Commission Implementing Decision (EU) 2019/1310 of 31 July 2019 laying down rules on the operation of the European Civil Protection Pool and rescEU (notified under document C(2019) 5614) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2019/1310

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laying down rules on the operation of the European Civil Protection Pool and rescEU

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism[(1)], and in particular Article 32(1)(g) thereof,

Whereas:

(1) Whilst respecting the primary responsibility of Member States for preventing, preparing for and responding to natural and man-made disasters, the Union Mechanism promotes solidarity and cooperation between Member States in accordance with Article 3(3) of the Treaty on European Union (TEU) and Article 196 of the Treaty on the Functioning of the European Union (TFEU), respectively.

(2) With the adoption of Decision (EU) 2019/420 of the European Parliament and of the Council[(2)], the Union Mechanism was reinforced by increasing Union financial support for the European Civil Protection Pool and with the establishment of rescEU.

(3) In accordance with point (c) of Article 21(2) of Decision No 1313/2013/EU, response capacities benefiting from Union financial support for adaptation costs are to be made available as part of the European Civil Protection Pool for a minimum period linked to the funding received and ranging between 3 and 10 years starting from their effective availability date. The exact periods of commitment should be specified with a view to guaranteeing legal certainty.

(4) rescEU should provide assistance in overwhelming situations where overall existing capacities at national level and those committed by Member States to the European Civil Protection Pool are not sufficient in order to respond effectively to disasters. Rules for the establishment, management and maintenance of rescEU capacities should be adopted in order to ensure the effective implementation of rescEU.

(5) rescEU capacities are made available for response operations under the Union Mechanism. Following a request for assistance through the *Emergency Response Coordination Centre* (ERCC), the Commission, in close coordination with the

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requesting Member State and the Member State owning, renting or leasing the rescEU capacity, is to decide on the deployment of that capacity. Criteria for deployment decisions as well as relevant operating procedures should be laid down in order to ensure an effective and transparent decision-making process. Criteria should also be laid down for decision-making on deployment in the event of conflicting requests for the use of rescEU capacities.

(6) rescEU capacities can be used for national purposes when not used or needed for response operations under the Union Mechanism. In order to guarantee that rescEU capacities are on stand-by and ready for deployment under the Union Mechanism within the timeframe laid out by the quality requirements for each type of rescEU capacity, appropriate rules for their national use should be established.

(7) When rescEU capacities are used for national purposes, Member States should notify the Commission. The notification system in case of national use of rescEU capacities should be simple and effective.

(8) In order to ensure operational efficiency, clear rules should be established for the demobilisation and disengagement of rescEU capacities.

(9) In accordance with Article 12(10) of Decision No 1313/2013/EU, Member States can in specific cases refuse to deploy personnel operating rescEU capacities outside the Union. Rules should be laid down governing those specific cases.

(10) With the adoption of Commission Implementing Decision (EU) 2019/570[(3)], aerial forest firefighting capacities were defined as rescEU capacities. In order to provide Union financial assistance for developing such capacities in accordance with Article 21(3) of Decision No 1313/2013/EU, their total estimated costs should be defined. Total estimated costs should be calculated taking into account the categories of eligible costs laid down in Annex IA of Decision No 1313/2013/EU.

(11) In order to reduce deployment times and improve legal certainty, the terms and conditions relating to the hosting and operating of rescEU capacities should be clarified. Such conditions should form the basis of operational contracts between the Commission and the Member States.

(12) In order to ensure prominence to the Union and when rescEU capacities are deployed and to ensure uniform conditions when Article 20a of Decision No 1313/2013/EU is implemented, this Decision should lay down rules on appropriate visibility arrangements.

(13) rescEU capacities should be registered, certified and adequately maintained by Member States in accordance with existing national and international regulations. The Union Mechanism certification process should also be completed.

(14) With the entry into force on 21 March 2019 of Decision (EU) 2019/420, the Union can from now on provide financial assistance for operational costs. It is therefore necessary to lay down rules and procedures for the Member States to request such assistance.

(15) The measures provided for in this Decision are in accordance with the opinion of the committee referred to in Article 33(1) of Decision No 1313/2013/EU,

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HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision lays down rules for the implementation of Decision No 1313/2013/EU as regards:

(a) the commitment to the European Civil Protection Pool of capacities receiving funding for adaptation costs;

(b) criteria for deployment decisions on rescEU capacities, including in the event of conflicting requests;

(c) criteria for demobilisation and disengagement decisions;

(d) national use of rescEU capacities;

(e) refusal to deploy personnel outside the Union

(f) the general content of operational contracts;

(g) visibility requirements for the use of rescEU capacities;

(h) certification and registration of rescEU capacities;

(i) total estimated costs of aerial forest firefighting rescEU capacities; and

(j) arrangements for requesting financial assistance for operational costs.

