



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.4.2005
COM(2005) 108 final

2005/0033 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the European Union Solidarity Fund

(presented by the Commission)

{SEC(2005) 447}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

In its Communication on the Financial Perspectives adopted on 14 July 2004¹, the Commission called for action at European level to provide a common response to emergency situations of different origin in an efficient and coordinated way. Action would cover both solidarity and rapid reaction, with measures allowing for immediate response and providing assistance in the aftermath of a major crises. The objective of the present proposal is to develop the solidarity strand of the Commission's integrated approach, in order to ensure response to major disasters or public health emergencies, independent of their nature and origin. It is modelled on the current European Union Solidarity Fund (EUSF)² while enlarging its scope and improving its operation mechanism. The strand on preparing and delivering immediate response is developed through a complementary proposal of a "Rapid Response and Preparedness Instrument for major emergencies"³.

Furthermore, Article 14 of the Regulation establishing the current EUSF states that the Regulation shall be reviewed by 31 December 2006 at the latest.

- **General context**

The expression of solidarity with third countries in the face of disasters and emergency situations has existed for many years as part of the EU's external actions. In 2002, following major floods in Central Europe, the EUSF was created in order to respond to such events within the EU and countries which had opened accession negotiations. The current EUSF is however mainly limited to major natural disasters. It may grant financial assistance to eligible States totalling up to EUR 1 billion per year.

Responding appropriately at EU level to major crises which are not of natural origin with the existing instruments is extremely difficult or even impossible, as illustrated by industrial accidents such as the Prestige oil spill, or terrorists acts such as the Madrid bombing of March 2004. Likewise, it is not possible at present to provide assistance from the EUSF in the event of a serious public health crisis - such as the spreading of an epidemic like SARS to Europe or caused by an accident of the Chernobyl type - which could easily surpass the response capacities of the individual States.

Furthermore, the threshold for mobilising the EUSF - currently set at direct damage in excess of EUR 3 billion, in 2002 prices, or more than 0.6% of national GNI - is extremely high. As a result, more than two thirds of all applications for EUSF assistance so far presented by eligible States have been based on an exception for so-

¹ COM(2004) 101.

² Council Regulation (EC) No 2012/2002 - OJ L 311, 14.11.2002, p. 3.

³ COM(2005) 113, 6.4.2005.

called "extraordinary regional disasters", thus perverting the initial rationale of the EUSF. Moreover, the rather vague qualitative criteria for such exceptional mobilisations of the EUSF are difficult to apply in practice and budgetary resources under this heading are limited to EUR 75 million per year only. Mobilisation of the Fund under the main criterion ("major disaster") should become the rule rather than the exception.

- **Existing provisions in the area of the proposal**

The proposal is based on the current EUSF Regulation, which will be repealed with effect from the moment the proposed new Regulations applies, i.e. 1 January 2007. Apart from a complete overhaul of the legal drafting the main features and differences of substance are the following:

The geographical scope remains unchanged; it is limited to Member States and countries negotiating their accession to the EU. The thematic scope, however, is enlarged to cover not only major crisis situations resulting from natural disasters but also to include industrial/technological disasters, public health threats and acts of terrorism.

The Fund remains limited to "major" disasters. These are defined using a partially new, double approach.

(1) As at present, total direct damage in excess of an absolute or a relative threshold, whichever is lower, is applied to the physical damage caused by disasters including the intervention costs to which these give rise. In practice this will cover not only natural disasters but also public health emergencies, industrial accidents and physical damage resulting from acts of terrorism. These thresholds are lowered from EUR 3 billion or 0.6% of GNI of the affected country to EUR 1 billion or 0.5% respectively. The new thresholds are those proposed by the Commission in 2002 when the instrument was created. With these revised thresholds the potential eligibility of disasters for the assistance of the Fund is significantly increased.

(2) A new criterion based on political considerations is introduced which enables the Commission in duly justified and exceptional circumstances to declare a disaster situation as "major" even if the quantitative criteria are not met. This will allow mobilisation of the Fund for crisis situations where physical damage is still, at the moment of decision, limited; such a possibility is more likely with terrorist attacks or major public health crises. This possibility will allow for grants to assist victims of terrorism or to pay for emergency measures in the event of unforeseen health crises and thus make possible to help refinance the cost of drugs, medicines and medical equipment used during an emergency. This will be particularly important to help protect the EU in the case of pandemics, in particular in officially declared influenza pandemics. The three influenza pandemics of the last century (in 1918, 1957 and 1968) killed millions of people and caused widespread disruption to the countries affected. Effective protection will require widespread and rapid use of anti-viral drugs and vaccines. The EUSF could be used to help refinance the cost of these drugs.

