the Red Cross has developed an electronic tool called PHOENIX, essentially an interactive database, which was successfully used to collect information on the different sources financing at project level provided from the various public and private bodies that contributed towards making good the damage of the 2002 flooding. This database has been made available to the Commission and may now be used by other beneficiary countries.

Starting date of eligibility (Art. 4.5)

The starting date of eligibility is the date at which the first damage caused by the disaster occurred (cf. Art. 4(1) of the Regulation). This means that expenditure for eligible emergency operations as defined in Article 3 of the Regulation and specified in Article 5 of the agreement made between that date and the signature of the grant decision may be claimed for assistance from the Fund.

Implementation period

"A grant shall be used within one year" of disbursement by the Commission (Art. 8.1)

The Regulation provides for one year to implement the grant to be counted from its disbursement by the Commission. In order to avoid any ambiguities as to the exact dates it has been agreed up to the present with beneficiaries that this deadline is to be understood as running from the date of the effective arrival of the grant at the first account in the beneficiary country. Proof of the precise date needs to be provided by the beneficiary State at the latest with the final report.

Using the grant means effectively spending (paying out) the money for the purposes set out in the implementation agreement and providing proof of that expenditure.

The Commission considers that the Regulation does not permit granting an extension to the implementation period of one year. This position has been communicated at an early stage to all beneficiaries to date.

2. EXCEPTIONAL INTERVENTION OF THE FUND

The Regulation provides for two exceptions where the Fund may be mobilised even if the criterion of damage exceeding € 3 billion or 0.6 % if GNI is not met.

2.1. The neighbouring country criterion

"Neighbouring country affected by the same disaster" (Art. 2.2 subparagraph 2)

This criterion is applicable only to countries neighbouring another country in which a major disaster has taken place and was accepted by the Commission as eligible for support from the Fund. To be eligible the disaster in the neighbouring country (which may be one event or a set of events, cf. Chapter 1) striking the border area of the two countries in questions must be the same. *Similar* circumstances alone are not sufficient. If a disaster is found to meet this criterion the mobilisation of the Fund is subject to no further conditions and independent of its size.

Grants under this criterion are counted within the total annual allocation available to the Fund and not within the allocation of 7.5% of the total annual allocation earmarked for extraordinary regional disasters. The aid is determined applying the same method as described in chapter 3 below (i.e. on the basis of 2.5% of total direct damage).

2.2. Regional disasters

Disasters meeting neither the "major disaster" nor the "neighbouring country" criteria may exceptionally qualify for assistance from the Fund if they meet a number of specific criteria set out in Art. 2(2) subparagraph 3. These criteria have been referred to as the "qualitative" criteria.

Definition of the affected region

The Regulation does not define the notion of an affected region. As disasters do not respect administrative boundaries, it appears reasonable to allow the applicant State, subject to verification by the Commission, to define the region following a criterion of its choice and reflecting the nature of the damage. This must be clearly explained in the request.

The Regulation does not set out any minimum requirements in terms of size of the affected territory or population. The Commission considers, however, that given the underlying rationale of the Fund and in order for the specific criteria for regional disasters to be of any meaning, in particular as concerns "economic stability", the affected area or population must be significant in the national context. While purely local events are therefore not eligible to the Fund the guiding principle has been that the more devastating a disaster is, the smaller a region may be defined. It should be recognised that this cannot be quantified in advance and has to be decided on a case by case basis. The concept was applied in the case of the Molise earthquake that affected a relatively small part of Italy's population of under a quarter of a million inhabitants but was extremely devastating.

Equally, the Commission considers that for disasters not meeting the "major disaster criterion", the Regulation does not allow damage from several areas to be aggregated, even where that damage has a common underlying cause. The Regulation allows the Fund to intervene whenever the major part of the population of a specific region is affected by a disaster with serious and lasting repercussions on living conditions. The use of the term "a region" in the Regulation connotes a contiguous or coherent area and is not to be understood as an aggregation of areas dispersed within a larger territory. This view is supported by the fact that Article 2(2), final paragraph, is an exception and should therefore be read strictly. A broad interpretation allowing several distinct and unconnected areas to be considered collectively as a region would also raise difficulties in applying the other criteria of Article 2(2), in particular as regards proving lasting repercussions on the economic stability of the affected region.