Article 2

Commitment to the European Civil Protection Pool of capacities receiving funding for adaptation costs

1 Member States receiving Union financial support for adaptation costs of capacities in accordance with point (c) of Article 21(2) of Decision No 1313/2013/EU shall commit said capacities to the European Civil Protection Pool for different minimum periods based on the total amount of funding received.

Minimum periods shall be determined as follows:

a a minimum period of 3 years for capacities receiving up to EUR 300 000 of Union financial support;

b a minimum period of 5 years for capacities receiving from EUR 300 001 up to EUR 1 000 000 of Union financial support;

c a minimum period of 7 years for capacities receiving from EUR 1 000 001 up to EUR 2 000 000 of Union financial support;

d a minimum period of 10 years for capacities receiving more than EUR 2 000 000 of Union financial support.

2 Where the economic life span of a capacity is shorter than the minimum period referred to in paragraph 1, the minimum period shall be determined by the length of the economic life span.

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3 The Commission through the ERCC may agree to terminate the minimum period referred to in paragraph 1 in relation to a specific capacity where this is duly justified by a Member State.

Article 3

Criteria for deployment decisions on rescEU capacities

1 Upon receiving a request for assistance, the ERCC shall assess whether existing capacities offered by Member States through the Union Mechanism and those pre-committed to the European Civil Protection Pool are sufficient to ensure an effective response to that request. Where an effective response cannot be ensured, the Commission through the ERCC shall decide on the deployment of rescEU capacities in accordance with the procedure laid down in Article 12(6) of Decision No 1313/2013/EU.

2 The decision to deploy rescEU capacities shall take the following specific criteria into account:

a the operational situation across Member States as well as potential disaster risks;

b appropriateness and adequateness of the rescEU capacities to respond to the disaster;

c geographic location of the rescEU capacities, including estimated transport times to the affected area;

d other relevant criteria, including the terms and conditions of rescEU capacities as stipulated in operational contracts.

3 In the event of conflicting requests for assistance, the following additional criteria shall be taken into account when deciding where to deploy rescEU capacities:

a the projected risks to human lives;

b the projected risks to critical infrastructure as referred to in Article 2(a) of Council Directive 2008/114/EC[(4)], irrespective of whether it is located inside or outside the Union;

c the projected impact of the disasters, including environmental impact;

d needs identified by the ERCC as well as any existing deployment plans;

e the potential risk of the disasters spreading;

f socioeconomic effects;

g the triggering of the solidarity clause pursuant to Article 222 of the Treaty on the Functioning of the European Union;

h other relevant operational factors.

Article 4

Criteria for demobilisation and disengagement decisions

1 rescEU capacities shall be demobilised in the following cases:

a upon receipt of a pre-closure notification in CECIS; or

b when a decision to disengage is taken in accordance with paragraph 2.

2 A decision to disengage a rescEU capacity shall be taken by the Commission through the ERCC when there is a greater operational need for the capacity elsewhere or the needs on the ground no longer justify its use. The decision shall be taken in close coordination with the

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Member State hosting the rescEU capacity and the Member State(s) requesting assistance as well as, where appropriate, with third countries or international organisations.

3 For the purposes of taking the decision referred to in paragraph 2, the Commission shall, inter alia, consider the criteria listed in paragraphs 2 and 3 of Article 3.

Article 5

National use of rescEU capacities

1 Member States using rescEU capacities for national purposes shall ensure:

a availability and readiness for operations under the Union Mechanism within the timeframe provided for in the relevant quality requirements, unless otherwise agreed with the Commission;

b equal treatment of rescEU capacities and other national capacities with regard to adequate maintenance, storage, insurance, staffing, and other relevant management and maintenance activities;

c rapid repair in case of damage.

2 Member States shall, through the ERCC, notify the Commission of the national use of rescEU capacities and submit a report following their use.

3 Where national use of rescEU capacities impacts availability as provided in subparagraph 1(a) of this Article, Member States shall obtain the consent of the Commission, through the ERCC, prior to deployment.

Member States shall ensure availability in the shortest time possible, where the rescEU capacities in question are needed for response operations under the Union Mechanism.

Article 6

Refusal to deploy personnel outside the Union

1 Where a decision to deploy rescEU capacities outside the Union has been taken in accordance with Article 12(10) of Decision No 1313/2013/EU, Member States may refuse to deploy their personnel in the following cases:

a where diplomatic relations between the Member State and the requesting third country have been severed;

b where armed conflict, the threat thereof, or other equally serious grounds would result in the safety and security of the personnel being put at risk and prevent the relevant Member State from fulfilling its duty of care.

2 The Member State refusing deployment of its personnel shall immediately inform the Commission and provide it with a reasoned justification.

Article 7

General content of operational contracts

The operational contracts referred to in Article 12(5) of Decision No 1313/2013/EU shall, inter alia: