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Dear President,

The Commission would like to thank the Bundesrat for its reasoned Opinion on the proposal for a Union Civil Protection Mechanism {COM(2011) 934 final} and apologises for the delay in replying. The Commission welcomes the Bundesrat's general support to the idea of a reinforced cooperation on civil protection on the basis of Article 196 TFEU.

Austria is an important contributor to EU civil protection operations. Recent examples include the earthquake and tsunami that hit Japan in March 2011, when Austria provided, inter alia, a large number of blankets; the floods in Pakistan in 2010, when Austria provided inter alia important health and hygiene items in addition to shelters; and the earthquake in Haiti in 2010, when Austria inter alia provided for significant first medical treatment.

The Commission believes that the proposed improvements, in particular in relation to the prevention of disasters, are to a large extent consistent with those Austria has long been advocating. Our common aim should be to provide the tools to develop a genuine European culture of disaster prevention, where responsibility and solidarity go hand in hand.

The Commission, as guardian of the Treaties, is fully aware of the competences of the Union in these matters. In this context, the Commission would like to inform the Bundesrat that the Danish Presidency has requested the Council Legal Service to analyze the proposal with a view to determine whether or not it falls within the scope of Article 196. In its opinion of 28 February 2012, the Council Legal Service came to the conclusion that the Commission proposal fully respects the competences attributed to the Union by Article 196 TFEU.

The proposal for a Union Civil Protection Mechanism builds on the good experience of the past and aims to introduce a number of improvements in terms of cost-effectiveness and quality to the current civil protection cooperation, which in its main lines would continue to operate as hitherto.

An important element in the proposed conceptual shift towards a pre-planned system is to be found in Article 6, regarding the communication of Risk Management Plans. The intention is to share practices and information. Risk management is central to the process of a more targeted and efficient response based on increased prevention and preparedness. The Commission would like to stress that no mandatory requirements for the design of risk management plans are proposed. The only obligation contained in the provision concerns the communication of such plans to the Commission. Each Member State would still decide how

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such plans should be designed, and equally what elements are of non-confidential nature and relevant to the cooperation at European level, and thus appropriate for such communication.

The overall functioning of the current system would not be affected. The Member States should continue to have the primary responsibility for all civil protection activities and the full ownership of civil protection assets, co-funded by the EU or not. The proposal is solely aimed at increasing the value that the EU can add to the current system through supporting, coordinating and complementing action, without any transfer of Member States' powers or any harmonisation of rules and regulations. All proposed actions would be of a voluntary nature, and Member States could at any time decide to withdraw from any commitment made.

For example, Article 11 foresees the creation of a European Emergency Response Capacity, also called the voluntary pool. The intention is not to accumulate assets or powers at EU level, but to aim for a targeted, pre-planned approach increasing the efficiency and cost-effectiveness compared to an ad hoc system. All assets, EU funded or not, would remain under Member State supremacy, control, ownership and management. Capacity targets would take the form of proposals for planning tools from the Commission side, and would not be binding. As for quality standards, their aim is to increase the quality of the response, while avoiding issues of moral hazard and respecting Member States' supremacy.

Finally, the Commission would like to insist that Article 291 TFEU on implementing acts does not confer any quasi-legislative power to the Commission. Its purpose is to ensure the uniform application of a legislative act. The Commission agrees with the Bundesrat that implementing acts should be used in clearly defined circumstances, and considers this condition fulfilled by Article 30 of the proposal.

The proposed Decision on a Union Civil Protection Mechanism is currently being discussed by the European Parliament and the Council. I hope that these clarifications address the observations made by the Bundesrat in its reasoned Opinion and I look forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*