Exceptional mobilisation of the Fund

The Fund may exceptionally be mobilised for regional disasters **under three conditions:**

- Disasters must mainly be natural[22]
- The major part of the region's population must be affected, and
- Serious and lasting repercussions on living conditions and the economic stability must be demonstrated.

[22] On the significance of "mainly" see page 14

In such cases a disaster is considered to be **extraordinary**, because it exceeds by its nature or its size in terms of damage or by its impact on the region concerned what could reasonably be expected to happen.

"Disaster … affecting the major part of its population"

In order to assess whether the major part of the population of the region concerned by the disaster is affected two elements are required.

Firstly, the region must be clearly identified and the normal resident population of that region must be indicated. Secondly, the part of the population affected by the disaster must be indicated. The Commission considers that the major part means no less than 50%. To qualify there must be some form of direct effect on those individuals, such as loss of or damage to health or property or economic damage (e.g. incapacity to exercise one's occupation) or other form of serious personal disadvantage, such as provisional housing, impossibility to send children to school etc. It is not sufficient to live in the affected area without suffering serious personal disadvantage.

States may base their application on the area most severely hit even if it is smaller than the actual area really affected in order to fulfil the population criterion. This can be acceptable but in such case the damage declared must only relate to the region defined. In exceptional cases, it could be considered acceptable if the grant is used in the wider affected area.

"Serious and lasting repercussions on living conditions and the economic stability"

This means direct negative impact on the population, such as lasting provisional housing, lasting unavailability of normal infrastructures (water, energy, major transport infrastructures, telecom etc), lasting health hazard etc. Lasting should mean that the expected duration of that direct negative impact is not much less than one year.

The applicant State must also demonstrate significant negative impact on employment and/or economic activity that is expected to be felt for more than one year (significant rise in unemployment, significant drop in industrial or agricultural production, significant drop in the services sector, e.g. in tourism etc).

Particular focus on remote and isolated regions

While the Commission considers that the above three criteria must be met cumulatively, the call for particular focus on remote or isolated regions is not a separate criterion for a disaster to qualify for aid. The Commission considers the remote or isolated character of a region to be present when it is either located at a great distance from the centre of its national economy (such as the outermost regions) or if the region is isolated within the national economy because of its geographic location (certain mountain areas, islands etc) with underdeveloped infrastructure links, or because of other particular vulnerability. In the absence of a remote or isolated character of the region the applicant State must give reasons why the Fund should nevertheless be mobilised. This could, for example, be the particular seriousness of the three criteria mentioned before.

3. DETERMINATION OF THE AMOUNT OF AID

Beyond the general terms of Article 4 (2), the Regulation itself contains no specific rules on how to determine the amount of aid to be granted. It does, however, contain a number of indications, such as the obligation to retain a quarter of the Fund's allocation until 1 October of each year and, in particular, the necessity to ensure an equitable treatment of all applications. In establishing a method for determining the amount of Fund aid the Commission was led therefore by the following principles:

– **Equity and transparency**: The method should allow multiple grants to a number of disasters of different size and in countries with different economic strength in the course of one year, while respecting the maximum annual allocation for the Fund as a whole (€ 1 billion), the 7.5% maximum share of total annual allocation for extraordinary regional disasters, and the requirement to retain 25% of the Fund's total allocation until 1 October of each year. The amount of aid should not - under normal circumstances and in all likelihood - depend on the point in time at which in the course of a budgetary year an application is made nor on what total amount of aid had already been made earlier during the same year;

– **Solidarity and subsidiarity**: the intensity of aid from the Fund should be higher for bigger disasters than for smaller ones. The aid rate should therefore be progressive with increasing damage. The amount of the aid should reflect the degree to which a disaster stricken country is capable to face the situation with its own means. For the same amount of damage poorer countries (expressed by GNI) should therefore receive more aid than richer countries.

These principles were tested against a number of alternative solutions and simulation calculations and led the Commission to adopt the following system:

A **progressive system** in **two brackets** is introduced whereby a country affected by a disaster receives a lower rate of aid of 2.5% for the part of the damage below a threshold and a higher share of aid of 6% for the part of the damage exceeding the threshold. The two amounts are added up.

The threshold is the level of damage defined by the Regulation to trigger the intervention of the Fund, i.e. 0.6% of GNI or € 3 billion in 2002 prices. This element ensures that the relative capacity of a State to deal itself with a disaster is taken into account. It also ensures that for the same amount of damage relatively poorer countries would receive more aid in absolute terms than richer ones.

