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LIMITE

PROCIV

WORKING PAPER

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Civil Protection
N° prev. doc.:	WK 10430/2020 REV 2
N° Cion doc.:	8330/20
Subject:	Proposal for a Decision of the European Parliament and of the Council amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism - consideration of EP amendments - delegations' comments

Following the informal video conference of PROCIV members on 3 December, delegations will find in the Annex comments on the Presidency's suggestions regarding the EP amendments, submitted by EL, FR, IE, IT, LV, PL, RO, SE and SK.

In general we support the Presidency's approach (markings in forth column) with respect to the proposed EP amendments, especially taking into account the discussions in PROCIV, which resulted in a balanced text and mandate.

While we remain open for discussion in specific provisions, we would like especially to support:

a) deletion of Delegating Act in Ar. 6 para. 5 and a strong position in favor of the mandate text in Ar. 4 (4a) and Ar. 10 para. 1 for resilience goals in general, as we prefer a more restrictive scope for resilience goals, limited to the field of civil protection, as also discussed in PROCIV.

b) a strong position in favor of keeping contacts only with national civil protection authorities in Ar. 7.

As regards the annex, we support the preference for flexibility in Union funding, therefore we support the orange marking.

Finally, as we have also expressed in past discussions, we do not support inclusion of specific countries' references/ examples in the recitals.

Concerning the Article 12, France is considering that Commission should be allowed to buy, rent or lease rescEU capacities before and during crisis. Therefore, this article should be identified as a «red » position.

Ireland would like to put forward observations regarding the document 'WK 10430/2020 REV 2' as discussed at the Working Group meeting on the 3rd December.

In regards to Article 23(12) currently indicated as Orange;

Article 23(12) Without prejudice to paragraphs 2 and 3, Union financial support for the transport of assistance, as referred to in paragraph 1a, needed in environmental disasters in which the 'polluter pays principle' applies may cover a maximum of 100% of the total eligible costs. The following conditions shall apply:

- (a) the assistance is requested by the affected or assisting Member State based on a duly justified needs assessment;*
- (b) the affected or assisting Member State takes all necessary steps to request and obtain compensation from the polluter, in accordance with all the applicable international, Union or national legal provisions;*
- (c) upon receiving compensation from the polluter, the affected or assisting Member State shall immediately reimburse the Union.*

As previously stated Ireland welcomes the inclusion of this provision to cover disasters where the 'polluter pays principal' applies as detailed in Article 23. However, we had disagreed with the limited scope of this provision as it was previously worded and strongly advocated for a broader approach, to enable Member States providing support to third countries, including the UK post-Brexit (a marine pollution disaster within UK territory could have severe detrimental effects for the Union from an environmental and socio-economic perspective), to avail of financial support for the transport of assistance.

IE considers such a broader approach and the additional text highlighted in red above to be in line with the spirit and application of the UCPM in general; to include added value through visibility and would advocate for Article 23(12) **being a red issue**.

Italy welcomes the four-column table with Presidency's suggestions regarding the EP amendments and takes the opportunity to highlight few elements for Presidency's consideration in view of the political trilogue:

- Italy would like to see row n. 23 marked in red, in coherence with the approach chosen for the core provisions on rescEU (rows n. 26, 27, 82, 84, 85, 86,);
- Italy would appreciate to highlight the Council position on indirect management as a red line (rows n. 35 and 149);
- Italy would like to support the Presidency's position on row n.62 in order to keep the original text as proposed by the Commission, highlighting that the EU resilience goals should not create any further obligations for the Member States. According to the current law (art. 6), Member States shall report on key risks having cross border impacts as well as, where appropriate, on low probability risks with a high impact. Moreover according to the Council's mandate for negotiations, Member States will work with the Commission to improve cross –sectoral disaster risk management planning at Eu level (row.n.78).
- Italy would like to recall that the Mechanism's objectives are described in Art 1 therefore any further references to specific risks in the text, like for example proposed by the European parliament in rows n. 60, 97, 98, are not encouraged.

LV highly appreciates the work done by the Presidency with regard to the Commission proposal for a Decision amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism (hereinafter – Commission proposal).