The revision of the threshold, which substantially widens the eligibility of disasters, makes the continuation of the exception for regional disasters void, as all disasters

requiring an act of European solidarity would now fall within the normal scope. This element should be a safeguard for the EUSF to remain an instrument for major disasters, whereas regional or local disasters can be addressed directly by the states concerned, in conformity with the subsidiarity principle. The heavy budgetary procedure necessary to mobilise the Fund through the adoption of an amending budget in each case is another reason to limit the use of the Fund to the most severe cases. Furthermore, Community assistance to cater for smaller disasters may also be available from other Community instruments. However, the declaration mechanism still allows the Fund to be mobilised for truly unexpected and exceptional situations. This political criterion should be used only in justified cases, assessed by the Commission, in particular in the event of serious public health emergencies or acts of terrorism.

A new feature would allow the Commission to take under certain circumstances immediate solidarity action by making a down-payment as soon as the affected State has applied for assistance. This down-payment is treated as an advance on the assistance to be granted once the assessment and budgetary procedure are completed. In the event that the application is not accepted the applicant State would repay the advance to the Commission.

Mobilisation of the Fund, as under the current procedure, would be possible only upon request of an eligible State. Following the Commission's assessment and proposal to the budget authority of an amount of financial assistance to be granted, the latter adopts a corresponding supplementary budget. The Commission will then adopt a grant decision, which is followed by the conclusion of an implementation agreement, leading to the payment for the grant. The introduction of certain safeguards/deadlines will allow speedier payment of the grant.

Eligible operations remain limited to public emergency operations. They are extended to include compensation payments to victims of terrorism and medical assistance in case of health crises.

A provision for a technical assistance budget is introduced which would allow the Commission to pay for expertise to help assess applications.

- **Consistency with other policies and objectives of the Union**

The proposal builds on an existing policy instrument. By enlarging the scope of the current EUSF, and taken together with the complementary new proposal for a Rapid Response and Preparedness Instrument for major emergencies, it closes a gap in current legislation and allows for comprehensive Community action in response to major disasters and crisis situations. Consistency with other Community policies, in particular with cohesion policy, is ensured by a number of legislative provisions which, among others, exclude double financing and require respect for public procurement rules and the principle of sound financial management.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

• Consultation of interested parties

The Fund is essentially a financial mechanism to compensate public budgets for damage suffered. Therefore, Member States are the potential applicants and consequently the direct parties concerned. In May 2004, the Commission presented a report on the implementation of the Solidarity Fund. On several occasions this report, which addresses important issues relevant for the new proposal was discussed with Member States in the Council including at a special meeting organised by the Council's budget group in Ireland. Furthermore, the views expressed by the Council and the European Parliament on various occasions when the Commission had proposed to mobilise the current EUSF yielded relevant results that are reflected in the proposal.

• Collection and use of expertise

There was no need for external expertise.

• Impact assessment

The impact assessment explains the rationale for replacing the existing EUSF Regulation by a new one, the policy choices proposed, and the impacts of these policy choices. The assessment relates in particular to the rationale of enlarging the current EUSF in scope and to the proposed changes of the eligibility thresholds. The new proposed Regulation is compared to a “no change” scenario. The main risk inherent in the current situation is that the EU does not dispose of an instrument to rapidly react to crisis situations and to show solidarity in the aftermath of other than natural disasters. This concerns in particular the consequences of technological and industrial disasters, public health threats and terrorist attacks. As regards the eligibility criteria of the current EUSF, an increasing number of aid applications for smaller regional disasters has been observed, which creates the risk that Solidarity aid is spent not well-targeted, but simply as an additional expenditure with no real added value.

The main impacts expected from the proposal as compared to the “no changes” scenario is a better responsiveness on the level of the EU to crisis situations other than natural disasters. Solidarity actions would in future be possible in the aftermath of other crisis situations such as industrial/technological disasters, public health threats and terrorist attacks. In addition, by focussing the policy on the genuine major disasters and abolishing the eligibility for regional disasters, the focus and effectiveness of the solidarity measures should be improved.

As a result of the assessment, it is proposed to improve the EU's responsiveness in facing major crisis situations by adopting a new Solidarity Fund Regulation. The new instrument should be modelled around the current EUSF but be widened in scope and concentrated on the major disasters and crisis situations.