For extraordinary regional disasters the same method has been applied, meaning consequently that countries affected by those disasters, which by definition remain below the threshold, receive 2.5 % of total direct damage in aid.

As the first year of applying the Regulation has shown, applications not meeting the "major disaster" criterion are rather the rule than the exception (9 out of 14 applications). Although, for varying reasons, the Commission did not respond favourably to certain of these cases the number of the smaller disasters remains unexpectedly high. One consequence has been that a situation arose in 2003 where the budgetary resources available for extraordinary regional disasters proved insufficient if the aid rate of 2.5% of total direct damage was to be applied. The rate had thus to be reduced on a pro rata basis to just under 2%.

To avoid similar situations in future which raise problems in respect of ensuring an equitable treatment of all cases two solutions are possible: 1) modifying the Regulation to raise the maximum annual amount that may be spent for regional disasters or 2) modifying the Commission's calculation method by setting the lower of the two rates, applicable to the share of damage below the threshold for major disasters, at a rate below 2.5%.

Total direct damage was chosen as the basis for determining the amount of aid because it reflects best the overall impact on living conditions and the economy of a country. By contrast, the cost of eligible emergency operations and its relative size in relation to total damage may vary greatly (cf. section on total damage above). The burden on public budgets caused by a disaster exceeds by far the amount of costs eligible for assistance from the Fund and also includes indirect consequences such as reduced tax revenue, increased social security payments etc. Obviously, aid may not exceed the amount of eligible cost.

CONCLUSIONS

Overall assessment of the implementation of the Fund

1. Before drawing conclusions it is important to recall the initial **purpose and concept** that lead to the creation of the Fund. Under the impression of the unprecedented scale of the flooding disasters of 2002 it was felt that the Union should dispose of an instrument that would allow to show practical solidarity with Member States and candidate countries by granting exceptional financial aid if these were the victims of disasters of such unusual proportions (in the Regulation referred to as “major disasters”) that their own capacity to face up to them reached to their limits. It is under these circumstances – reflecting the principle of subsidiarity - that Member States were prepared to raise financial resources over and above the normal Community budget.

2. Apart from the 3 **major disasters** at the origin of the Fund’s coming into existence – the flooding in Austria, Germany and the Czech Republic – there has so far been only one more major disaster, namely the forest fires in Portugal, for which the Fund was mobilised[23]. All these cases could be completed in the shortest of time thus proving the Union’s capacity to live up to the expectations linked with the new instrument. The Commission was in fact able to assess the dossiers and propose the mobilisation of the Fund to the budgetary authority within hardly more than one month of the application.

   It should also be remembered that – although the Fund was created to grant emergency aid – it essentially is constructed as a refunding instrument. The objective is and should remain to make money available rapidly. Certain administrative improvements and in particular if further scope for streamlining the budgetary procedure between Parliament and the Council were to be found, actual payments of the aid could be made even quicker.

   Further reflection is required on the feasibility of providing immediate funding (e.g. *fonds de trésorerie*) in certain cases so as to allow Member States to pay for additional measures to deal with emergencies which overwhelm their immediate financial capacities. Funding would have to be repaid. Granting assistance would be independent from any later decision on eligibility for the Solidarity Fund[24].

   In all and considering the rationale behind creating the Fund, the assessment of its operations should be predominantly positive: the Fund is fulfilling its purpose.

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23 The Greek application was also based on a “major disaster” but rejected by the Commission as it was found not to meet the criteria. (Cf. also footnote above)

24 See Communication from the Commission on “Reinforcing the Civil Protection Capacity of the European Union”.

3. For those cases that did not fall within the main scope of the Fund the judgement must be more nuanced.

Firstly, applications to mobilise the Fund for disaster *below* the "major disaster" threshold, which were intended to be the absolute exception, proved to be the majority of cases.

So far only one application related to the "neighbouring country" criterion. Given the normal purpose of the Fund and the exceptional character of this criterion, the Fund should only be mobilised for such cases where it is clearly established that it is one and the same disaster that struck the border area of two countries.

