



Council of the European Union
General Secretariat

**Interinstitutional files:
2020/0097(COD)**

Brussels, 14 September 2020

WK 9404/2020 INIT

LIMITE

PROCIV

WORKING PAPER

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Civil Protection
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 - delegations' comments

Delegations will find attached comments by AT, BE, CY, EL, FI, IE, IT, LT, NL, PL, RO, SE, and SI delegations.

Austria thanks the European Commission for presenting the 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(2020) 220 final of 2 June 2020, and for forwarding the explanation notes on direct procurement and EU resilience goals (WK 8574/2020 and WK 8575/2020).

General comments:

We would refer to Austria's general commitment to increasing resilience nationwide.

We do not see the need to amend the Decision as it currently stands, it having just undergone a fundamental revision which entered into force in March 2019.

At present, no evaluation of the current legal basis is available.

Consequently, the proposal presented needs to be thoroughly examined and discussed, especially as no impact assessment has been carried out; the definitions, competences and funding also need to be clarified.

For this reason, Austria takes a very critical view of the Commission's intention to conclude the negotiations on the current proposal by the end of the year.

The proposal as it stands would transfer extensive powers to the Commission: namely, to acquire, rent, lease and/or otherwise contract rescEU capacities.

This raises the question of subsidiarity, and the Union's supporting and complementing action under Article 196 TFEU, in particular the proportionality of the proposed measures.

¹ Translation from German provided by the Council Secretariat.

The Member States have submitted more than 100 written questions on this proposal to the Commission.

The Commission should provide written answers to these questions, to establish a solid basis for the planned negotiations.

To ensure that the new proposal is thoroughly discussed, and the requisite financial resources made available for the coming years to implement activities under the Union Mechanism, we support the German Presidency's approach of separating the discussions of funding for the implementation of the Union Mechanism from discussions on the other substantive amendment proposals contained in the Commission's proposal.

Targeted changes to the Union Mechanism should be based on an impact assessment and an evaluation of the current legal basis.

Comments on individual areas:

- **Disaster loss data collection and defining Union disaster resilience goals:** Article 6

Pursuant to Article 6(1)(f), the intention is to *'improve disaster loss data collection at the national or appropriate sub-national level to ensure evidence-based scenario building as referred to in Article 10(1).'*

We would ask the European Commission to explain how these improvements are to be made, whether this will entail new reporting obligations for the Member States, and which data are to be used as the basis for scenario building.

'Disaster resilience' is a new term that has been included in this proposal.

Pursuant to Article 6(5), the Commission is to define Union disaster resilience goals to support prevention and preparedness actions.

These rules raise serious concerns: firstly, all planning measures that are now to be taken within the scope of resilience go beyond the definition of civil protection in the stricter sense, since the intention is to include areas within resilience planning that, to a substantial degree, come under other EU competences such as the internal market, environmental protection and climate action, or public health. The concept of civil protection as referred to in Article 196 TFEU does not cover every measure that is in some way intended to prevent the risk of a disaster occurring.

The European Commission proposes the adoption of delegated acts to define these objectives.

Pursuant to Article 290 TFEU, delegated acts are only permissible to supplement or amend non-essential elements of a legislative act. Provisions defining goals that will affect all critical societal functions and that entail significant legal and financial consequences, including the quantitative determination of key capacities for the European Civil Protection Pool, in any event constitute such essential elements that, pursuant to Article 290 TFEU, it is not permissible for them to be laid down in a delegated act.

- **Emergency Response Coordination Centre (ERCC): Article 7**

‘The ERCC shall work in close contact with national crisis systems, civil protection authorities and relevant Union bodies.’

It is important to ensure that cooperation with the Member States continues to take place through the nationally designated contact points, i.e. in keeping with established procedures.

- **RescEU**: Article 12

Under its proposal, the Commission may also ‘*acquire, rent, lease, and/or otherwise contract*’ rescEU capacities.

In response to the statement that it was not possible to fully meet requests for assistance in the COVID crisis and the suggestion that procurement by the European Commission would have made this possible, we would point out that at the time assistance was requested, no personal protective equipment such as masks was available on the world market, a fact which procurement by the Commission would not have changed.

The basis for deciding whether the Commission or a Member State will procure a particular capacity remains unclear, as does the timing of such a decision.

It is also not clear where the capacities acquired by the European Commission are to be stored, at whose disposal they will be kept, who will decide on their deployment, and what form that deployment decision will take. In particular, it is not clear how the Member States will be involved in this decision-making process.