The Commission carried out an impact assessment listed in the Work Programme, whose report is accessible on the Commission's InfoRegio Website at http://europa.eu.int/comm/regional_policy/funds/solidar/solid_en.htm.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposed action continues and widens that of the current EUSF by granting financial assistance to Member States and countries negotiating their accession to the EU in the event of major disasters or crises.

- **Legal basis**

As the proposal covers actions both in Member States and candidate countries it requires a double legal base, namely, the third paragraph of Article 159, and the second paragraph of Article 181a of the EC Treaty.

Article 159 was used as a legal base for the current EUSF Regulation as regards Member States. While the material scope of the new proposal is widened, its rationale remains unchanged. Article 159 therefore remains the appropriate legal base. With Article 181 EC, the Nice Treaty introduced a specific legal provision for economic and financial cooperation with third countries which, in view of the Commission, is an appropriate legal basis for the proposed Fund's funding actions regarding candidate countries. Since a specific legal base now exists, this should be utilised in preference to Article 308 EC which was used before.

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons.

While existing agreements of mutual assistance between individual States in some cases are very effective in providing urgently needed equipment or intervention teams, the kind of major disaster which this proposal addresses also calls for financial solidarity for which no effective mechanism between Member States exists. The potential financial burden is such that it cannot be borne by individual Member States alone but only by sharing it out between all Member States evenly. Member States acknowledged this in setting up the current European Union Solidarity Fund in 2002.

Community action will better achieve the objectives of the proposal for the following reasons:

The new Fund is specifically designed to grant financial assistance to Member States and eligible candidate countries to respond to major crisis situations where their own capacity is insufficient to respond appropriately and effectively. The Fund may only be activated upon an eligible country's request and complements the applicant

country's administrative, physical and financial efforts to respond to the crisis situations. Mobilising the Fund requires the consent of the European Parliament and the Council thus expressing financial solidarity by the Community and the Member States as whole whereby account is taken of the capacity of the affected country to cope with the situation with its own financial means.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

Obligations imposed on beneficiary States are limited to the absolute minimum and reflect the emergency situation under which aid is granted. The implementation of the grant is left entirely to the authorities of the beneficiary State. In particular, the full amount of aid is granted upfront. Other than the conclusion of an implementation agreement between the beneficiary State and the Commission there are no programming obligations or any formalised monitoring and reporting procedures. The beneficiary State is, however, required to present a report justifying the use made of the grant, including a statement at the end of the operation.

The administrative burden falling upon the Community, national, regional and local authorities is therefore extremely limited and does not go beyond what is required to allow the Commission exercise its overall responsibility for the execution of the Community budget.

- **Choice of instruments**

Proposed instruments: The proposal replaces an existing Regulation and should therefore also take the form of a Regulation.

Other means would not be adequate because the objective can only be achieved through a directly applicable legal instrument.

4. BUDGETARY IMPLICATION

The proposal remains consistent with the existing Solidarity Fund by providing financial assistance for immediate repair and assistance after a request from a Member State or candidate country. The Commission proposes that the Fund be included in Heading 3 '*Citizenship, Freedom, Security and Justice*' of the financial framework 2007-2013, as part of the instruments available to address EU citizens' concerns. Procedures preserve the current arrangements for the involvement of the budgetary authority in the release of resources; and the ring-fencing of resources for specifically-defined solidarity actions. Unused appropriations could not be used for other purposes or for the 'reallocation facility' proposed by the Commission.

In order to be able to respond more quickly than under the current EUSF, provision is made for a mechanism by which under certain circumstances an advance of 5% of the estimated amount of eligible operations, but not exceeding EUR 5 million, could be paid upon request as "immediate solidarity". In this case, available Commitment Appropriations would have to be transferred to the relevant budgeted lines and re-

transferred once the application has been approved and the amending budget becomes effective. This down-payment would be treated as an advance on the assistance to be granted once the assessment and budgetary procedure are completed. In the event that the application is not accepted the advance would have to be repaid to the Commission.

The financial envelope foreseen for the Fund also follows the existing Solidarity Fund, with an annual amount of EUR 1 billion (current prices). In each case the amount of assistance considered necessary is mobilised through an amending budget. As at present, on 1 October each year, at least one-quarter of this annual amount will remain available in order to cover needs which could arise until the end of the year.

5. ADDITIONAL INFORMATION

- **Simplification**

The proposal provides for simplification of legislation.

Solidarity action in response to major crisis situations independent of their origin or cause would be covered by a single instrument.

- **Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation.

- **Review/revision/sunset clause**

The proposal includes a review clause.