Assessing the relatively great number of applications und the "regional disaster" criterion met with certain difficulties. Initial applications hardly contained sufficient information to verify the much more numerous and specific requirements of this criterion. As a result, supplementary information had to be sought which in return led to prolonging the delays for scrutiny. In some cases the need for translation led to further delays. In some other cases the Regulation proved to lack a certain degree of precision and to require interpretation, e.g. as concerns the definition of the affected region and number share of affected population. In spite of certain weaknesses – for some of which the Commission proposes administrative solutions (see fifth point) – it can be concluded that also for the exceptional cases the Fund has overall worked rather satisfactorily.

4. Just over one year of experience is, of course, too short a period to make a final judgement. It is in particular too early to propose any substantial modifications to the Regulation. As experience teaches already, no disaster is like another and each case puts the Regulation to the test again. It appears therefore more appropriate to gather further experience and reflect on possible adjustments to the Regulation by 2006 as already foreseen by its Article 14.

Operational guidelines for future action

If it appears too early to modify the basic legal act, in the short term the Commission considers that a number of practical measures in applying the Regulation should be taken now and would lead to improvements, in particular to streamline and speed up the processing of applications:

1. As described before the time for receiving the supplementary information necessary for verifying the different requirements of the Regulation – in particular for applications under the "regional disaster" criterion - has lead to a prolonged examination period. Given the experience gathered with the application of the Fund over the past year the Commission will in future strive to finalise its assessment on the basis of the information available at the latest 4 months after receipt of the application. A standardised application form which will be available in all languages (cf. model in annex) should help to streamline the examination process. Subject to budgetary and resource availability the Commission will endeavour to provide priority resources regarding translation facilities.

2. In assessing applications the Commission has repeatedly felt the need for external technical expertise, in particular for verifying the reliability of estimates of total

damage and of the cost of eligible emergency operations. The Commission may propose a budget to make such technical assistance available from 2005 onward.

3. The necessity sometimes to translate application dossiers may be a cause of delay because of the shortage of resources. As a means of shortening the reaction time to the catastrophe, the Commission therefore suggests that application dossiers could as far as possible be standardised along the lines of the standardised "application form" (see paragraph a) above and cf. model in annex). and wherever possible could be submitted in one of the more frequent working languages, such as English, French or German - it being understood that neither the use of the standardised "application form" nor the use of any specific language among EU official languages are mandatory to present applications.

4. For “regional disasters” the maximum annual allocation is limited to 75 million Euros. In accordance with Article 4(2) of the Regulation at least one quarter of this amount must remain available on 1 October of each year, limiting the maximum total amount that may be granted before that date to 56.25 million Euros. The current method of calculating the amount of aid risks exceeding these limits, in particular if several regional disasters happen before the first of October of a given year As set out above, the Commission will not at this stage propose to modify the Regulation. If similar situations should recur the Commission may modify its calculation method by setting the lower of the two rates, applicable to the share of damage below the threshold for major disasters, at an appropriate lower level (say 2%) for all future cases.

5. Equity considerations suggest to discuss a limitation of the grant to a certain proportion of the total costs of eligible operations, as estimated at the moment of the proposal to mobilise the fund. This issue will be further explored at the forthcoming conference on the Solidarity Fund to be organised in autumn 2004. In the light of these discussions the Commission would come up with appropriate proposals.

ANNEXES

Annex 1: European Union Solidarity Fund applications in 2002

	Austria	Czech Republic	Le Gard/ France	Germany
Nature of disaster	flooding	flooding	flooding	flooding
First damage date	6/8/2002	5/8/2002	8/9/2002	10/8/2002
Total direct damage	2 900 m€	2 300 m€	835 m€	9 1000 €
Major or regional disaster?	**Major disaster**	**Major disaster**	Regional disaster	**Major disaster**
Cost of eligible emergency operations	1200 m€	1186 m€	225 m€	1699 m€
Eligible cost / total damage	41%	52%	27%	19%
Aid / eligible cost	11.2%	10.9%	9.3%	26.1%
Aid rate (% of total damage)	**4.6%**	**5.5%**	**2.5%**	**4.8%**
Status	Decided and paid out Implementation com-pleted, waiting for final report	Decided and paid out Implementation com-pleted, waiting for final report	Decided and paid out Implementation com-pleted, waiting for final report	Decided and paid out Implementation com-pleted, waiting for final report
Amount of aid granted	**134 m€**	**129 m€**	**21 m€**	**444 m€**