‘In consultation with Member States, rescEU capacities acquired, rented, leased or otherwise contracted by the Commission could also be located in third countries via trusted networks managed by relevant international organisations.’

It is not clear which international organisations this refers to, nor why the storage of rescEU capacities in third countries is being considered, nor indeed which third countries might be involved.

The purpose of rescEU capacities was to create a safety net for the EU Member States for use in the event of an affected Member State being overwhelmed and no other capacities – national capacities, capacities from the European Civil Protection Pool or other capacities – being available.

For that reason, the deployment of rescEU capacities in third countries was provided for only if there was a significant impact on one or more Member States or on Member States' citizens.

Since the last amendment to the Union Civil Protection Mechanism entered into force, rescEU capacities have been used successfully as a last resort in response to Member States' requests for assistance. The reasoning behind the change in purpose here is not apparent; we would therefore ask the Commission to provide an explanation.

During the COVID crisis it proved possible to adapt the Instrument for Emergency Support within the Union quickly in order to react to the situation appropriately. We would therefore ask the European Commission to explain why, instead of using that instrument in future, it proposes that the European Commission should carry out procurement under the Union Mechanism.

The European Commission should also explain how the danger of competition with the Member States can be avoided in this context.

- **Eligible prevention and preparedness actions:** Article 21

During the last revision of the Union Mechanism and the establishment of rescEU capacities, agreement was reached, after lengthy negotiations, on a co-financing rate of 80-90 % for the procurement of rescEU capacities. Exceptions for 100 % financing were also laid down.

The resulting procurement and deployment of rescEU capacities were entirely successful, and we would therefore request an explanation as to why this co-financing rate has been deleted in the current proposal.

- **Committee procedure Article 33:**

The proposal provides, in paragraph 3, that ‘on duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 8 of Regulation (EU) No 182/2011’.

In accordance with the above-mentioned Regulation, in such cases, an implementing act would be adopted which would apply immediately, without first being submitted to a committee, and would remain in force for a period not exceeding six months unless the basic act provided otherwise.

We would ask the Commission to explain why this provision has been included and to provide examples of duly justified imperative grounds.

- **Compatibility with other appropriate instruments and possible synergy effects:**

The EU4Health programme is to include, among other things, a reserve of medical staff and experts.

We would request an explanation as to how these plans are to be aligned with the activities under the Union Mechanism.

Furthermore, we would ask that the Commission explain the links between/measures included in the Union Mechanism, the emergency support instrument and the EU4Health programme.

General approach:

- We thank the Commission for the proposal and the additional explanations it already provided;
- Belgium has always supported the development of a strong UCPM. In particular as an important pillar of our own response capacity and our solidarity with other countries affected by disasters (within and outside the EU);
- The current pandemic has once again demonstrated the immense added value and need for a strong and decisive UCPM;
- When strengthening the Mechanism, it is important not only to focus on the current pandemic (and the lessons that can be learned from it), but also to keep an eye on the broader, more regular functioning of the Mechanism;
- Main guidelines in the analysis of this proposal are: subsidiarity, no duplications, keep what already works;
- After long negotiations, the UCPM was recently significantly updated in March 2019. The 2019 decision already included various elements aimed at further improving the UCPM. It is important to allow sufficient time to implement and analyze the achievements of the 2019 decision.

Reflections per article

- Article 6, f) *“improve disaster loss data collection”*
 - It is not clear what this concretely implies for the Member States?
- Article 6, 5. *“Union disaster resilience goals”*

It is positive that these goals will be established together with the Member States and that, in establishing them, already existing goals within the Union as well as within other international bodies will be taken in to account.

However the practical implementations currently remain insufficiently clear.

- How will the progress in achieving these goals be monitored?
- Which obligations for the Member States will derive from these?

- Article 7 “ERCC”

To guarantee the core focus on response facilitating and in order to ensure the coherence of the civil protection policy concerning international emergency assistance, it is important that the national civil protection authorities remain the primary focal point of the ERCC. Nevertheless we do recognize that some situations may necessitate interactions between the ERCC and other bodies.

- We propose the following change of wording: “The ERCC shall work in close contact primarily with civil protection authorities, but also national crisis coordination systems and other Union bodies, where relevant”.