The proposal includes a revision clause.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the European Union Solidarity Fund

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third paragraph of Article 159 and the second paragraph of Article 181a thereof,

Having regard to the proposal from the Commission⁴,

Having regard to the opinion of the European Economic and Social Committee⁵,

Having regard to the opinion of the Committee of the Regions⁶,

Acting in accordance with the procedure laid down in Article 251⁷,

Whereas:

- (1) In the event of major disasters or crisis situations, the Community should show its solidarity with the Member States and the population concerned by providing financial assistance to contribute to a rapid return to normal living conditions in the affected regions and by contributing to financial compensation for the victims of terrorism.
- (2) The Community should also show solidarity with the countries negotiating their accession to the European Union.
- (3) Major disasters or crisis situations may result from natural, industrial and technological events, including marine pollution and radiological threats, or from public health emergencies, in particular an officially declared influenza pandemic, or acts of terrorism. Existing economic and social cohesion instruments are able to finance risk-prevention measures and the repair of damaged infrastructure. The European Union Solidarity Fund established by Council Regulation (EC) No 2012/2002⁸ enables the Community to help in mobilising emergency services to meet people's immediate needs and contribute to the short-term restoration of damaged key infrastructure so that economic activity can resume in the disaster-stricken regions. That Fund is however mainly limited to natural disasters. Provision should also be

⁴ OJ C , , p. .

⁵ OJ C , , p. .

⁶ OJ C , , p. .

⁷ OJ C , , p. .

⁸ OJ L 311, 14.11.2002, p. 3.

made to allow the Community to intervene in the event of crisis situations having a non-natural origin.

- (4) The objective of the action to be taken is to complement the efforts of the States concerned in such cases where the effects of a disaster or crisis situation are of such gravity that those States cannot tackle the situation with their own means alone. Since this objective cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (5) In line with the principle of subsidiarity, action under this Regulation should be confined to major disasters. These should be defined depending on the field; however, a certain degree of political appreciation should be allowed for in order to respond to events whose consequences are particularly serious but which, by their nature, cannot be assessed on the basis of physical damage alone as is the case, in particular, with major health crises and acts of terrorism. Consideration shall be given to the specific situation of remote and isolated regions, such as the insular and outermost regions.
- (6) Major disasters, particularly those which are of a natural origin, often affect more than one country. Where a major disaster has struck an eligible State, assistance should also be granted to an eligible neighbouring country affected by the same disaster.
- (7) Community aid should be complementary to the efforts of the States concerned and be used to cover a share of the public expenditure committed to dealing with the most essential emergency operations resulting from a major disaster.
- (8) In line with the principle of subsidiarity, Community aid should only be granted upon application of the affected State. The Commission should ensure equitable treatment of requests presented by the States.
- (9) Applicant States may have an immediate need for financial assistance to help cover expenditure relating to the most urgent interventions and rescue operations. Where an applicant State so requests, advance funding should therefore be made upon receipt of that application, subject to budgetary availability.
- (10) Prudent financial management is required to ensure that the Community can be in a position to respond if several major disasters occur in the same year.
- (11) It is appropriate to allow a rapid decision to be taken to commit specific financial resources and mobilise them as quickly as possible. Administrative procedures should be adjusted accordingly and confined to the minimum absolutely necessary. To this end, the European Parliament, the Council and the Commission have concluded an Inter-institutional Agreement on the financing of the European Union Solidarity Fund⁹.

⁹ Not yet published.

- (12) The mechanisms for payment and use of grants made under this Regulation should reflect the urgency of the situation. Therefore a deadline should be laid down for the use of the financial assistance awarded.
- (13) It may be desirable for a State which benefits from assistance to involve, in accordance with its specific constitutional, institutional, legal or financial context, regional or local authorities in the conclusion and application of the implementation agreements. The beneficiary State should nevertheless remain responsible for the implementation of the assistance and for the management and control of the operations supported by Community financing in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities¹⁰, (hereinafter “the Financial Regulation”).
- (14) An operation funded under this Regulation should not receive financial assistance from other Community financial instruments. Where, in relation to an operation, financial assistance is provided from Community or international instruments relating to the compensation of specific damages, that operation should not, for the same purpose, benefit from assistance under this Regulation.
- (15) Community action should not relieve third parties of their responsibility who, under the ‘polluter pays’ principle, are liable in the first instance for the damage caused by them, or discourage preventive measures at both Member State and Community level.
- (16) Maximum transparency is required in implementing the Community's financial assistance as well as proper monitoring of the use of resources.
- (17) Provision should be made for the beneficiary States to justify the use made of any assistance received.
- (18) In exceptional cases and depending on the availability of financial resources for solidarity action under this Regulation in the year of the occurrence of the disaster, provision should be made for supplementary grants under the financial appropriations for the following year.
- (19) It is necessary to provide that the competent Community bodies are able to carry out their obligations regarding financial control.
- (20) Assistance for expenditure which is subsequently recovered from third parties, or assistance which is not used in accordance with this Regulation or which was received in excess of the final valuation of the damages, should be recovered.
- (21) Technical assistance for solidarity action under this Regulation should be provided for in order to improve the Commission’s ability to assess applications made to it.
- (22) Regulation (EC) No 2012/2002 should be repealed with effect from the date of application of this Regulation. Its provisions should, however, continue to be applicable to any application introduced before that date.

