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TO THE RESCEU? DISASTER RESPONSE AS A DRIVER FOR EUROPEAN INTEGRATION

QUAKECORE | UNIVERSITY OF CANTERBURY

SEPTEMBER 2021



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TO THE RESCEU? DISASTER RESPONSE AS A DRIVER FOR EUROPEAN INTEGRATION

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ABSTRACT

The EU's 2018 decision to strengthen its civil protection mechanism has been a long time in the making. Since the original Council resolution of 1987, the Union has incrementally expanded its role in the field of disaster response and planning. This expansion has been slow and, at times, painfully so, as states have regularly challenged the EU's growing role in an area often seen as core member-state business. Nevertheless, the increasing inability of Member States to respond to disasters, alongside changes in the political dynamics of the Union in the post-Brexit referendum environment, have allowed the EU to develop the foundations for a truly European response mechanism to disaster events (rescEU). This is all the more remarkable as this system has developed against a backdrop of retrenchment and crisis within the EU as a whole.

This paper assesses the structure of this new model of positive EU co-operation in the context of EU integration. In particular, it asks whether the realities of increased risk from natural hazards is creating a new drive towards European co-operation and provides a new driver for European co-operation. Will disasters, ironically, rescEU the Union?

I Introduction – The EU and Disaster Risk Management

The European Union today plays a significant role in the field of disaster risk management (DRM), both amongst its Member States and globally. As the following will examine, recent developments have increased the EU's role in this field, to the extent that for the first time, we can begin to recognise a truly European capacity in the field. It was not ever thus. In fact, despite disaster response appearing to be an area ripe for regional (and global) co-operation, until recently, international co-ordination mechanisms were few in number and of limited effectiveness. The EU was no exception to this general rule.

The reasons for this are simple and form the underlying theme of this article. In effect, Member States are torn between the obvious advantages of co-operation in the field of DRM and Westphalian notions of sovereignty. Although this is not a new issue for international co-operation, nor one that is limited to the field of DRM, the conflict is particularly evident in this area. States are very aware that disasters know no borders and are, by definition, only limited by geographic range rather than political boundaries. In addition, even when the specifics of

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the disaster may not impact upon the territory of a state, the economic and social consequences (collapse of markets, population movements and so on) have consequences far beyond the territory where the disaster occurs. To add to this, cross-border nature of DRM, few (if any) states can afford to have the response capacity necessary to deal with such events lying fallow, ready for the day they are needed. Yet, despite these obvious functional drivers favouring co-operation, personal security is seen as the most national of responsibilities, at the very heart of the Westphalian state.¹

This began to change at the global level with the UN's declaration of the 1990s as the International decade for Natural Disaster Reduction, as states became increasingly concerned by the impact of disasters, particularly upon developing economies.² These culminated in the 2005 Hyogo Framework for Action (2005–2015).³ The focus has expanded in the wake of disaster events in developed states which also overwhelmed domestic capacity (Hurricane Katrina 2005, The Tōhoku Earthquake 2011 and Canterbury Earthquake Sequence 2010/2011) and the HFA has now been superseded by the Sendai Framework for Disaster Risk Reduction (2015–2030).⁴ These now provide a global legal framework for co-operation in the field which provides specifically (if rather vaguely) for regional organisations to provide a role in the global field.⁵

At the regional level, things have moved more slowly and although there are some examples of regional DRM agreements dating back to the 1970s (both ASEAN and Pacific Island States developed some agreements in this area during this time), regional co-operation in the field has been limited until much more recently.⁶ The EU in particular has come late to the DRM party.

In the 1980s, this European reluctance to co-operate began to change. The pace of this increased rapidly at the turn of the century, driven by an increase in the frequency and ferocity of disasters across the EU, while Member States also began to experience novel hazards that

¹ This can be most seen most clearly in the use of the term “Civil Defence” (still used in some states) which emerged in the immediate post-war period. This saw disaster management as part of wider conception of population security in times of total war and often linked disaster response with the security and armed forces of the states concerned.

² *International decade for Natural Disaster Reduction* GA Res 44/236 (1989).

³ United Nations Office for Disaster Risk Reduction (UNDRR) *UNISDR Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters* (22 January 2005) A/CONF.206.6.

⁴ UNDRR *UNISDR Sendai Framework for Disaster Risk Reduction 2015–2030* (18 March 2015) A/CONF.224/CRP.1.

⁵ See for example, *Sendai Framework for DRR*, above n 4, s 28(c).