- Article 12, 3. “*acquiring rescEU capacities by the Commission*”

Our current appreciation of the rescEU capacity is that it is working and is a success. This both within the domain of forest fires and the medical stockpiling. The establishment of the rescEU medical stock seemed to have been realized very quickly and a lot of Member States have drafted (or are in the process of) new proposals for its further development. So currently we do not see the reason to amend, after such a short period, the delicate balance that was reached on rescEU. This balance enabled the establishment of the safety net, while upholding the win-win method of supporting Member States developing and providing capacities for deployment within the UCPM.

- Article 12, 3. “*location of rescEU capacities in third countries*”

- The rationale behind this proposal is unclear

- Article 12, 10. *“deployment of rescEU outside the EU”*
 - Why have the conditions for such a deployment been dropped? This risks weakening the agreed focus of rescEU as a safety net for the UCPM Member States and diminishes the control possibilities of the Member States on the motivations behind the activation of rescEU capacities.
- Article 17, 1. *“the Commission may facilitate additional experts”*
 - Does paragraph 2 concerning the procedure for the selection and appointment of experts also apply for these additional experts?
- Article 18, 2. *“Assistance requested by a member state or third country may consist of only transport and logistical resources”*
 - How does this compare to the current possibility of using the transport broker? What is the added value?
- Article 25.1a *“indirect management”*

The functioning of the UCPM is always based on a strong partnership and subsidiarity between the Member States and the Commission. This interaction allows on the one hand to shape the UCPM through national expertise and capabilities and on the other hand to further develop the expertise and capabilities of the Member States.

Working via indirect management threatens to be detrimental to this win-win cooperation between the Member States and the Commission and risks disrupting the national civil protection structures.

Please find below the comments to the UCPM proposal by the Cypriot Civil Defence.

We consider that the proposal submitted by the Commission introduces several elements that will impact the Mechanism in a positive way. We, therefore, welcome provisions such as the introduction of resilience goals, as long as Member States are not overburdened by the new provisions, as well provisions included in Articles 8-11, 15, 17, the introduction of the principle “the polluter pays” etc.

As regards Article 7, we would prefer the ERCC remain linked to the main civil protection centres and would like further clarifications on what other kind of centres are envisaged.

As regards Article 10, we are wondering whether the inclusion of the term transboundary effect might restrict the scope of the analysis, as there are Member States that do not share borders with other countries.

As regards Article 12, we do not agree with the provision that rescEU assets could be located outside the EU and would welcome further clarifications on the subject.

Clarifications are also required on the issue of indirect management (Art. 25).

1. In Article 1 para. 2 (c) “disaster resilience goals” are introduced. Also in the same Article para. 6 as regards “disaster resilience planning”.

We are of the opinion that a definition of “resilience” should be included in the text. As regards reporting, additional administrative burdens to the Member States should be avoided. The Member States already have to report their National Risk Assessments and their National Disaster Management Capability.

Measurement of achievement of resilience goals should not be included in the reporting requirements.

The formulation of the disaster resilience goals should be done in the appropriate Commission working groups with the participation of the Member States national civil protection authorities’ appointed experts.

Additionally, we would like to kindly ask for more info on the possible follow up of the “stocktaking exercises”. Especially, we would like to note that achievement of goals does not seem appropriate for the development of new enabling conditions.

2. Article 1 para. 3 provides that “the ERCC shall work in close contact with national crisis systems...”, apart from civil protection authorities.

We are of the opinion that single national contact points should be exclusively maintained, namely the national civil protection authorities (or the relevant national authority specifically for the “marine CECIS”).

3. In Article 1 para. 4 (a) “mandated international organizations” are mentioned. We would like to kindly ask for a clarification as to their nature and what is meant by “mandated”.

4. Article 1 para. 15 (b) provides that the rescEU capacities shall be fully funded by the Commission (“The financial assistance for the action referred to in point (j) of paragraph 1 shall cover all costs necessary to ensure the availability and deployability of rescEU capacities under the Union Mechanism in accordance with the second subparagraph of this paragraph.”). We would like to kindly ask if that level of funding has also retroactivity to the rescEU capacities under development or to be developed under the current Decision, for example aerial forest fires capacities.

5. As regards indirect management, we are of the opinion that, when entities other than national civil protection authorities are to be awarded funds for projects at national level, the Member States’ national civil protection authorities should be consulted in advance.

Please find some written comments from FI to the UCPM proposal. We are focusing here on commenting on “key” articles (Articles 6 (art 10) and Article 12), but in addition to these, we will most probably need further clarification on other articles (for example Art 7.2 on ERCC role, Art 18 on transport/logistics and the financing of 100% in Article 21) during the negotiations.