¹⁰ OJ L 248, 16.9.2002, p. 1.

(23) This Regulation should apply from the date of applicability of the Financial Perspectives 2007-2013,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject-matter and scope

1. A European Union Solidarity Fund, hereinafter "the Fund", is established to enable the Community to respond to major disasters affecting Member States, or candidate countries involved in accession negotiations with the European Union, hereinafter "eligible States".
2. This Regulation lays down rules concerning operations of the Fund in relation to the following:
 - (a) natural disasters;
 - (b) industrial and technological disasters;
 - (c) public health emergencies;
 - (d) acts of terrorism.

Article 2

Major disasters

For the purposes of this Regulation, a disaster shall be considered to be major where it results, in at least one eligible State, in direct damage, the amount of which is estimated as being in excess of EUR 1 billion in 2007 prices or in excess of 0,5 % of the gross national income of the State concerned.

However, even if those quantitative criteria are not met, the Commission may in exceptional and duly justified circumstances, recognise that a major disaster has occurred on the territory of an eligible State.

Article 3

Solidarity operations

1. At the request of an eligible State, the Commission may award financial assistance from the Fund in the form of a grant, if a major disaster occurs on the territory of that State.

At the request of an eligible State which shares a border with the State referred to in the first subparagraph and has been affected by the same major disaster, the Commission may also grant assistance from the Fund to that State.

2. For any given disaster, a State may receive a single grant only.

Article 4

Eligible operations

Financial assistance under this Regulation shall be granted only for operations, hereinafter “eligible operations”, which are carried out by the public authorities of the State concerned, or by bodies acting in the public interest, and which belong to the following categories:

- (a) essential emergency operations necessary for the immediate restoration to working order of infrastructure and plant in the fields of energy, water and waste water, telecommunications, transport, health and education;
- (b) immediate medical assistance and measures to protect the population against imminent health threats, including the cost of vaccines, drugs, medical products, equipment and infrastructure used during an emergency;
- (c) provision of temporary accommodation and funding of rescue services to meet the immediate needs of the population concerned;
- (d) essential emergency operations for the immediate securing of preventive infrastructures;
- (e) measures for the immediate protection of the cultural and natural heritage;
- (f) essential emergency operations for the immediate cleaning up of disaster-stricken areas;
- (g) medical, psychological and social assistance to the direct victims of acts of terrorism and their families.

Article 5

Applications

1. As soon as possible and no later than ten weeks after the date of the first damage caused by the disaster, an eligible State may submit to the Commission an application for assistance from the Fund, providing all available information on at least the following:
 - (a) the damage caused by the disaster and its impact on the population and the economy concerned;
 - (b) a breakdown of the estimated costs of operations in the categories listed in Article 4 as appropriate to the disaster;
 - (c) any other sources of Community funding which might contribute to making good the effects of the disaster;

- (d) any other sources of national or international funding, including public and private insurance coverage, which might contribute to the costs of repairing the damage and in particular to the costs of eligible operations.

The information provided under point (a) of the first subparagraph shall include an estimate of the amount of total direct damage caused by the disaster.

2. The Commission shall assess, on the basis of the information referred to in paragraph 1, and of any additional information, which the Commission may have sought or otherwise obtained, whether the conditions for granting financial assistance under this Regulation are met.

Where, for the purposes of the first subparagraph, additional information is provided by the State concerned on its own initiative, that information must be received by the Commission within two months of the date of the application.

However, where, for the purposes of the first subparagraph, the Commission requests additional information from the State concerned, that information must be received by the Commission within one month of the date of the request.

Article 6

Advance funding

1. Immediately upon receipt of the application referred to in Article 5(1), the Commission may, subject to budgetary availability, adopt a decision granting advance funding for the most urgent eligible operations and pay the advance funding to the State concerned in a single instalment without delay.

The first subparagraph shall apply only where the application contains an explicit request for advance funding.