⁶ W John Hopkins “Soft Obligations and Hard Realities: Regional Disaster Risk Reduction in Europe and Asia” in K Samuel, M Aronsson-Storier and K Bookmiller (eds) *The Cambridge Handbook of Disaster Risk Reduction and International Law* (Cambridge University Press, Cambridge, 2019) 219–238.

they have not traditionally faced.⁷ This led to increased pressure on domestic capacity to respond and, as a result, Member States turned more frequently to the EU for assistance. As a direct result of these pressures and a weakening of Member-State opposition to the EU involvement in this most domestic of fields, the EU has now, in the form of a revamped European Union Civil Protection Mechanism, developed a supra-national capacity in the field, far beyond that originally envisaged and at the limits of the Treaty allows. At a time when the EU seems to be experiencing a period of retrenchment, the increasing frequency of disasters beyond the capacity of Member States' response capacities has driven the EU in a new direction of supra-national co-operation in the Brexit era. This chapter posits the possibility that the development of a European capacity in this most Westphalian of policy fields marks a sea change for the Union. The hints of supra-nationalism that have emerged from the EU's development of competences in this area perhaps provide evidence that Monnet's original functional focus continues to be relevant.

II Reluctant Regionalism: The Genesis of a European Approach to DRM

The EU's role in DRM has slowly evolved over the past three decades. The original EU Treaties made no mention of disaster risk management and it was not until 1985 that the concept of Member States co-operating on "civil protection" (the term used in the EU to describe Civil Defence and DRM issues) was raised seriously.⁸ As a consequence of this decision, the EU developed a series of informal, non-binding mechanisms which collectively created a limited European disaster management framework. These mechanisms focussed on sharing of information in the areas of disaster response, with the purpose being to facilitate operational co-operation among Member States.⁹

It took over a decade for these tentative steps towards EU co-operation in DRM to become formalised through as a result of the 1997 Community Action Program in the field of civil protection. This led to the formal establishment of the EU Civil Protection Mechanism (EUCPM) in 2001.¹⁰ This mechanism still focussed upon the promotion of co-operation

⁷ The 2018 Swedish forest fires are just one notable example. Jonathan Watts "The Swedish Town on the Frontline of the Arctic Wildfires" *The Guardian* (online ed, London, 30 July 2018).

⁸ Marco Gestri "EU Disaster Response Law: Principles and Instruments" in Andrea De Guttry, Marco Gestri and Gabriella Venturini (eds) *International Disaster Response Law* (TMC Asser Press, The Hague, 2012) 105. "Civil Protection" is used in the EU to avoid the military/security connotations of "Civil Defence" and to encompass both "natural" and "man-made" disasters.

⁹ At 107.

¹⁰ Decision Establishing a Community Mechanism to Facilitate Reinforced Cooperation in Civil Protection Assistance Interventions [2001] OJ L 297/7. The EUCPM currently includes all 27 Member States plus Iceland, Norway, Serbia, North Macedonia, Montenegro, and Turkey. The UK's status in the mechanism is not clear

amongst Member States rather than the development of a truly Europe approach to DRM. It also established the principle that DRM within the territory of the EU and external to it would be managed as a single competence and limited the scope of the EUCPM to “major emergencies, or imminent threat thereof”.¹¹ Although, in practice, the exact nature of “major emergency” was largely left to the state concerned.¹² In 2004, the EUCPM was reassessed and its practical operation expanded.¹³

These decisions marked the first formal legislative framework for civil protection in the EU. However, lacking a formal base, these were limited by the political requirements of using the generalist art 308 TEC. The requirement of unanimity amongst Member States thus limited the Commission’s ability to push developments in this area. Lisbon marked a major milestone in the development of the DRM in the EU, as for the first time it was explicitly recognised as an EU competence under art 196 (Title XXIII) of the Treaty on the Functioning of the European Union (TFEU).¹⁴

This Article granted the EU the explicit competence to encourage co-operation amongst Member States “in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters”.¹⁵ This power remains limited as it is a so-called parallel competence limited to “support, co-ordinate or supplement”. Nevertheless, the legal shift was important, as it provided the EU with clear competence in the area of civil protection. This made justification of EU legislative development easier and removed the need for unanimity by making such decisions subject to the ordinary decision-making procedure.

Importantly, the Treaty of Lisbon also introduced the new “solidarity clause” under art 222 of the TFEU, which created an explicit duty on both the EU and Member States to “act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or manmade disaster”.¹⁶ Although not directly connected to art 196, the development of the solidarity clause needs to be seen in the wider context of an increased CPM role for the EU.

post-Brexit. However, as it was a reluctant participant in the EUCPM as a Member State, its continued membership cannot be guaranteed.

¹¹ Article 1(1).

¹² Article 3(1): “any situation which has or may have an adverse impact on people, the environment or property and which may result in a call for assistance under the Mechanism”.

¹³ Council Decision of 8 November 2007 establishing a Community Civil Protection Mechanism (recast) [2007] OJ L314/9.

¹⁴ Consolidated version of the Treaty of the Functioning of the European Union [TFEU] [2008] OJ C 115/47 (signed on 13 December 2007, entered into force 1 December 2009), art 196.

¹⁵ Article 196.

¹⁶ TFEU, art 222.

