



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL**

**THE EUROPEAN COMMUNITY RESPONSE TO THE FLOODING IN AUSTRIA,
GERMANY AND SEVERAL APPLICANT COUNTRIES**

A solidarity-based initiative

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1. INTRODUCTION

The recent flooding in central Europe has been of unprecedented proportions. It is too early yet to draw up a definitive estimate of the extent and cost of the damage, but it is obvious that it is very extensive – dozens of people have lost their lives, the socio-economic infrastructure of entire regions has been disrupted and the natural and cultural heritage has been damaged. Some very preliminary estimates indicate damage amounting to € 15 billion in Germany, € 2 billion in Austria, between € 2 and 3 billion in the Czech Republic and up to € 35 million in Slovakia.

This communication describes briefly, for the benefit of the public, the European Parliament and the Council, the action that the European Commission has already taken or proposes to take to come to the aid of the Member States and applicant countries whose citizens, farmers, workers, business people and communities have suffered in the recent catastrophic floods.

Much of this action involves the reallocation of existing resources and is relatively easy to implement. But a strong feeling has developed in the course of the last few weeks in favour of additional European Community action. To this end the Commission is proposing the creation of an EU Disaster Relief Fund.

Solidarity

We are a community of peoples on the path to closer union. It is only right and natural therefore that the citizens, Member States and Community Institutions feel a spontaneous urge to show their sympathy for the victims of the floods through practical gestures of financial solidarity in particular.

Causes of the catastrophe

This communication focuses on the short to medium-term action that the Community can take to help the Member States and the applicant countries concerned make good the damage done by the recent catastrophic flooding. However, looking to the longer-term, the Commission believes that the dramatic events of the last few weeks should make us reflect on how such a catastrophe came to pass. Over and above the exceptional climatic conditions of the last few weeks, we need to examine the extent to which human intervention has contributed to these problems, in particular through the continuing emission of high levels of greenhouse gases and inadequate land-use and water-management policies. At a time when world leaders are assembling in Johannesburg to agree on measures to promote sustainable global development, renewed commitment to further concrete action in this direction by the Union and other major players is more than ever necessary.

The European Community's response

As soon as the extent of the catastrophe became apparent, the Commission – its President, individual Commissioners and its departments – contacted and began

discussing Community aid with the national and regional authorities concerned in both the Member States and the applicant countries affected.

The European Parliament too has voiced its concern and has promised to process with maximum urgency proposals which require the approval of the Budgetary Authority.

The Council of Ministers also shares this sense of solidarity with the victims of the flooding and of the urgency of Community action. The Danish Presidency has convened a special meeting of Member States' representatives for the 29 August 2002 to discuss what measures the Union could take.

The European Community's solidarity-based response is twofold:

- on the one hand, using the possibilities offered by existing Community laws and instruments, particularly in the fields of the Structural Funds, agriculture or aid to candidate countries (to which could be added EIB loans). Meetings are already scheduled with the national and regional authorities concerned in order to evaluate all these possibilities more precisely;
- on the other hand, creation of an "EU Disaster Relief Fund" with mobilisation procedures specifically adapted to respond to the consequences of major catastrophes by rapidly mobilising new resources.

In the following section the document sets out in general terms certain factual data and measures already undertaken and measures to be taken.

2. FINANCIAL MEASURES FOR MEMBER STATES

Structural Funds

Existing Community credits already allocated to the regions and Member States concerned can be redirected to flood-related measures by modifying existing programmes in order to target support on the restoration effort. Member States have three possibilities open to them:

- Concentrating funds on flood-related measures in affected regions within existing measures under on-going Operational Programmes/Single Programming Documents.
- Creating new measures that would allow expenditure for flood-related action, in particular to rebuild damaged infrastructure and for productive investment in companies, to replace destroyed equipment and for special training and occupational schemes and other human-resources related measures.
- Shifting funds from other measures and priorities to the appropriate existing or newly created measures including, where necessary, between funds. The precise amount of available funds has to be assessed by the national, regional and local authorities who are responsible for the selection of the projects cofinanced by the structural funds.