2. The amount of the advance funding paid pursuant to the first subparagraph of paragraph 1 shall represent 5% of the of the total of the estimated costs referred to in Article 5(1)(b), but shall not exceed EUR 5 million.

Article 7

Determination of financial assistance

1. The Commission shall, on the basis of the assessment carried out pursuant to Article 5(2), determine as quickly as possible an appropriate amount of financial assistance, if any, to be granted within the limits of the resources available.

The amount may not exceed 50% of the total of the estimated costs referred to in Article 5(1)(b).

2. Where, on the basis of the assessment carried out pursuant to Article 5(2), the Commission has concluded that the conditions for granting assistance under this Regulation are not met, it shall notify the State concerned accordingly.

Any advance funding paid pursuant to Article 6(1) shall be repaid to the Commission within three months of the date of that notification.

Article 8

Budget procedure

1. If the Commission has concluded that financial assistance should be granted from the Fund, it shall submit to the budgetary authority the proposals needed to authorise appropriations corresponding to the amount determined in accordance with Article 7(1).

Those proposals shall include the following:

- (a) the assessment carried out pursuant to Article 5(2), together with a summary of the information on which that assessment is based;
 - (b) evidence that the conditions laid down in Article 3(1) are met;
 - (c) the reasons justifying the amounts proposed.
2. Once the appropriations are made available by the budgetary authority, the Commission shall adopt a grant decision, taking into account any advance funding paid pursuant to Article 6(1).

Article 9

Payment and use of the grant

1. Following adoption of the grant decision, the Commission shall, immediately upon signature of the agreement referred to in Article 10(1), pay the grant to the beneficiary State in a single instalment.
2. The beneficiary State shall use the grant, as well as any interest earned thereon, within 18 months of the date of first damage, to finance eligible operations carried out after that date.

Article 10

Implementation of the grant

1. The Commission and the beneficiary State shall conclude, in accordance with the specific constitutional, institutional, legal or financial provisions of that State and of the Community, an implementation agreement for the grant decision.

That agreement shall specify in particular the type and location of the operations to be financed.

2. The Commission shall ensure that the obligations under implementation agreements are the same for all beneficiary States.

3. The beneficiary State shall select individual operations and implement the grant in accordance with this Regulation, the grant decision and the agreement.

That responsibility shall be without prejudice to the responsibility of the Commission for the implementation of the general budget of the European Communities in accordance with the provisions of Regulation (EC, Euratom) No 1605/2002, hereinafter “the Financial Regulation” applicable to shared or decentralised management.

Article 11

Financing of operations

1. Operations funded, in whole or in part, under an implementation agreement shall not receive funding under any other Community or international instrument.

The beneficiary State shall ensure compliance with the first subparagraph.

2. Beneficiary States shall seek all possible compensation from third parties.

Article 12

Compatibility with other Instruments

Operations in receipt of financial assistance from the Fund shall be compatible with the provisions of the Treaty and instruments adopted under it, with Community policies and measures and with pre-accession assistance instruments.

Article 13

Final report and closure

1. No later than six months after the end of the period specified in Article 9(2), the beneficiary State shall present a report to the Commission on the financial execution of the grant, together with a statement justifying the expenditure and indicating any other source of funding received for the operations concerned.

The report shall detail preventive measures introduced or proposed by the beneficiary State in order to limit damage and to avoid, to the extent possible, a recurrence of similar disasters.

2. No later than six months after the Commission has received all the information required under paragraph 1, it shall wind up the financial assistance from the Fund.

Article 14

Use of the Euro

Applications, grant decisions, implementation agreements and reports under this Regulation, as well as any other related documents, shall express all amounts in Euro.

Article 15

Financial shortfall

1. Where, at the time when a proposal is submitted under Article 8, the remaining financial resources available for that year for the Fund are not sufficient to cover the amount of financial assistance considered necessary, the Commission may propose that the difference be financed from the financial appropriations available for the Fund for the following year.
2. The total annual budgetary ceiling for the Fund in the year of the occurrence of the disaster and the following year shall under all circumstances be respected.

Article 16

Financial control by Community bodies

The beneficiary State shall ensure that all financing decisions adopted pursuant to the implementation agreement provided for in Article 10, and all agreements and contracts resulting from those financing decisions provide for checks by the Commission, through the Anti-Fraud Office (OLAF), and for on-the-spot checks to be carried out by the Commission or the Court of Auditors, in accordance with the appropriate procedures.

