

## Resolution

on the Motion from the CDU Parliamentary Party and the SPD Parliamentary Party  
Document 6/12140

Subject: **Subsidiarity concerns with regard to the proposal for a European Parliament and Council Resolution to amend Resolution No. 1313/2013/EU on a Union Civil Protection Mechanism (COM (2017) 772 final)**

The Saxon State Parliament passed the following resolution on 31 January 2018:

1. The State Parliament fundamentally welcomes the initiative of the European Commission to improve European civil protection and is committed to the mutual support of the Member States as a show of solidarity.
2. The State Parliament notes that the European Commission's legislative project affects both the legislative competence and the organisational sovereignty of the Free State of Saxony to govern civil protection affairs.
3. The State Parliament is of the opinion that the proposal is not fully compatible with the principle of subsidiarity and proportionality.
4. The European Commission's proposal exceeds the competence enshrined in Art. 196 of the Treaty on the Functioning of the European Union (AEUV). According to Article 196 of AEUV, the European Union is restricted to measures to support, coordinate or supplement measures of the Member States in the area of civil protection. Art. 196 Par. 2 of AEUV also rules out any harmonisation of legislation of the Member States in this area. According to Art. 2 Par. 5 of AEUV, any supporting, coordinating and supplementing measures on the part of the European Union must not replace the competence of the Member States.
5. The State Parliament is of the opinion that the future Article 1 No. 4 of the proposed resolution raises proportionality concerns. It obliges the Member States or their competent sub-national levels – such as the Free State of Saxony – to submit hazard estimates, risk management plans, including preventive and precautionary measures to the European Commission every three years. The necessity of such comprehensive reporting obligations is not sufficiently proven and is also disputed. The additional administrative workload disproportionately ties up urgently needed administrative capacities.

6. The State Parliament is convinced that the European civil protection pool required in the future Article 1 No. 5 of the proposed resolution raises subsidiarity and proportionality concerns. The European Commission intends to specify the capacities required for the pool to be provided by the Member States, and to decide on their deployment. The proposal does not include a national right of final decision. The contributions made by the Member States to disaster management are deemed insufficient due to their voluntary character, without taking into account and analysing positive examples. The intended access to the capacities contributed to the European civil protection pool and the decision-making authority over the deployments directly affects state competences for independent government of administrative processes.
7. The State Parliament is of the opinion that the dedicated operative capacity reserve (rescEU) required in the future Article 1 No. 6 of the proposed resolution exceeds the competences of the European Commission. It would transfer decision-making, implementation and financing competences for joint deployments to the European Commission and create double structures in addition to the national civil protection capacities. The European Union would take on operative tasks above and beyond the responsibilities of the European Commission set forth in Art. 196 of AEUV.
8. With regard to the subsidiarity principle and the particular urgency of disaster situations, the State Parliament believes that the responsibility for protecting the population should be as close as possible to those affected, i.e. primarily at a local level. This mechanism has proven itself with regard to special disaster situations in the Free State of Saxony, e.g. the recent severe flooding in 2010 and 2013.
9. The State Parliament therefore calls on the State Government to raise the Free State's subsidiarity and proportionality concerns in an appropriate manner in the Federal Council, before the Federal Government, at Council Meetings with the Ministers in attendance or in the advisory bodies of the European Commission and the Council, or to have representatives of the Federal States raise them and insist that the proposed resolution be adapted taking the subsidiarity and proportionality concerns of the Free State of Saxony into account sufficiently.
10. We ask the President of the State Parliament to send the resolution and justification to the European Commission.

### **Justification:**

The proposal for a Resolution of the European Parliament and the Council to amend Resolution No. 1313/2013/EU on a Union Civil Protection Procedure should pursue the following main objectives:

- Enhancing disaster prevention
- Enhancing the EU civil protection pool provided by the Member States
- Establishment of dedicated operative EU units (rescEU)
- Increasing the flexibility and efficiency of administrative processes

The State Parliament supports the cooperation of the Member States in civil protection. However, regulations on European civil protection must be within the existing legislative competences and observe the principle of subsidiarity.

The scope of Art. 196 of the Treaty on the Functioning of the European Union (AEUV) is restricted to preventive, precautionary and support services. The future Articles 1 No. 4, No. 5 and No. 6 to amend Resolution No. 1313/2013/EU propose a regulative approach, which directly affects and restricts the legislative competence of the German states. The resolution proposal does not fully uphold the principle of subsidiarity and proportionality.

In Germany, legislation and administrative implementation for civil protection are state matters (Art. 30 and 70 of the German Constitution [GG]). Organisational structures comprising public and private sector institutions have been formed and proven themselves in various severe disaster situations in the Free State of Saxony. Many civil protection mechanisms are organised on a voluntary basis: Roughly 90% of all subdivisions of support organisations work exclusively with voluntary helpers. This raises a legal question: is the European Union entitled to compulsorily tie down such voluntary structures in a pool and access them?

Each Member State must primarily provide its own disaster precautions and ensure that sufficient resources (personnel and equipment) are available for civil protection. With regard to the existing civil protection resources in the Member States, the establishment of dedicated EU capacities is neither necessary nor appropriate.

Accordingly, the State Government should be called upon to take these concerns into consideration in further proceedings, and to assert them at an appropriate stage of the proceedings.