As regards the application of the so-called “n+2 rule” on automatic decommitment, the possibility exists in cases of *force majeure*, which includes large scale natural disasters with serious consequences for implementation of the assistance provided by the structural funds, to make available again the commitment appropriations corresponding to the decommitment carried out pursuant to the second sub-paragraph of Article 31(2) of Council Regulation 1260/1999 (if the under-execution was due to flooding).

Future action

The Commission will make every effort to take the necessary decisions regarding the modification of the Programmes within the shortest possible time. The Member States and regions can adapt their priorities and where necessary inform the Commission and request modifications to existing programmes. Moreover, resort to the performance reserve (4%) will be examined.

In certain cases, the Managing Authorities of the Programmes concerned may adjust the programme complements within the limits set by Article 34.3 of Council Regulation 1260/1999 under their own responsibility.

Trans-European networks (TEN)

Approximately € 11 million under the TEN-Transport budget and € 5.9 million under the TEN-Energy budget have not yet been allocated and could, in principle, be freed to support the reconstruction of TEN projects damaged by the floods in Germany and Austria. In addition, in the Multi-Annual Indicative Programme, € 79.7 million are earmarked for German projects and € 14.4 million for Austrian projects. These amounts could be redirected to specific reconstruction projects at the request of Germany and Austria.

Future action

The Commission will, on receipt of requests from Austria and Germany, submit them to the TEN Financial Committee and, if approved, process them as quickly as possible.

EIB

The EIB is currently examining a proposal for the fast implementation of its announced Flood Disaster Relief Plan. The Bank proposes to make available from its own resources, as soon as possible, € 1 billion of loans for flood disaster relief. The loans would have maturities of up to 30 years, would be provided on the finest possible terms and could, in exceptional circumstances, finance up to 100% of the cost of individual projects. Global loans to finance SMEs would be part of the programme. The objective would be to make loans immediately available by distributing them through a limited number of the EIB's existing intermediaries.

Future action

The EIB will submit the proposal to its Board for approval on 19 September 2002.

3. FINANCIAL MEASURES FOR APPLICANT COUNTRIES AFFECTED

ISPA

The Commission will allocate to the Czech Republic up to € 48 million of unallocated ISPA 2002 money towards flood relief, under more favourable and flexible conditions. In particular, as already foreseen in Regulation 1267/99 of 21 June 1999 for exceptional circumstances and in conformity with procedures laid out therein, the Commission will increase the ceiling on public aid to 75% and the Community contribution to 85% for relevant projects in areas affected by exceptional natural disasters.

The Commission can allocate to Slovakia several million euros of unallocated ISPA 2002 funds towards flood relief, under the same more favourable and flexible conditions.

The Commission will make available to both countries by the second week of September funds from ISPA for technical assistance to finance 100% damage assessment and project design to help accelerate disbursement of the € 76 million. The first projects could start during the fourth quarter.

PHARE

The Commission will make immediately available to the Czech Republic an additional € 9.75 million from the PHARE 2003 reserve under more flexible conditions.

SAPARD

The Commission has made advances of € 5.5 million to the Czech Republic and of € 4.6 million to Slovakia. The Commission will, in case of need, immediately double the advances mentioned above.

Future action

The Commission will submit proposals to the other EU institutions for a modification of Regulation 1268/1999 in order to increase the ceiling on public aid to 75% and the Community contributions to 85% for relevant projects in areas affected by exceptional natural disasters.

The Commission is prepared to consider as eligible, on request from affected applicant countries, actions which aim at restoring rural areas following flood damage, and that with retroactive effect.

The Commission will on request make the SAPARD implementation rules more flexible to allow funds to flow rapidly to the areas where most needed.

4. AGRICULTURE

Derogation in respect of set-aside use in certain Community regions

The Commission has already authorised the use for feeding purposes of land set aside under the arable crop scheme from 9 August 2002 onwards on condition that at least 33% of the forage area of the holding has been flooded in certain regions of Germany, Austria, Ireland and the UK.

Advance in direct payments for arable crops

The Commission has already proposed to the Cereals Management Committee to allow Germany to pay 50% in advance to producers affected by floods in certain areas from 1 September 2002 and before 15 October 2002 at the latest.

Future action

Should subsequent developments require an extension of the action, the Commission will propose to the Management Committee to modify the regulation accordingly on 29 August 2002.