* Registration of initial application at Commission

Annex 2: European Union Solidarity Fund applications in 2003

	Prestige/ Spain	**Molise/ Italy**	**Etna/ Italy**	**North Italy**	**Greece**	**Portugal**	**France**	**Spain**	**Malta**	**Friuli Venezia-Giulia/ Italy**
Nature of disaster	Oil spill	Earthquake	Volcanic eruption & quakes	Flooding	Adverse winter weather	Forest fires	Forest fires	Forest fires	flooding	flooding
First damage date	19/11/02	31/10/02	26/10/02	24/11/02	1/12/2002	20/7/03	2/7/03	1/8/03	15/9/03	29/8/03
Application date*	13/1/03	13/1/03	13/1/03	31/1/03	28/2/03	13/8/03	10/9/03	1/10/03	10/11/03	6/11/03
Total direct damage	436 m€ (adjusted)	1 558 m€	849 m€ (adjusted)	1 900 m€	Not clear	1 228 m€	531 m€	53.2 m€ (adjusted)	30 m€	525 m€
Major or regional disaster?	Regional disaster	Regional disaster	Regional disaster	Regional disaster	Regional disas-ter	**Major disas-ter**	Regional disas-ter	Neighbouring country	**Major disaster**	Regional disaster
Cost of eligible emer-gency operations	416 m€	248 m€	204 m€		Not clear	104 m€		29.2 m€	11 m€	136 m€
Eligible cost / total damage	95%	16%	24%	-		8%	-	55 %	37%	
Aid / eligible cost	2.1%	12.4%	8.2%			46.7%		4.6 %	8.7 %	
Aid rate (% of total damage)	**1.97%**	**1.97%**	**1.97%**			**3.95%**		**2.5 %**	**3.2 %**	
Status	Decided	Decided	Decided	**Rejected**	**Rejection pro-posed****	Decided and paid out	**Rejection pro-posed****	Partial accep-tance pro-posed**	Acceptance proposed**	**Rejection pro-posed****
Amount of aid granted	**8.626 m€**	**30.826 m€**	**16.798 m€**	-	-	**48.539 m€**	-	1.331 m€	0.961 m€	-

* Registration of initial application at Commission
** Commission decision on 9/03/2004

Annex 3:

Summary Application Form to mobilise the European Union Solidarity Fund (EUSF)

The information to be provided in this form should be considered as **a summary of your application**. It cannot replace the proper application. All supporting documentation, reports, photographs and statistics etc. referred to in this summary application form should be numbered and or indexed, and accompany your application. All documents can be sent to the Commission in one of the official languages of the European Union. However, in order to expedite the processing of the application it would be helpful if the summary application could (also) be supplied in English, French or German.

This summary application form is to facilitate the Commission Services to conduct a **preliminary assessment** to establish if an application to mobilise the EU Solidarity Fund is admissible. It is by no means meant to be a binding interpretation of the terms of Regulation 2012/2002. If an application is deemed admissible, then a full and proper examination of the application will proceed in accordance with the terms of the Regulation. For guidance and clarity, you are requested to refer to the EU Solidarity Fund Regulation and to the applications operational manual provided by the Solidarity Fund Team, DG Regional Policy. Each question has a guidance reference number to enable you to consult the manual for an explanation and guidance note to assist you to respond to the questions outlined hereunder.

The application documents, including the summary application form should be transmitted to:

EUROPEAN COMMISSION
DG REGIONAL POLICY
B-1049 Brussels
Belgium

An electronic version of the application should be send to:

eu-solidarity-fund@cec.eu.int

Guideline Reference Number	**Information required**	**To be completed by applicant country**
1	**Country affected**	
2	**Kind and characteristics of disaster**	
3	**Date of first damage caused by the disaster**	
4	**Body introducing request**	
	Administrative Contact: Name Function Address Phone Fax Email	

5	**Please confirm that no damage relating to your application was caused prior to the date indicated und point 3 above**	
6	**Is the disaster a natural disaster?**	
7	**If not a natural disaster, please describe**	
8	**Justification for intervention of EUSF**	
9	**Outline the serious repercussions that the disaster has had on living conditions, the natural environment or the economy?**	
10	**Estimate of the total direct damage**	
	Of which public	
11	**What percentage of Gross National Income does the damage represent?**	
12	**Damage above € 3 billion or 0.6% of GNI?**	
Questions 13 to 18 (grey section) need to be answered only if the disaster does not qualify as "major disaster", i.e. when total direct damage is smaller than € 3 billion (in 2002 prices) or 0.6% of your country's GNI (the smaller of the two figures applies)		
13	**Is a neighbouring country affected by the same disaster?**	
14	**Affected region(s)/area**	
15	**Population living in affected regions/area**	
16	**To what extent is the major part of population affected?**	
	Describe nature of affectedness	

