



EUROPEAN COMMISSION

*Brussels, 21.6.2018
C(2018) 3737 final*

Dear President,

The Commission would like to thank the Bundesrat for its 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 Commission welcomes the broad support expressed in the Bundesrat's Opinion. Over the last few months, Commissioner Christos Stylianides has visited Germany several times and has had the opportunity to outline and discuss the above-mentioned proposal with representatives of both the Federal government and the governments of numerous Länder. The Commissioner will continue to reach out in a proactive manner so as to hear and understand the concerns and reflections expressed.

The Commission also takes note of the subsidiarity-related concerns stated in the Bundesrat's Opinion. In this context, the Commission takes the opportunity to highlight that it does not consider that the proposal on a Union Civil Protection Mechanism goes beyond European Union competences in the field of civil protection, nor that it encroaches on the principle of subsidiarity. The Commission's position is explained in more detail in the attached Annex.

The Commission hopes that these comments address the concerns raised by the Bundesrat and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Christos Stylianides
Member of the Commission*

*Mr Michael MÜLLER
President of the Bundesrat
Leipziger Straße 3 - 4
D – 10117 BERLIN*

Annex

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

1. The proposed amendments of the current Union Civil Protection Mechanism generally aim to strengthen and carefully improve the functioning of existing structures without transferring any additional competences or powers to the Commission.

The modifications are in accordance with Article 196 of the Treaty on the Functioning of the European Union since the primary responsibility in the field of civil protection stays with the Member States. Only in case of a request for assistance from a Member State may European response capacities be mobilised (first those committed to the “Pool”, and only when these are not sufficient is “rescEU” activated).

Moreover, sending help always requires the acceptance of the requesting State. This clearly shows that crisis management stays with the Member States affected. The proposal is limited to supporting and complementing the activities of Member States, as stated in Article 196 (1)(a) of the Treaty on the Functioning of the European Union.

In essence, the well-established system does not change, with solidarity at its core. The Commission does not believe that this would be a centralisation of the civil protection system. On the contrary, it is important to ensure that emergency teams continue to be integrated in the coordination mechanisms at local level and operate under the command of their respective authorities.

2. The provisions of Article 196 of the Treaty on the Functioning of the European Union require the Union 'to encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters'. The best way for the Union to 'support and complement Member State activities in the field of prevention'¹ and deliver on the abovementioned objective is to encourage the sharing of information², or more detailed information³, particularly in those areas in which Member States have already assumed obligations⁴.

Regarding the submission of full Risk Assessments, they would have a dual purpose. On the one hand, they would be a source of information to support disaster risk management actions under the Union Civil Protection Mechanism, whilst on the other hand they would foster a better understanding of risks across Europe and ensure best practices are exchanged amongst Member States.

¹ As required by Article 196(1) (a) of the Treaty on the Functioning of the European Union.

² i.e. Summaries of Risk management plans.

³ This is the case for risk assessments which the Commission would appreciate receiving in full rather than mere summaries.

⁴ See Article 6 of Decision 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.

The requirement for Member States to share information is the least restrictive option and is fully proportional, leaving Member States full discretion when it comes to the content of the material to be shared. Sensitive information would be excluded, in line with the existing provisions of Article 6 of Decision No. 1313/2013. In this context, it should also be noted that no harmonisation of laws is proposed, in full compliance with Article 196(2) of the Treaty on the Functioning of the European Union.

3. *Regarding the development of “rescEU” emergency response capacities or ‘own capacities’, as the Bundesrat defines them, the European Union does not intend to substitute itself to national civil protection authorities.*

First, “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 disasters. 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 on a Union Civil Protection Mechanism. The latter have not been amended and state that ‘Member States shall be responsible for directing assistance interventions’ and that, in operations outside the European Union, ‘the Commission shall support consistency in the delivery of assistance’. Moreover, these articles outline the actions that the Commission is required to take upon receiving a request for assistance. It is clear that the Commission shall 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’.

Secondly, “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 Article 12(7) of the proposal and is intended to ensure that the European Union supports and complements 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.

Finally, although the European Union would finance “rescEU” capacities and decide on their deployment, the requesting Member State shall facilitate the operational coordination of “rescEU” capacities with national capacities.

4. *In addition, and specifically in relation to the principle of subsidiarity, it should be noted that the proposal does not amend Article 1(3) of Decision No 1313/2013/EU on a Union Civil Protection Mechanism, 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 disaster of a nature and magnitude that can reasonably be expected and prepared for’.*