Use of intervention stocks of cereals

Austria has requested that interventions stocks be made available at special prices for animal producers, to compensate for forage losses due to flooding.

Future action

Following the vote in the Management Committee foreseen for 29 August 2002 the Commission will authorise the available cereals intervention stock in Austria (about 32.000 tonnes) to be made available by the Austrian authorities to the affected producers by the end of September 2002.

Rural development

The Council Rural Development Regulation 1257/1999 already includes specific measures to help restore agricultural and forestry production potential. It is for Member States/regions to decide which measures to insert in their programmes.

The Commission implementing rules (445/2002) already include specific provisions for cases of *force majeure* including natural disasters such as the current flooding. This will permit flexible handling of cases where beneficiaries of rural development measures face difficulties in respecting eligibility conditions for their support (e.g. stocking densities, agri-environment obligations) due to flood damage.

Future action

The Commission will adopt a more flexible and fast-track process to approve modifications such as an increase in the Community co-financing rate or the aid intensity for beneficiaries affected by the flooding. It could agree to derogate from the current limit of one programme modification per year to permit an exceptional

modification to programmes in areas affected by the flooding. In these circumstances, the Commission will consider expenditure under newly introduced measures as eligible from the date of receipt of an official request from a Member States/region concerned rather than from the date of receipt of a fully detailed proposal.

The Commission is ready, at the request of the Member States affected, to examine and submit to the competent Management Committee further specific derogations to the administrative requirements of the existing Commission implementing provisions for rural development measures in order to facilitate the restoration effort.

5. LEGAL MEASURES

State aids

Compensation can be up to 100% of the material damage caused by the flood. Individual aid as well as aid schemes are compatible. Since all damage which has arisen can be compensated for, compensation could also include previously awarded aid the effects of which would have been "washed away".

As regards compensation for more indirect forms of damage caused by the floods, e.g., production delays because of electricity cuts, difficulties in delivering products due to blockage of certain transport routes, where a clear causal link between the damage and the flood can be established, full compensation is possible.

Under the so-called *de minimis* rule, aid of up to € 100,000 over any three year period is not covered by the Community State aid rules. This may be of particular relevance for smaller companies. Furthermore, public funding for general infrastructure works such as roads and bridges is not covered by State aid rules.

Future action

The Commission will do its utmost to simplify and speed up the procedures. Member States affected by the floods should as quickly as possible establish informal contacts with the Commission and notify the intended measures; this will speed up the Commission's decision-making process.

Public procurement

The directives and the EC Treaty allow a flexible application of the rules concerning public contracts in cases of natural disasters.

Future action

Where contracts fall within the scope of the Directives, the Commission would point out that there are two derogations to the standard procedures:

- competitive tendering with reduced deadlines;
- negotiated procedure without prior publication of a contract notice in the Official Journal.

6. COORDINATING AND PREVENTIVE MEASURES

Civil Protection

The Commission activated the Monitoring and Information Centre (MIC) for civil protection and since 14 August 2002 it has been channelling information and coordinating assistance (pumps, vaccines etc.) to the affected areas. The Seveso contact points have also been alerted and they have provided specific information on the situation regarding chemical plants in Germany and the Czech Republic.

Future action

The Commission will adopt an integrated European strategy on prevention, preparedness and response to natural, man-made and other risks, as announced in its work programme for 2002.

A European flood alert system

The Commission has developed a flood simulation system (LISFLOOD) enabling forecasts between two and 10 days ahead and simulation of the impact of preventive measures in catchment areas.

Future action

The Commission will provide scientific support for a European flood warning system containing information on the main European basins and with real-time access to medium-term meteorological forecasts.

7. PROPOSAL FOR AN EU DISASTER RELIEF FUND

In the event of a major disaster the victims expect the EU – as a community of values and solidarity – to render assistance. Therefore the Commission proposes to create a new Disaster Relief Fund to assist affected regions in Member States and countries involved in accession negotiations in the event of major natural, technological and environmental disasters. In addition, the creation of a specific EIB facility could be envisaged as a complement to the Relief Fund.

Aim, scope and functioning of the Relief Fund

EU aid must 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 provide emergency relief action for any area affected by a major disaster, independently from its status under the Structural Funds. The amount of support would be related to the size of the disaster but could also take into account the relative prosperity of the region(s) concerned.