17	**Outline the serious and lasting repercussions on living conditions**	
	…and economy stability of the affected region	
18	**Is the affected area remote or isolated? Please describe**	
19	**Estimated cost of eligible operations (following Art 3 of the EUSF regulation)**	
	TOTAL amount	
	Breakdown by category:	
	A) Immediate restoration to working conditions of infrastructure and plant in the fields of: **(1) energy** **(2) water and waste water** **(3) telecoms** **(4) transport** **(5) health** **(6)education**	
	B) **(1) temporary accommodation** **(2) rescue services**	
	C) **(1) preventive infrastructures,** **(2) immediate protection of cultural heritage**	
	D) Immediate cleaning up of disaster stricken area/natural zones.	

20	**Share of "eligible" cost in relation to total direct damage amount**	
21	**What other sources of Community funding have you received/ will you use to cover total damage?**	
22	**Other sources of funding**	
	~ national	
	~ international	
	~ insurance	
23	**To what extent is the eligible cost insurable?**	
24	**Is there any 3rd party liability caused (e.g., "Polluter pays" principle)?**	
25	**Are you aware of any other countries concerned by same disaster? If so, please state.**	
26	**Have you submitted or plan to submit other requests for assistance from other Community Instruments for the same disaster.**	
27	**Do you intend to apply for EIB loan for expenditure related to the disaster; amount**	

Annex 4:

Summary Guidelines for EUSF Applications – Operational Manual

These guidelines and headings are drafted to provide help for presenting claims. They do not give an exhaustive presentation of the obligations of the 2002 EUSF Regulation, and do not consider legal questions in detail, and should not be understood as an interpretation of the Regulation. The information provided is therefore without prejudice to the position the Commission will take on the basis of the information received. Reference numbers correspond with those in the application form.

Reference Number		***Nature of information required***	***Legal Basis*** *where applicable*	***Guide Notes + Commission Methodology in processing application in accordance with EUSF Regulation***
1	**Country affected**	Member State or candidate country	Article 2(1)	
2	**Kind and characteristics of disaster**	Brief description		
3	**Date of first damage caused by disaster**	Date	Article 4(1)	This is the starting date for eligibility of funding; applications must be received within 10 weeks of this date. It is not possible to chose later date in order to meet deadline
	Date of application	Date upon which the Commission *receives* the application		Official registration at Commission
4	**Body introducing request**	Name and function of person/ administration addressed to whom and by whom?	Article 5(3)	Must be a National Government
		Administrative contact: Telephone, Fax, e-mail etc		This should be the person(s) with whom the Commission can directly correspond for any further questions relating to the application. To assist the speedier translation of the application, an electronic copy of the hard copy would be welcome where possible
5	**Please confirm that no damage relating to your application was caused prior to the date indicated und point 3 above**	yes/no	Article 4(1)	Must also state the duration of events that caused damage
6	**Is the disaster a**	yes /no	Article	

Reference Number		***Nature of information required***	***Legal Basis*** *where applicable*	***Guide Notes + Commission Methodology in processing application in accordance with EUSF Regulation***
	natural disaster?		2(1)	
7	**If not a natural disaster, please describe?**	description	Preamble 5	Disasters other than natural can qualify but require special justification. While non-natural disasters are not excluded, the Regulation reserves EUSF aid "mainly" for natural events. This criterion was introduced into the Regulation among other reasons in order to avoid conflicts with the "polluter pays" principle and not to undermine legal liability for damages caused. If a state applies for EUSF aid in spite of non-natural incident it must give reasons why the intervention of the EUSF might nevertheless be justified (e.g. bankruptcy of the liable party).The fact that the liable party was not sufficiently insured should not in itself be a sufficient reason.
8	**Justification for intervention of EUSF**	reasons why EUSF should be mobilized		Expected repercussions and duration of incident etc with which affected country cannot cope alone
9	**Outline the serious repercussions that the disaster has had on living conditions, the natural environment or the economy?**	brief description	Article 4(1)	
10	**Total direct damage**	Estimated amount (Million €)	Article 4(1)a Article 2	Economic losses (income losses etc) and notional damage may not be included. Immediately required preventive measures and essential repairs are acceptable because they aim to restore conditions to as normal as possible. Structural improvements that exceed the "status quo ante" limits could not be accepted as damage.
		of which “public” damage (amount and % of total)	Preamble 4	Public damage related to all state-owned assets and infrastructure and cost of emergency operations/services
11	**What percentage of Gross National Income (GNI 2001) does the damage represent?**	amount and % of total		In 2003 the Commission applies harmonised 2001 figures (latest stable figures), see Annex 1

