



EUROPEAN COMMISSION

Brussels, 27.11.2013  
C(2013) 8303 final

*Dear President,*

*The Commission would like to thank the Camera Deputaților for its Opinion on the Joint Proposal for a Council Decision from the Commission and the High Representative for Foreign Affairs and Security Policy: On the Arrangements for the Implementation by the Union of the Solidarity Clause {JOIN (2012) 39 final}.*

*The Commission takes careful note of the observations made by the Camera Deputaților as regards the content of the Joint Proposal.*

*The Commission notes with satisfaction that the Camera Deputaților agrees with many of the objectives of the Joint Proposal. The Commission would like to make the following comments on the Opinion of the Camera Deputaților.*

*The Commission has taken note of the suggestion of the Camera Deputaților that simulation exercises based on elaborate scenarios on different types of crises could be a useful step following the adoption of the Council decision.*

*The Commission would like to point out that the proposed mechanism does not contain any reference to military assistance by Member States, other than what is currently foreseen by the Civil Protection Mechanism. For any crisis or threat that may require other means of military assistance, a separate proposal will be submitted by the High Representative to the Council in conformity with the relevant Treaty provisions.*

*On the possibility of activation of the Clause following an attack in cyberspace, a pandemic or an energy crisis, the Commission believes that any overwhelming crisis that can be qualified as a natural disaster, a terrorist attack or a terrorist threat, falls within the scope of the Clause provided that it affects the territory and overwhelms the capacities of the affected Member State. The Commission believes that the proposed Mechanism allows that activation of the mechanism can be requested by one or more Member States, within the same time frame, for the same or different crises, when they see their capacities overwhelmed.*

*The Commission's proposal intentionally does not specify the political authority that will request the activation of the mechanism; it therefore provides the necessary flexibility in case a part of the political authorities of the affected Member State are unable to perform their tasks, due to the crisis.*

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*The Camera Deputaţilor has suggested an assessment of the limits of action under the Clause and the proposal for a "last resort" mechanism in case the proposed arrangements prove insufficient to address a given crisis. It is the Commission's belief that the mechanism set out by the current proposal, when fully implemented, will provide an appropriate mechanism to allow Member States in the Council to discuss and decide on the additional measures they need to take in order to respect their obligation to assist.*

*On the suggestion for the introduction of a "failure mode" in case of failure of the Political coordination at the Council, the Commission notes that its proposal is based on the Treaty provision for implementation arrangements for action by the Union and all Member States and not by a group of Member States. Decision-making at the Council will not require unanimity (unless discussing a proposal with military implications), therefore political coordination may be always within reach.*

*As regards the suggestion of the Camera Deputaţilor to supplement the decision by provisions on the Member States' arrangements, mechanisms and obligations, the Commission would like to underline that its proposal respects the principle of subsidiarity and that most of these mechanisms do not fall within its competence. It therefore believes that it is for the Member States in the Council to discuss any additional provisions on arrangements concerning how they interact, further to what is already foreseen by existing EU mechanisms (such as for example the Civil Protection Mechanism) or what has recently been agreed at the Council (Integrated Political Crisis Response Arrangements).*

*Regarding the role of the High Representative and the European External Action Service, the Commission believes that they have an important contribution to make even for crises that affect the territory of Member States when there is an important external relations dimension (for example a Chernobyl type crisis) or there is a requirement for intelligence as a contribution to the operational response coordination and situation assessment reports (in relation to a terrorist attack). The EEAS EU Situation Room will further continue working closely with the relevant Commission services to produce Integrated Situational Awareness and Analysis Reports.*

*Regarding the use of military assets, the Commission agrees with the Camera Deputaţilor that when such assets are needed in the scope of existing arrangements on civil protection, no additional Council decision on their use is required. In case of need, always as a last resort, for mobilisation of military resources beyond what is foreseen by the existing civil protection arrangements, the Commission believes that this needs to be agreed by an ad-hoc decision of the Member States in the Council.*

*On the perceived risk that the mechanism should be put into action for no substantiated reason, the Commission believes that the required level of activation (high level political authorities) will work as an appropriate filter for validating the need for activation. Moreover, the proposed arrangements are scalable. They are able to assess the risk, evaluate the need for additional support and recommend measures accordingly.*

*The Commission agrees with the Camera Deputaţilor that it may be appropriate to clarify the modalities for ending the activation of the Clause, once the grounds for triggering this activation have ceased or the risks have subsided.*

*The Commission notes with interest the suggestions of the Camera Deputaţilor on the proposed definitions for the terms "disaster" and "crisis". These definitions are currently*

*discussed in the Council and are indeed expected to develop, becoming more in line with the definitions in the Civil Protection legislation and the Integrated Political Crisis Response Arrangements.*

*Concerning the suggestions for including in the proposal specific provisions related to the prevention of radicalisation, the improvement of the effectiveness of the Solidarity Fund, the assessment of the limits of foreign policy in relation to third countries, and the right to individual or collective self-defence, the Commission finds that these important issues are outside the scope of the Clause as defined by the Treaty; this is why they are not included in the proposal.*

*On the suggestion for ensuring suitable financing mechanisms at the Union level, the Commission notes that the added value of its proposal lies in the most efficient use of existing mechanisms. This is why the proposal has no financial implications.*

*The Commission hopes that these clarifications address the concerns and issues raised by the Camera Deputaţilor and looks forward to continuing our constructive political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*