Art 6

- Overall, FI supports the idea of strengthening preparedness planning at the Union level. From this perspective, the establishment of common resilience goals as set out in the proposal, and e.g. scenario-based work that takes into account the effects of climate change may be worthwhile exploring.
- However, further clarification is needed from the Commission on the definition of goals and their practical application and the role of the Member States in this process. The question on delegated vs implemented acts needs to be discussed thoroughly.
- It is also important to acknowledge the work already done in this field such as the NATO Baseline Requirements and the targets of the Sendai Framework.
- The connection to Article 10.2 on disaster resilience planning. How does this process relate to other processes/reporting?

Art 12

- FI wants to emphasize the basic principle that Member States have the primary responsibility for preparedness and Commission's actions should be supportive and complementary.
- In the discussions on Commission's role and the possible extended powers regarding direct procurement, it is very important that in the legal text the scope of the Commission's competence is clearly limited, for example to large cross-border crises, such as the current corona pandemic or crises caused by, extreme weather conditions caused by the climate change, as well as industrial accidents. However, it is important not to focus only on the current situation and pandemic. Finland emphasizes the importance of a holistic view of different crises - it is important to be able to react to different types of crises (all-hazards approach). The wording of Article 12 does not reflect the Commission's non-paper of 26 August (WK 8575/2020) and should be modified.
- It is essential to maintain the original idea of solidarity between Member States in large-scale crises as the basis of the Union's Civil Protection Mechanism, actualizing when Member State's own resources are insufficient. The Commission's action should have a clear added value.
- The process (on Commission's involvement, who assess the needs, prioritizes etc) and Member States' involvement on Commission's direct procurement should be transparent and clearly indicated in the article.
- We wish for clarification on the issue of locating rescEU capacities in third countries. What is the reasoning behind this and what is the added value?

IRELAND

In general, in the interests of solidarity and shared responsibility and respecting the underlying

context of the COVID-19 emergency, Ireland broadly welcomes the Commission's proposal to undertake a targeted revision of the Union Civil Protection Mechanism.

The need to be better prepared, in particular at Union level, so as to facilitate a more rapid and effective response to future crisis, akin to the COVID-19 emergency where Participating States' national resilience has been overwhelmed, has been clearly demonstrated by recent unprecedented events, as has the need for increased flexibility in certain Mechanism procedures and actions.

At the same time, the Mechanism is considered to have responded well to a number of challenges presented by the COVID-19 emergency, falling within its scope; the successful repatriation of multitudinous EU citizens being a prime example. In addition, once resourced, rescEU through its medical stockpiling functionality demonstrated its capacity to be an effective response tool.

While recognising the need for enhanced planning and preparedness, further clarification regarding the rationale and the added value in some of the Commission's proposals, particularly the direct procurement of rescEU capacities, remains unclear and requires further scrutiny and clarification. Furthermore, the administrative burden on Participating States arising from the proposed amendments to the legislation needs to be stated in a concise manner and understood.

The changes proposed by the Commission require full and proper consideration and discussion at national and Union level and circumstances conducive to same. To facilitate this process, Ireland would ideally have liked to have seen a formal Impact Assessment undertaken by the Commission, as this will be the second time in recent years the Mechanism is to be amended without such an assessment taking place.

In the absence of a formal impact assessment, any proposal to review the Mechanism should be based on an in-depth lesson learned process conducted post current acute response phase, with both Participating States and the Commission providing contributions as part of an iterative process.

In light of the changes proposed by the Commission, and based on experience of progressing previous proposals to amend the Mechanism, the Commission's aim to have amended legislation in place on 1 January 2021 is considered extremely ambitious, providing insufficient time for due process and critical analysis by Participating States, and collectively at Union level, particularly as most remain in the response phase to the COVID-19 emergency and have yet to conclude any comprehensive national review of the national civil protection structures employed in the response.

As such, Ireland supports Presidency efforts to decouple the financial and policy elements of the Commission's proposal and to prioritise the adoption of the financial provisions by the end of 2020, allowing necessary time for consideration and discussion of the remaining policy elements of the proposal. Ireland commends the Presidency for the work it has undertaken in this regard.

The Commission's proposal is undergoing parliamentary scrutiny currently therefore Ireland has a holding reserve on the policy elements of the Commission's proposal for the time being.