Article 17

Recovery

1. In cases where the amount of total direct damage incurred is at least 10% less than the estimated amount quoted pursuant to Article 5(1)(a), the Commission may require the beneficiary State to reimburse a corresponding amount of the financial assistance received.
2. Where a beneficiary State has failed to comply with Article 10(3), the Commission may require the beneficiary State to reimburse all or part of the financial assistance received.
3. Prior to the adoption of a Decision under paragraphs 1 or 2, the Commission shall conduct a suitable examination of the case and shall, in particular, allow the beneficiary State a specified period of time in which to submit its comments.

4. Any sum received unduly and to be recovered shall be repaid to the Commission. Default interest may be charged on sums not repaid in compliance with the Financial Regulation.

Article 18

Technical assistance at the initiative of the Commission

1. At the initiative of the Commission, subject to a ceiling of 0.20% of the financial resources available for that year, the Fund may be used to finance preparatory, monitoring, administrative and technical support, audit and inspection measures necessary to implement this Regulation.

Those actions shall be executed in accordance with Article 53(2) of the Financial Regulation and any other provisions of that Regulation and of its implementing rules applicable to this form of execution of the budget.

Those actions shall in particular include expert reports to assist the Commission in carrying out the assessment of applications pursuant to Article 5(2).

2. Where a contribution from the Fund is foreseen to procure external services, the Commission shall adopt a decision for the actions listed in the first subparagraph of paragraph 1.

Article 19

Annual report

Before 1 July of each year, with effect from [year following year of date of application], the Commission shall present to the European Parliament and to the Council a report on the activities under this Regulation in the previous year. That report shall in particular contain information relating to applications submitted, grant decisions adopted and the winding-up of financial assistance granted.

Article 20

Review

The European Parliament and the Council shall review this Regulation on the basis of a proposal by the Commission by 31 December 2013 at the latest.

Article 21

Repeal

Regulation (EC) No 2012/2002 is repealed with effect from 1 January 2007.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 22

Transitional provision

Regulation (EC) No 2012/2002 shall continue to apply to applications received by the Commission on or before 31 December 2006.

Article 23

Entry into force

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

It shall apply from 1 January 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL :

Proposal for a REGULATION of the European Parliament and of the Council establishing the European Union Solidarity Fund

2. ABM / ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities:

Citizenship, Freedom, Security and Justice

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B.A lines)) including headings :

Three budget lines under heading 3

For Administrative Management: 13 01 04 04

For Member States: 13 06 01

For Candidate countries: 13 06 02

3.2. Duration of the action and of the financial impact:

Indeterminate, with the possibility of using up to EUR 1000 million per year in current prices to be made available on a case by case basis by the budgetary authority in the event of major disasters upon proposal from the Commission of an amending budget

Up to 0.2% of any grant paid under the EUSF may be used for Technical Assistance under 13 01 04 04.

Up to 5% of the estimated costs of eligible operation claimed in the application - but no more than EUR5 million in each case – may be granted as advance funding upon request of the affected Member State. In this case, available Commitment Appropriations would have to be transferred to either 13 06 01 or 13 06 02 and re-transferred once the application has been approved and the amending budget becomes effective. The Member State would have to repay the advance payment if the application is not approved.

3.3. Budgetary characteristics (add rows if necessary) :

Budget line	Type of expenditure	New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
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13 01 04 04	Non-comp	Non Diff	Yes	No	No	No 3
13 06 01	Non-comp	Diff ¹¹	NO	NO	NO	No 3
13 06 02	Non-comp	Diff	NO	NO	NO	No 3

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.		Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later	Total
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Operational expenditure¹²

Commitment Appropriations (CA)	8.1	a	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Payment Appropriations (PA)		b	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

Administrative expenditure within reference amount¹³

Technical & administrative assistance (NDA)	8.2.4	c	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
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TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Payment Appropriations		b+c	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

¹¹ differentiated appropriations

¹² expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

¹³ expenditure within article xx 01 04 of Title xx.

Administrative expenditure not included in reference amount¹⁴

Human resources and associated expenditure (NDA)	8.2.5	d	0.216	0.216	0.216	0.216	0.216	0.216	
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e							

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c +d+ e	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
TOTAL PA including cost of Human Resources		b+c +d+ e	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

EUR million (to 3 decimal places)

Co-financing body		Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later	Total
.....	f							
TOTAL CA including co-financing	a+c +d+ e+f							

4.1.2. Compatibility with Financial Programming

- X The proposal is compatible with existing financial programming.
- X The proposal will entail reprogramming of the relevant heading in the financial perspective.
- X The proposal may require application of the provisions of the Interinstitutional Agreement¹⁵ (i.e. flexibility instrument or revision of the financial perspective).