As discussed in Berlin, the Fund would be set up so as to be operational as quickly as possible and should 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.

Action from the Fund should primarily focus on the following two areas:

1. Short term reconstruction of destroyed infrastructures in the fields of electricity, water/waste water, telecommunications, transport and social infrastructures, including temporary shelter.
2. Immediate securing of damaged preventive infrastructures such as dams and dikes.

Money from the Relief Fund would be granted on request by the affected country as a global relief grant on the basis of a tripartite agreement between the European Commission, the country and the affected region(s).

The existence of a disaster of European scale and the amount of the aid would be decided by the budgetary authority (this can be done quickly) upon a proposal by the Commission. The implementation of the global relief grant, in particular the selection of individual projects to be assisted, 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.

Setting up a reserve inside the EC budget

The setting up of a new Fund in the EC budget requires two steps: to create an instrument to make the money available (either a new relief reserve or a new flexibility instrument) and to define a new operational budgetary line to which the money would be transferred for implementation. The latter needs the adoption of a legal basis.

– A new relief reserve

A new reserve, similar to the emergency aid reserve existing for third countries, would be created under Heading 6 of the Financial Perspectives (reserves), the resources for which would be called only in case of mobilisation. This would necessitate a revision of the Interinstitutional Agreement (IIA) and its annexed Financial Perspectives.

– A new flexibility instrument

Through a new flexibility instrument for disasters it would be possible to address unforeseen and exceptional circumstances while maintaining the ceilings of the overall Financial Perspectives of Berlin. Such a new instrument would be set up simply by a revision of the IIA, in which the rules for its mobilisation would be determined. The necessary resources would also be called only in case of mobilisation. Therefore, its establishment may be lighter from a procedural point of view as it does not require a modification of neither the Own Resources Decision nor the Regulation on Budgetary Discipline.

In order to be operational as quickly as possible, the Commission recommends following the approach of creating a new flexibility instrument. An amount of at least € 500 million should therefore be available already in 2002 as a tangible and immediate expression of European solidarity towards those affected by the catastrophe. Should this approach be chosen for the medium term, the annual amount

should be not less than € 500 million and could be set at up to € 1 billion. In the framework of the next financial perspectives, consideration could be given to other options and mechanisms.

- Creating a legal basis

It will be necessary for the Council and the Parliament to adopt, following a Commission proposal, a legal act establishing the operational modalities and the criteria for the implementation of the facility.

- Budget lines to implement the global relief grant

The new budget lines could be located in Heading 2 of the Financial Perspectives (structural actions), it being understood that the normal ERDF programming rules would not apply, or in Heading 3; and in Heading 7 for countries involved in accession negotiations.

Mobilisation of the Fund in 2002

For the creation of the new instrument, three decisions are needed: an interinstitutional agreement between Parliament, Council and the Commission, the adoption of a legal basis and the creation of new budget lines. These procedures are feasible and it would be possible to complete them within a relatively short timeframe, provided that all institutions give a top priority to this initiative. Fresh money would be made available through a supplementary budget which takes few weeks to be adopted by the Budgetary Authority.

Future action

Discussions with the Budgetary Authority: September 2002

Proposals: September 2002

8. CONCLUSION

This communication stresses the willingness and the readiness of the European Commission to help in a spirit of solidarity those Member states and applicant countries which are suffering from the flood catastrophe.

As a first step and with a view to the urgency of the measures to be taken, the communication proposes in the short term mobilising financial resources, in particular the reallocation of structural fund and other aid resources. The Commission sees as well the importance of ensuring flexibility and simplified administrative procedures as far as possible.

The Commission is aware that at this stage not all problems can be solved in a satisfying manner. Specific decisions and initiatives will be subject to later legislative and administrative proposals submitted to the College for approval in due course and according to the appropriate procedures.

To enable the Community to intervene more easily in the case of major disasters, the Commission proposes the creation of a EU Disaster Relief Fund. The Fund would then dispose of at least € 500 million and could be operational before the end of the year.

In the longer term, the Commission will promote in close cooperation with Member States measures for improved prevention of natural disasters.