Ireland welcomes this opportunity to engage with Participating States and the Commission in relation to strengthening the Mechanism and looks forward to an inclusive, constructive and thorough discussion in order to reinforce and enhance our collective resilience and solidarity.

ITALY

- Italy welcomes a reinforced Union Civil Protection Mechanism and supports the idea to further strengthen the disaster management system within the EU on the base of the analysis of the current and past emergencies.
- Italy fully supports the Presidency approach in order to prioritize the provisions of the Commission's proposal related to the financial envelope while at the same time continuing the negotiations on the political package provisions.
- With regard to the revised Presidency compromise text (9552/1/20 REV1), it is still not clear the final wording of the additional language that will be proposed in relation to the use of recovery instrument funds to cover Covid related measures (footnote 13 of article 19a). Therefore Italy reserves to comment the text once it will be defined.
- With regard to the Council statement (9552/1/20 ADD1 REV1), Italy does not see any added value in the proposed sentence : *The Council also acknowledges the need to ensure that only Covid related measures partaking in the solidarity between the Member States can be financed from the EU recovery instrument.* The ratio of the statement was to explain in an objective way the motivation of the approach chosen in relation to the overall revision of the Union Civil Protection Mechanism. Therefore the reference to the recovery instrument implementation does not seem relevant because it brings the overall attention to a principle already defined at political level.
- With reference to the overall Commission's proposal, it presents positive elements but at the same time introduces substantial changes to the current Mechanism that will have important consequences on the national civil protection systems. For this reason, the proposal deserves deep analysis and more clarifications from the Commission in order to understand the potential added value and impacts on the civil protection system both at national and European levels.

- The Commission's non-papers on direct procurement and on EU resilience goals are starting points but the topics deserve more clarifications about the process of implementation.
- Art 6 was substantially modified by the legislation entered into force in 2019. Italy believes that the current provisions of article 6 aims to enhance prevention and preparedness. The Commission's proposal aims to modify further article 6, introducing a new and wider concept of **resilience goals/resilience planning** that seems to go beyond the remit of the civil protection competences. Its added value is not yet clear. Moreover Italy is concerned about the links of the resilience goals with other EU policies, -among them the protection of critical infrastructures, climate changes and conditionality for structural funds- especially considering the related obligations and conditions for the Member States.
- Art 7 related to the new role of the **Emergency response coordination centre (ERCC)** in dealing with national crisis centres, besides the civil protection authorities, deserves further clarity on its added value. It seems that the role of UCPM National competent authorities will be undermined.
- In addition, it would be important to receive more clarifications about the new analytical capacities and Early Warning (Art.8) of the ERCC to know how the Commission will involve the Member States that have national responsibility in warning and inform the population.
- On **rescEU capacities** procured directly by the Commission, it would be desirable to understand how the decision making process will look like.

- The proposal to have Commission own modules in rescEU was rejected in the previous negotiation and as of today, in the Italian Covid-19 lessons learned process, did not emerge the need to have Commission owned resources besides medical stockpiles. Italy believes that rescEU capacities that involve personnel should be developed only by the Member States and not directly by the Commission. This is the only way to avoid competition and to reinforce the overall European response capacity without hindering the internal complex dynamics that govern the national civil protection systems.
- Considering the overall changes proposed by the Commission to the Civil protection Mechanism, the proposal to introduce the **indirect management** assumes an important connotation that will change the nature of the system. It will allow the involvement of other actors, including private sector, in sensitive duties usually under the primary responsibility of the State. In this way, the role of UCPM National competent authorities will be undermined and it will be more difficult to maintain impartiality in funds attribution.

LITHUANIA

Initial position of Lithuania did not change significantly. We understand and welcome the need of changes and amendments to Union Civil Protection Mechanism (UCPM), but at the same time, there are still a lot of uncertainties. We expect explanations that are more detailed and answers as well from the Commission. The greatest concerns currently are:

- ensuring the transparency in case of direct procurement by the Commission;
- rescEU capacities should be developed, maintained and managed by Member States governmental authorities;
- on additional burden to Member States' civil protection authorities because of improved disaster loss data collection and cross-sectoral resilience planning. We would support the concept of the disaster resilience goals at the current stage and further detailed discussions later.

The COVID-19 crisis has been unprecedented in the history of the EU and has shown the importance of coordination between Member States in crisis situations, especially for crises that do not stop at borders. Strengthening our collective resilience and crisis management is key. We welcome the partition of the financial and non-financial components of the proposal because this provides scope for adequately including lessons learned from the COVID-19 crisis for the substantive discussion of the proposal.