LV is still examining EP position to the Commission proposal (hereinafter – EP position) in detail. However, already now LV provisionally sees the need to introduce changes in the approach to be taken towards the EP position, namely, by making it stronger with regard to some of the elements (changing the marking from orange (strong position) to red (red line at present)):

- line 23 (Recital 10): LV notes that the relevant recital is directly linked to Article 12 of the Decision No 1313/2013/EU on a Union Civil Protection Mechanism (hereinafter – UCPM Decision) on rescEU and reflects the very strong Council position on the Commission's rights to directly procure rescEU capacities (all related provisions of Article 12 are marked red);
- line 65 (a new Article 6(1)(f) of the UCPM Decision): LV recalls that during the discussions on the Commission proposal the majority of MS suggested either to delete the relevant subparagraph on collection of disaster loss data or to move it to recitals since otherwise it could be interpreted as imposing further obligations on MS to what the MS (including LV) oppose;
- line 66 (a new Article 6(5) of the UCPM Decision): in LV view, the Council has a very clear and strong position on disaster resilience goals, namely, disaster resilience goals cannot go beyond UCPM aims, framework and competence (this significantly differs from the EP position).
- line 83 (a new Article 12(1a) of the UCPM Decision), as well as lines 97 and 98 (Article 17(1)(a) and (b) of the UCPM Decision): LV notes that UCPM has been developed to prevent, to prepare for and to respond to natural and man-made disasters. Pandemics is only one of those possible disaster risks. In order to maintain the broad scope of the UCPM, it is important to avoid any specific references to pandemics, in particular in the operational part of the UCPM Decision.

- line 149 and line 35 (Article 25(2) of the UCPM Decision and related recital 17): LV recalls that so far no clear and sufficient justification for the need to grant the Commission rights of indirect management has been provided. Thus, the relevant provision has to be deleted.

Poland generally agrees with the Presidency's proposal regarding the negotiating position towards the EP in defence of the compromise agreed at the PROCIV working party.

However Poland would like to make some points:

- Consistency with the state of negotiations regarding the remaining assumptions for the MFF 2021-2027, as well as increasing the flexibility of using the Mechanism's budget, while maintaining appropriate transparency of activities, remain key issues. It is important for Poland to confirm the ambitious plans of the European Commission regarding proper investment in the entire disaster management cycle, while maintaining synergy with other instruments.
- With regard to resilience goals, we encourage the Presidency to adopt a "red" approach to emphasize the non-binding nature of goals and that they are to be developed in cooperation with the Member States.
- In the context of the EP amendments calling for due consideration of the role of regional and local actors: while we recognize their vital importance in disaster risk management, we stress the need to maintain the leading and coordinating role of the national level civil protection actors.
- At the same time, we encourage the Presidency to be cautious in the context of the EP amendments extending the provisions to include examples of disasters. Although the changes in the Mechanism are the result of conclusions from specific, occurring events, it is important, in Poland's opinion, to strive to make the Mechanism's instruments useful in the context of the entire range of natural and disasters, both those regularly repeating (recurring) as well as those unlikely or which didn't happen yet, especially on the territories of the Mechanism states.

Recital (rows 4, 7, 8 and 10) – there is a certain ambiguity when referring to both UCPM and rescEU by putting both on the same level thus creating confusion that rescEU is a parallel independent response mechanism, even though rescEU is just one tool of UCPM, created to cover the exceptional situations when MS/PS are overwhelmed by the scale of disasters and their need cannot be covered by bilateral/international response or by ECPP.

Recital (row 35) and Article 25 (row 149) – RO suggest marking it **RED** since we decided to exclude indirect management thus disabling the possibility of involving the private for-profit sector in the management of the rescEU capacities, as this process should be made exclusively under the coordination of the national civil protection authorities. On the long term this may lead to the commercialisation of the civil protection actions which contradict the scope of the EU civil protection which is the unconditional (cost free) protection of the EU citizens.

Recital (rows 22, 23, 26, 43) and Article 12 (rows 84-87) – RO suggest marking in **RED** all rows, as it was already agreed about the circumstances in which COM can acquire rescEU capacities (urgency procedure).

Recital (row 3) and Articles 10 (row 79) and 16 (row 95) – It should be clarified that the role of UCPM is cooperation in civil protection assistance interventions primarily inside EU but also outside, and not humanitarian aid, domain governed by different principles.

Article 7 (row 68) - RO suggest marking it **RED**. The ERCC relation with the national crisis systems, can negatively impact the current cooperation with civil protection authorities. ERCC is part of UCPM and should not exceed its area of competence, defined by Article 29 of Decision 1313/2013 which states the competent authorities.

Recital (row 39) – Fully agree with RED, delegated acts which give competences to other entities rather than MS, to manage the rescEU capacities (in this case to leading Union Agencies), are not acceptable.

Article 21 (row 129) - RO suggest marking it **RED**, it is suggested the creation of additional networks and this in against the current initiative of developing the Union Civil Protection Knowledge Network.

Row 23 that deals with recital 10, should be marked red instead of orange. Throughout the negotiations, SE have raised the importance of transparency in the process and that MS should be consulted. The compromise reached by the Council - where "and in consultation with Member States" was included in recital 10, we therefore like to mark this as red.

As DE PRES informed the MS during the PROCIV virtual meeting on 3 December, we would like to confirm the colour coding in the 4-column table regarding the approach to be taken to the EP amendments (WK 10430/2020 REV 2) - we agree in general with the procedure proposed by DE PRES (no substantial written comments/remarks).
