



EUROPEAN COMMISSION

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Dear Chair,

The Commission would like to thank the Poslanecká sněmovna for its Reasoned Opinion on the Commission proposal for a Decision of the European Parliament and of the Council amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism {COM(2017) 772} final} and the Communication from the Commission to the European Parliament, the Council and the Committee of the Regions Strengthening EU Disaster Management: rescEU Solidarity with Responsibility {COM(2017)773 final}.

The proposal seeks to introduce targeted amendments allowing the European Union to support, coordinate and supplement Member States activities in the field of civil protection. Building on the principles of solidarity and shared responsibility, the overall objective is to ensure that the Union can provide better crisis and emergency support to its citizens in Europe and beyond, in full compliance with Article 196 of the Treaty on the Functioning of the European Union.

The Commission takes note of the concerns highlighted in the Reasoned Opinion of the Poslanecká sněmovna but does not consider that its proposal goes beyond European Union competences in the field of civil protection nor that it encroaches on the principles of subsidiarity and proportionality. In response to the more technical comments in the Opinion, the Commission would like to refer to the attached annex and hopes that these explanations will allay the Poslanecká sněmovna's concerns.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Poslanecká sněmovna and looks forward to continuing the political dialogue in the future.

Yours faithfully,

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First Vice-President*

*Christos Stylianides
Member of the Commission*

*Mr Ondřej BENEŠÍK
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Annex

The Commission has carefully considered each of the issues raised by the Poslanecká sněmovna in its Opinion and is pleased to offer the following clarifications.

The proposed amendments generally aim to strengthen or improve the functioning of existing structures without transferring any additional competences or powers to the Commission (e.g. increased European Union co-financing for assets in the rebranded European Civil Protection Pool¹, herein 'Pool'). In such cases, there should be no discernible issues of potential non-compliance with Article 196 of the Treaty on the Functioning of the European Union.

Furthermore, the proposal does not amend Article 1(3) of Decision No 1313/2013/EU on a Union Civil Protection Mechanism², which states that Member States retain 'primary responsibility to protect people, the environment, and property, including cultural heritage, on their territory against disasters and to provide their disaster-management systems with sufficient capabilities to enable them to cope adequately and in a consistent manner with disasters of a nature and magnitude that can reasonably be expected and prepared for'.

The Commission would like to point out that national capacities will remain the first and most important line of response. Member States will retain full control of such capacities and the European Union does not intend to substitute itself for national civil protection authorities. Moreover, the 'European Civil Protection Pool' will continue to be based on the same logic applied today under the Decision on a Union Civil Protection Mechanism. As such, Member States will still need to voluntarily pre-commit capacities to the Pool for use in Union operations and will maintain the possibility of refusing deployment under specific circumstances³. The Commission is grateful that the Czech Republic has already committed various capacities to the existing Pool, which is a tangible expression of the Czech Republic's contribution to the Union Civil Protection Mechanism.

Insofar as the new European system to tackle natural disasters 'rescEU' is concerned, it should be understood as an additional level of protection, which aims to complement, but not replace or substitute, existing national capacities⁴. rescEU capacities should be considered as a tactical reserve that is only accessible when all other available capacities (i.e. national ones, including those in the Pool) are insufficient to allow for an effective response to disasters⁵.

The 'last resort' nature of such capacities is highlighted via explicit cross-references in the newly proposed Article 12 to Articles 15 and 16 of Decision No 1313/2013/EU. The latter have not been amended and state that 'Member States shall be responsible for

¹ Currently known as 'European Emergency Response Capacity'.

² Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism; OJ L 347, 20.12.2013, p. 924–947

³ See the newly proposed Articles 11(7) and 11(8).

⁴ See the newly proposed Article 12(1).

⁵ See the newly proposed Article 12(1).

directing assistance interventions⁶ and that, in operations outside the European Union, 'the Commission shall support consistency in the delivery of assistance'⁷. Moreover, such Articles outline the actions that the European Commission is required to take upon receiving a request for assistance⁸. It is clear that the Commission will first and foremost invite Member States to voluntarily offer assistance before requesting the deployment of 'specific capacities' (i.e. those in the 'Pool'). It is only as a last resort that the Commission can 'take additional action', such as calling upon 'rescEU' capacities, 'to facilitate the coordination of the response'.

In addition to the above, 'rescEU' capacities shall only be 'made available for response operations under the Union Mechanism following a request for assistance' through the Emergency Response Coordination Centre. This is expressly stated in the newly proposed Article 12(7) and is intended to ensure that the European Union role is to support and complement Member State action in full compliance with Articles 2(5) and 196 of the Treaty on the Functioning of the European Union and the principle of subsidiarity. Although the European Union would finance 'rescEU' capacities and decide on their deployment, once deployed it would be the requesting Member State that should facilitate their operational coordination with national capacities⁹.

The Commission takes note of the position of the Poslanecká sněmovna regarding the withdrawal of European Union financial assistance for transportation costs of capacities not registered in the 'Pool'. The underlying rationale is to increase the predictability of European response to disasters, by strengthening incentives for Member States to commit capacities into the 'Pool' and by creating a tactical reserve of capacities ('rescEU').

Finally, the Commission also takes note of the request for an impact assessment. The proposal was adopted in order to respond to outstanding events caused by the effects of climate change. Given the urgency of the situation, the Commission decided to waive the requirement to carry out a fully-fledged impact assessment. However, the proposal is well-informed and supported by evidence collected in recent assessments of the Union Civil Protection Mechanism performance, such as, for instance a recent European Court of Auditors report¹⁰, a capacity gaps report¹¹, the European Union overview of risks¹², the Union Civil Protection Mechanism Interim Evaluation¹³ and during operations undertaken throughout the years.

⁶ Article 15(5) of Decision 1313/2013.

⁷ Article 16(3) of Decision 1313/2013.

⁸ See Article 15(3) as well as paragraphs 3 and 8 of Article 16 of Decision No 1313/2013/EU.

⁹ See the newly proposed Article 12(8).

¹⁰ European Court of Auditors, Special Report (2016), Union Civil Protection Mechanism: the coordination of responses to disasters outside the EU has been broadly effective. Available at: http://www.eca.europa.eu/Lists/ECADocuments/SR16_33/SR_DISASTER_RESPONSE_EN.pdf

¹¹ Report from the Commission to the European Parliament and the Council on progress made and gaps remaining in the European Emergency Response Capacity, 17.02.2017, SWD(2017)78 final.

¹² Staff Working Document, Overview of Natural and Man-made Disaster Risks the European Union may face, 23.05.2017, SWD(2017)176 final.

¹³ ICF, UCPM Interim Evaluation Report (2014-2016), <https://publications.europa.eu/en/publication-detail/-/publication/eb41bfee-78c3-11e7-b2f2-01aa75ed71a1/language-en/format-PDF>