Please find below our initial comments on the remaining (non-financial) provisions UCPM proposal. We thank the Commission for further clarification in the non-papers, and we look forward to further discussion and the Commission's further answers to the written questions submitted by member states in June.

Resilience goals

NL appreciates that, as agreed, serious attention is given to prevention within the UCPM. Establishing goals can be of added value in improving the operational response and increasing the resilience against major disasters and crises. We welcome goals contributing to the capacity of the Member States, as the first response to all crisis is domestically and the readiness and resilience of the European Union is based on the readiness and resilience of the individual Member States combined.

We also appreciate that the approach aims to take into account and build on existing frameworks, such as the NATO resilience framework.

We have yet to determine whether leaving the definition of resilience goals to a later stage, is the optimal approach. NL takes the view that the Member States should be closely involved in determining collective goals and is still considering whether implementing or delegated acts are the best approach.

Direct procurement

At present the Netherlands is not convinced that extending the mandate of the Commission to include direct procurement has added value. COVID-19 has not proven or disproven that this is a necessary amendment. We do not share the view that direct procurement by the Commission would have shortened the response time frame. Considering the fact that rescEU medical had just been set up and was still being developed, the Commission and Member States might even be complimented by the fact that member states managed to deliver capacities, despite the worldwide demand and shortages.

NL is strongly in favour of maintaining national responsibility regarding crisis management. ESI has proven to be an effective option to allow for direct procurement on a case by case basis, therefore we currently see no reason why the mandate of the Commission should be extended to enabling direct procurement on a more permanent basis. The flexible and temporary approach offered by ESI might be considered a better alternative.

NL therefore favours an approach whereby more time is allowed to test and evaluate the workings of RescEU. A thorough analysis will provide a clear overview to help us determine the optimal path forward together and avoid hasty decisions.

Transport capacities

With regards to transport capacities, further specification and clarification of the process is needed. NL would also appreciate further quantification of the cost-effectiveness gains of Commission-acquired or leased transport capacities.

Implementing acts (recital 21/article 33(3))

Without further clarification or modification, NL cannot support the intended changes regarding the immediate adoption of implementing acts by the Commission where in duly justified cases, imperative grounds of urgency so require. While we understand the need for swift action, this can and has to be done with the involvement of member states (as medical and hi-lo has shown). NL therefore has strong preference for passing implementing acts through the CPC.

Locating rescEU capacities outside the EU

NL preliminarily considers locating rescEU capacities in third countries unnecessary for rescEU's purpose as a safety net for Member States, and would welcome clarification by the Commission as to the ratio behind this addition and its objective. There are still many unanswered questions as posed in the submitted questions by Member States in June. There are concerns as to how these countries would be selected (and by whom), how this would be managed, and more examples are needed to determine the added value.

Deployment of rescEU capacities in third countries

NL has some reservations regarding the added phrases in the legislative proposal which seem to give rise to an increased ability to deploy rescEU capacities in third countries "in duly justified cases". The Commission's commentary also mentions "the EU's swift and effective response to a broad range of crises inside and outside the Union" as an objective to which end this proposal is written. As the Union Mechanism is meant to promote solidarity between Member States, NL is wary of extending the scope of deployment of rescEU capacities to include third countries even in situations where Member States or their citizens are *not* significantly affected.

RescEU

Concerning the provisions that enable rescEU assets to be deployed outside the EU, Poland emphasizes that ultimately the aim should be to supplement rescEU with those resources that will be actually useful for UCPM countries and can be used in identified response scenarios, focused on operations within the countries participating in UCPM, in accordance with the original idea of the rescEU reserve and especially in the context of the Direct Procurement issue.

We understand the idea that the rescEU could be used outside the EU, but we have doubts that the newly proposed provisions are too broad and enable the use of rescEU practically in any case. Use of rescEU outside the EU should be possible, but only in situations with clear EU/MS/PS context.

Direct procurement

Poland finds the Commission's envisaged approach to direct procurement presented in the non-paper as satisfying and supports the provisions included in the proposal. We understand that the detailed work on this issue is to be carried out later in relation to the implementing acts.

Union Resilience Goals

Comments concerning EC explanatory note

EC: "It is expected that Union resilience goals would inform and guide national prevention/preparedness efforts, which can also be supported through existing EU financial instruments, such as UCPM or cohesion policy funding. With the proposed increase of the UCPM budget, the available financial resources for resilience building activities will be strengthened."