¹⁴ expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

¹⁵ see points 19 and 24 of the Interinstitutional agreement.

4.1.3. Financial impact on Revenue

- The proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

NB: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.

EUR million (to one decimal place)

Budget line	Revenue	Prior to action [Year n-1]	Situation following action						
			[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5] ¹⁶	
	<i>a) Revenue in absolute terms</i>								
	<i>b) Change in revenue</i>	Δ							

(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later
Total number of human resources	2	2	2	2	2	2

5. CHARACTERISTICS AND OBJECTIVES

Details of the context of the proposal are required in the Explanatory Memorandum. This section of the Legislative Financial Statement should include the following specific complementary information:

5.1. Need to be met in the short or long term

See Explanatory Memorandum

¹⁶ Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

See Explanatory Memorandum

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

5.4. Method of Implementation (indicative)

Show below the method(s)¹⁷ chosen for the implementation of the action.

Shared management with Member states

Decentralised management with third countries (candidate countries negotiating accession to the Union)

6. MONITORING AND EVALUATION

Monitoring and evaluation are limited to reflect the character of the instrument and in order not to impose undue burdens on national administrations in the event of a major disaster. However, monitoring visits around mid-term of the implementation of the grant are foreseen for selected cases.

ANTI-FRAUD MEASURES

The proposal foresees that control and audit measures are to be carried out by the beneficiary state on the basis of a risk analysis. The beneficiary State has to present a report to the Commission on the financial execution of the grant, together with a statement justifying the expenditure and indicating any other source of funding received for the operations concerned. The proposal foresees the possibility of audits by Community bodies in accordance with the Financial Regulation.

7. DETAILS OF RESOURCES

7.1. Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of Objectives, actions and outputs should be provided)	Type of output	Av . cost	Year n		Year n+1		Year n+2		Year n+3		Year n+4		Year n+5 and later		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIV																

¹⁷ If more than one method is indicated please provide additional details in the "Relevant comments" section of this point

E ¹⁸ No.1															
Action 1															
- Output 1															
- Output 2															
Action 2															
- Output 1															
Sub-total Objective 1															
OPERATIONAL OBJECTIVE E No.2 ¹															
Action 1															
- Output 1															
Sub-total Objective 2															
OPERATIONAL OBJECTIVE E No.n ¹															
Sub-total Objective n															
TOTAL COST															

¹⁸ As described under Section 5.3

7.2. Administrative Expenditure

7.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5
Officials or temporary staff ¹⁹ (XX 01 01)	A*/AD	2	2	2	2	2	2
	B*, C*/AST						
Staff financed ²⁰ by art. XX 01 02							
Other staff ²¹ financed by art. XX 01 04/05							
TOTAL		2	2	2	2	2	2

7.2.2. Description of tasks deriving from the action

Assessment of applications, preparation of grant decisions, monitoring and closure of assistance

7.2.3. Sources of human resources (statutory)

Two statutory posts currently allocated to the management of the programme

7.2.4. Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)

EUR million (to 3 decimal places)

Budget line (number and heading)	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
13 01 04 04, heading 3							
1 Technical and administrative assistance (including related staff costs)							
Executive agencies ²²							

¹⁹ Cost of which is NOT covered by the reference amount

²⁰ Cost of which is NOT covered by the reference amount

²¹ Cost of which is included within the reference amount

Other technical and administrative assistance	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
- <i>intra muros</i>							
- <i>extra muros</i>							
Total Technical and administrative assistance	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

7.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later
Officials and temporary staff (XX 01 01)	0.216	0.216	0.216	0.216	0.216	0.216
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
Total cost of Human Resources and associated costs (NOT in reference amount)	0.216	0.216	0.216	0.216	0.216	0.216

Calculation– ***Officials and Temporary agents***
Reference should be made to Point 8.2.1, if applicable

2 statutory posts à EUR 108.000 p.a

Calculation– ***Staff financed under art. XX 01 02***

Reference should be made to Point 8.2.1, if applicable

7.2.6. *Other administrative expenditure not included in reference amount*

EUR million (to 3 decimal places)

²² eference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions							
XX 01 02 11 02 – Meetings & Conferences							
XX 01 02 11 03 – Committees ²³							
XX 01 02 11 04 – Studies & consultations							
XX 01 02 11 05 - Information systems							
2 Total Other Management Expenditure (XX 01 02 11)							
3 Other expenditure of an administrative nature (specify including reference to budget line)							
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)							

Calculation - Other administrative expenditure not included in reference amount

²³ specify the type of committee and the group to which it belongs.