Reference Number		***Nature of information required***	***Legal Basis*** *where applicable*	***Guide Notes + Commission Methodology in processing application in accordance with EUSF Regulation***
12	**Is the damage above the threshold of 0.6% of GNI or € 3 billion in 2002 prices?**	Yes/no and total amount of estimated damage in Euro	Article 2(1)	To reflect 2002 prices the Commission applies an deflator to the 3 billion figure. The most recent deflator used in the Community budget, based on the macro-economic evolution in the Union, is 1.8%. Thus 3 billion in 2002 prices correspond to **3.054 billion** in 2003 prices (3 x 1.018). If the answer is yes it is not necessary to reply to questions 13 to 18 (grey section). If the answer is no, Regulation 2102/2002 only applies if the disaster occurring at a regional level is exceptional and meets the criteria laid down in Article 2(2), final subparagraph. To qualify for EUSF aid regional disasters need to meet the following criteria which the "Commission must examine with the utmost vigour". There must be present an exceptional set of circumstances of an extraordinary disaster, mainly a natural one. Any ordinary disasters would normally be expected to give rise to exceptional circumstances. The fact that the Regulation particularly sets up this requirement obliges the applicant State to provide evidence demonstrating the more than ordinary character of the disaster which must have particularly severe consequences. The fact that the Regulation allows a maximum of only 7.5% (i.e. 75 million) of the annual amount of €1 billion available to the EUSF clearly indicates that the majority of regional disasters are considered not to qualify for EUSF aid.
13	**If damage is below threshold, is the neighbouring country criterion met?**	yes / no	Article 2 (2)	A country may exceptionally be eligible for EUSF aid if it has been hit by the same disaster as a neighbouring country found eligible
14	**Affected region**	administrative regions or definition of affected area	Article 2(1)	As disasters do not respect administrative boundaries, the applicant State may, subject to verification by the Commission, define the region following a criterion of its choice and reflecting the nature of the damage. This must have to be clearly explained in the request and the population of that region must be numbered. The affected area/population must be of significant size.
15	**Population living in affected area /regions(s)**	number	Article 2(2)	Normal resident population, not counting tourists etc.

Reference Number		Nature of information required	Legal Basis where applicable	Guide Notes + Commission Methodology in processing application in accordance with EUSF Regulation
16	**To what extent is the major part of population affected?**	number or % of total description of nature of affectedness	Article 2(2)	It is not sufficient for an individual to live in the region. To qualify there should be some form of direct affectedness such as loss of or damage to health or property or economic damage (e.g. incapacity to exercise one's occupation) or other form of serious personal disadvantage, such as provisional housing, impossibility to send children to school etc. Major part of the population should be understood to mean more than 50%. States may base their application on an area, which is most severely hit but smaller than the actual area really affected in order to fulfil the population criterion. This can be acceptable but in such case the damage declared must only relate to the region defined.
17	**Outline the - serious and lasting repercussions on living conditions and economy stability.**	demonstrate direct negative impact on the population such as lasting provisional housing, lasting unavailability of normal infrastructures (water, energy, major transport infrastructures, telecom etc). demonstrate significant negative impact on employment and/or economic activity (significant rise in unemployment, significant drop in industrial or agricultural production, significant drop in the services sector, e.g. in tourism etc).	Article 2(1,2)	It should be noted that the smaller the affected region is or is defined, the more difficult it will be to show that the economic stability of that region suffers from severe and lasting repercussions. Lasting should mean not significantly less than one year.
18	**Is the affected area in a remote or isolated region?**	describe remote or isolated character of affected region, such as insular or outermost	Article 2(2)	Particular focus will be on remote or isolated regions, such as the insular and outmost regions. While this criterion does not exclude other regions, the fact that it has been set up obliges applicant states to provide particular evidence for the remoteness or isolation of the region….