PL COMMENT: Update of the UCPM decision should not seek to link disaster preparedness financing to the achievement of the resilience goals by MS, which seems primarily premature at this stage.

At the same time, this approach is questionable with regard to the assumption that resilience objectives and resilience planning at EU level should not replace national legislation or national competence in this regard. Such an approach means that countries not implementing the resilience goals will be penalized by the lack of support from EU financial instruments for building disaster preparedness. Financial support should be available for resilience building activities, even if a Member State is not fully following the guidance set out in the resilience goals.

Following the Commission's proposal for a Decision of the European Parliament and of the Council amending Decision 1313/2013/EU on a Union Civil Protection Mechanism we would like to advance the following comments and requests for clarifications:

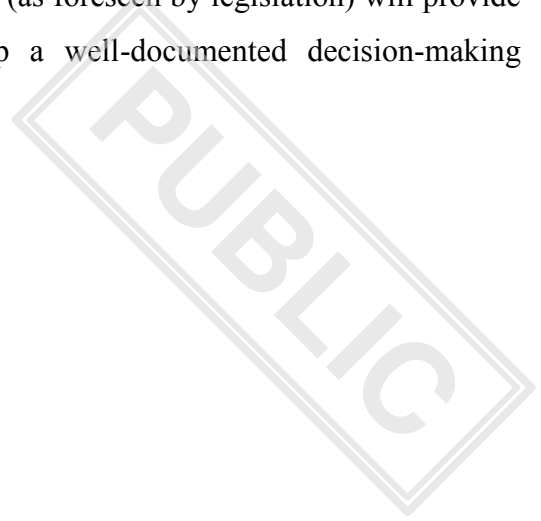
- article 6 - in our opinion the "Union disaster resilience goals" mentioned in the new added paragraph 5 is a shared responsibility, therefore we suggest the revision of the text to reflect this: "The Commission **and the Member States** shall define ..." in the same context, although we understand the legal base allows COM to use Delegated Acts we would like to hear further explanations from COM about the necessity and opportunity of the use of Delegated Acts instead of Implementing Acts
- article 7 – in paragraph 1 we would like the Commission to further clarify its vision on ERCC's relation primarily with the national crisis systems, and what will be the impact on the current cooperation with civil protection authorities.

Moreover, in the paragraph 2 we need clarifications on the "operational/analytical/ capacities" to which ERCC should have access in the future – are these Commission owned (technical) capacities for functioning, or does it refer to Member States' capacities? (e.g. rescEU capacities acquired/leased by the Commission)

- article 12 paragraph 2 – we would like to know if there is any analysis which reflects that COM would perform with better results than a Member State during an emergency the area of procurement (considering the recent example of COVID materials, where multiple stakeholders were bidding the same products, thus influencing the market).

Also, we would still like to get more clarifications regarding the reasoning for prepositioning rescEU capacities outside the Union (and provide an example) and information about the envisaged management (administration) of the rescEU capacities acquired/leased by the Commission. Would the Member States be tasked to run these capacities (as per current rescEU model) or COM envisage involving also the private sector?

Moreover, we still believe that an impact assessment (as foreseen by legislation) will provide us with the background information to build up a well-documented decision-making instrument.



Art 3.2 b):

SE suggests to also include qualitative goals. The number of rescEU capacities is not a sufficient measure for the level of preparedness, and needs to be complemented with measures that capture geographical distribution, interoperability, co-trained and exercised etc.

Art 6.5

SE welcomes initiatives that strengthen needs assessments and supports the identification of capacity gaps. To establish Union disaster resilience goals, to provide a baseline for maintaining critical societal functions in high impact disaster as well as the development of scenarios could support that process. SE welcomes a close coordination with NATO and other relevant actors in this regard. The goals should relate to already established work, including NATO Baseline Requirements, Sendai Framework and OECD standards. It needs to be clarified how the goals and scenarios will relate to national risk assessments and needs assessments on national and European level. A clear process to clarify Member States' involvement in the development of goals is required. SE is not convinced that a delegated act is the right solution.

Art 7.2

Need for clarification: please specify what the Commission intends with this article. The ERCC was already beefed up during the last legislative revision. Which measures have been taken, which results can be seen and which gaps have been identified? For example, specify what kind of operational capacities ERCC needs in order to address emergencies. Does it refer to operational office staff within the ERCC or to field experts/rescEU capacities?