Refer-ence Num-ber		***Nature of information required***	***Legal Basis*** *where applicable*	***Guide Notes + Commission Methodology in processing application in accordance with EUSF Regulation***
19	**Estimated cost of eligible opera-tions (following Art 3 of the EUSF regulation)**	Provide figures broken down following the cate-gories of the regulation : A. Immediate restoration to working order of infra-structure and plant in the fields of energy ,water and waste water, tele-communications, trans-port, health and educa-tion. B. Providing tempo-rary accommodation and funding rescue services to meet the immediate needs of the population concerned. C. Immediate securing of preventive infrastructures and meas-ures of immediate protec-tion of the cultural heri-tage. D. Immediate clean-ing up of disaster-stricken areas, including natural zones.	Article 3(1,2)	
20	**Share of eligible costs in relation to total direct damage**	%		
21	**What other sources of Com-munity funding have your re-ceived to date o cover total dam-age**	description / estimated amount (e.g. use of Structural funds etc)	Article 6	
22	**State the other sources of financ-ing** **- national** **- international** **- insurance**	description / estimated amount/ % of total dam-age	Article 6(2) Arti-cle 4(1)	all other sources of funding, including public and private insurance that might contribute to the cost of repairing damage has to be speci-fied
23	**To what extent is the eligible cost insurable?**	Estimated amount/ share of eligible cost	Article 3(3)	Specify to what extend you consider that the eligible operations should have been, or effec-tively were covered by insurance.

Reference Number		***Nature of information required***	***Legal Basis*** *where applicable*	***Guide Notes + Commission Methodology in processing application in accordance with EUSF Regulation***
24	**Is there any 3rd party liability caused (e.g., "Polluter pays" principle)?**	Indicate whether you expect to receive any compensation payments, from whom, amount		Applies particularly in cases of non-natural disasters
25	**Are you aware if other countries are concerned by same disaster? If so please state which.**		Preamble 6	
26	**Have you submitted or plan to submit other requests for assistance from other Community Instruments for the same disaster.**	Name instrument (e.g. EAGGF) and possible amount		
27	**Do you intend to apply for EIB loan for expenditure related to the disaster; amount**	Briefly describe purpose of envisaged EIB loan and amount		

Annex to Summary Guidelines for EUSF Applications -Operational Manual

Gross National income 2001

(Million €)

Country	GNI 2001	0.6% of GNI	Normal intervention threshold 2003
BALGARIJA	15 202.88	91.22	91.22
BELGIQUE-BELGIË	258 869.00	1 553.21	1 553.21
CESKA REPUBLIKA	61 396.57	368.38	368.38
DANMARK	175 220.24	1 051.32	1 051.32
DEUTSCHLAND	2 055 790.00	12 334.74	**3 054.00***
EESTI	5 857.16	35.14	35.14
ELLADA	131 749.00	790.49	790.49
ESPAÑA	642 802.00	3 856.81	**3 054.00***
FRANCE	1 469 211.00	8 815.27	**3 054.00***
IRELAND	97 712.34	586.27	586.27
ITALIA	1 209 964.26	7 259.79	**3 054.00***
KYPROS	10 230.37	61.38	61.38
LATVIJA	8 653.06	51.92	51.92
LIETUVA	13 186.96	79.12	79.12
LUXEMBOURG (GRAND-DUCHÉ)	19 154.76	114.93	114.93
MAGYARORSZÁG	53 260.67	319.56	319.56
MALTA	4 043.74	24.26	24.26
NEDERLAND	424 185.00	2 545.11	2 545.11
ÖSTERREICH	207 785.81	1 246.71	1 246.71
POLSKA	202 503.31	1 215.02	1 215.02
PORTUGAL	119 687.40	718.12	718.12
ROMÂNIA	44 382.65	266.30	266.30
SLOVENIJA	21 766.59	130.60	130.60
SLOVENSKÁ REPUBLIKA	23 489.16	140.93	140.93
SUOMI/FINLAND	134 842.00	809.05	809.05
SVERIGE	242 811.68	1 456.87	1 456.87
UNITED KINGDOM	1 608 443.19	9 650.66	**3 054.00***

* (~ 3 billion in 2002 prices)