Art. 10

Need for clarification: How does disaster resilience planning relate to other processes and reporting requirements, already established in article 6.1. SE does not want to see an additional administrative burden on the Member States.

Art 10.2

As the text refers to mission planning, it is misleading to use the broader term: “disaster resilience planning of response operations”. The words “disaster resilience” should be deleted in this context.

Art. 12.3

It is imperative to include a transparent process for strong Member States' involvement regarding

- the decision to “activate” this procurement mode
- the assessment of needs to be addressed by this direct procurement
- the procedure for prioritising the procured capacity (in case demand exceeds supplies).

The possibility to use capacities nationally (as specified in the implementing act) is important in order to ensure efficient use of resources, it should therefore remain clearly stated even in the case of direct procurement. The advantages and inconvenience of the location of capacities in third countries need to be discussed.

Art. 12.10

Need for clarification: does the replacement of the first subparagraph of para 10 mean that rescEU capacities could be deployed outside of the EU also in situations that do not "significantly affect one or more Member States or their citizens"?

Art. 18

Need for clarification: SE would like to better understand what type of resources the Commission refers to in the proposal. In general, however, we believe that transport and logistics is an area where the Commission could play a role to support Member States that lack transport and logistics agreements.

In the continued work on logistics solutions it is important coordinate and look for synergies with existing logistics arrangements such as within the UN-system.

Art. 21

Need for clarification: It is not clear if the text implies 100% financing of the resources, or if it is up to the Commission to define what the “costs necessary to ensure the availability and deployability” are. It is also not clear what this amendment means for partly financed, already established rescEU capacities. It is important that these continue to be financed as agreed.

Art. 22

See comments regarding Art.18.

Art. 33

The article allows the Commission to “adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 8 of Regulation (EU) No 182/2011. In what situations could this be used? The current crisis showed that fast decision making is possible. This amendment demands further explanations and discussions.

Slovenia supports the overall strengthening of the Union Civil Protection Mechanism and is in general in favour of the following changes introduced in the proposal:

1. more systematic consideration of disaster loss data collection in the planning process;
2. further development and use of surveillance and early warning systems;
3. the possibility of providing strategic airlift of material assistance and assets; however further clarification on the development of the capacity (possible contribution of Member States or direct procurement by the European Commission), management of the capacity and conditions of its use for the Member State should be provided;
4. increased funding for the capacities in the European Civil Protection Pool (ECPP);
5. increased budget for the Civil Protection and the EU's response while ensuring a balanced distribution of financial resources between Member States and the European Commission.

In the field of prevention, the proposal introduces two new concepts, *resilience goals* and *resilience planning*. We believe that in the first step both concepts should be clearly defined and included only afterwards into the proposal. Furthermore, it should also be clarified whether new introduced concepts might (and how) be connected with other policies. i. e. cohesion policy.

In the field of preparedness and response, Slovenia supports further development of the European Civil Protection Pool as well as rescEU capacities and is in favour of the development of new types of rescEU capacities (i.e. shelter). Nevertheless, further clarifications on the EU strategic reserve capacity (rescEU), owned or managed by the European Commission and deployed in Member States and third countries, would be necessary, namely:

- how will the Commission prioritize which capacities would be directly procured,
- allocation of the budget to the EU strategic reserve capacity (rescEU) owned or managed by the European Commission in comparison to the budget allocated to the Member States,

- the use of the rescEU capacities and warehousing in the third countries,
- command and control of the rescEU capacities directly procured by the Commission.

Slovenia also supports further development of the ERCC, but highlights that the coordination and communication with the national disaster management and civil protection authorities should be further described.

Moreover, the proposal envisages the indirect management of certain activities, which in our opinion should not become the main implementing mode of the activities within the UCPM.

Since the proposal refers to several financial instruments (ex. European Union Recovery Instrument, EU4Health) and includes a budgetary increase from the Multiannual Financial Framework as well as from the Recovery Instrument, not only the rescEU but overall UCPM development should be taken into consideration.

Slovenia supports the Presidency proposal of a parallel discussion of financial and policy provisions. In line with the above-mentioned remarks, we consider that support for the European Commission's proposal for a swift adoption of the proposal would be premature. Moreover, the proposal's changes should be considered in the broader context of all possible cross-border natural and manmade disasters and in line with the principle of subsidiarity.