The changes to the TFEU around Civil Protection owe their genesis to the unsuccessful Constitutional Treaty (TCE) process. During the negotiations for the TCE, the issue of civil protection was considered within the European Convention by the Defence Working Group (VIII).¹⁷ The original draft of this clause focussed on terrorist attacks but the scope was extended through the efforts of Michel Barnier (Chairman of the Defence Working Group) to include “unintentional” disasters.¹⁸ In addition, the final report the working group explicitly linked what would become the “solidarity clause” and increased powers of the EU in the field of CPM in a way that was to prove prescient to the rescEU initiative that is explored further below:¹⁹

Taking this enhanced solidarity further, and to strengthen the existing Community mechanism, a situation might be envisaged in which a pool of specialised civilian or military civil-protection units identified by the Member States undertakes joint training and intervention coordination programmes so as to facilitate more effective intervention in the event of natural or humanitarian disasters within the Union.

The cementing of DRM within accepted EU competences, alongside the solidarity clause, was crucial to the important innovations in the European civil protection legal framework that have emerged in the decade since the ratification of the Lisbon Treaty. However, although Lisbon changed the legal framework around the EU’s role in civil protection, the EU model has continued to develop incrementally, following the basic structure established in 2001. The first post-Lisbon changes (in 2013) allowed a more formalised mechanism, but retained the shape of the 2001 model.²⁰ The new mechanism included two formal elements. Firstly, a European Emergency Response Capacity (EERC), which created a more formal method for states to provide voluntary resources under EU supervision and, secondly, the Emergency Response Co-ordination Centre (ERCC) to manage use of EERC resources and co-ordinate EU responses to disaster events.

Although the establishment of a 24/7 centre for European disaster response (the ERCC) and a formal pool of European resources with standardised training and equipment (the EERC) supported by EU funding marked a step change in the nature of the EU approaches to Civil Protection, it did not change the essentially inter-governmental and voluntary nature of the

¹⁷ The European Convention *Final report of Working Group VIII ‘Defence’* CONV 461/02 (16 December 2002).

¹⁸ Terrorist attacks were defined as intentional disasters.

¹⁹ The European Convention, above n 17, at para 59.

²⁰ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism [2013] OJ L347/924.

EUCPM. Some states (notably the UK) did not participate in the mechanism, either through requesting assistance or providing resources to the EERC. In addition, those states which did participate always had the opportunity to refuse to provide their assets provided through the EERC. Although this did not generally occur, the events of 2017 and 2018 were to expose these limitations and lead directly the creation of a truly European approach to disaster response.²¹

III From Crisis to Consensus: Towards a European Approach to DRM

2017 and 2018 saw an unprecedented level of weather events across the European continent, with high temperatures and long periods of drought in particularly leading to significant fire events. The world's media focussed on events in Sweden (2018) and Portugal (2017 and then again in 2019) but smaller conflagrations occurred across the continent and the fire risk was high in many states. This put unsustainable pressure upon the voluntary EERC pool and led some states to refuse requests to deploy pre-committed resources due to domestic fire events (or the risk of them occurring). The EUCPM thus proved incapable of responding effectively to the high impact/low probability events that it was particularly designed to address. This series of crises was to prove the catalyst for a new approach to DRM in the EU.

The exposure of the EUCPM's weakness resulted in a drive by the Commission to develop a new "fully fledged" EU level Civil Protection mechanism.²² The idea of creating a truly supra-national European DRM system was not new and discussion of such a development had occurred in 2012, when the Constitutional Convention considered the introduction of a Civil Competences into the Treaties.²³ However, the nature of civil protection as a core Member State function had thwarted attempts to push these ideas forward. However, by 2018, both the meteorological and political climate had changed dramatically. Larger states who had previously been reluctant to utilise the EUCPM began to change their views, starting with Italy in 2016, as they became overwhelmed by climate change related disasters (particularly fires). This in turn reduced opposition to the enhancement of the mechanism and the acceptance of the "need to reinforce the collective ability to prepare for and respond to disasters in particular through mutual support in Europe".²⁴

²¹ See Federico Casolari "Europe (2018)" (2019) Yearbook of International Disaster Law 1(1); and ICF/ECHO *Interim Evaluation of the Union Civil Protection Mechanism: 2014–2016* (European Commission, Brussels, 2017).

²² European Commission "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/2017/0772 final.

²³ The European Convention, above n 17, at para 59.

²⁴ Decision (EU) 2019/420 of the European Parliament and of the Council of 13 March 2019 Amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism [2019] OJ L0771/1.

Perhaps of most significance, the state which had proved most reluctant to participate in the EUCPM had, by 2018, made itself largely irrelevant to the EU's decision-making process. The UK not only did not utilise the mechanism, it supplied no units to the voluntary EERC pool, instead preferring to utilise bi-lateral links (to the detriment of European co-ordination) and was less than enthusiastic about enhancing the EUCPM. The slow disengagement of the UK from the EU's decision-making processes changed this dynamic at a time when the Commission wanted to push for new directions which could strengthen the EU in the light of the stresses of Brexit. The result was a Commission proposal, championed by Jean-Claude Juncker in the closing months of his Presidency, that utilised a perfect moment to push for a European resource in a field that was all but unimaginable a few years prior.

The Commission proposal, introduced in November 2017, comprised a package of measures to enhance the EUCPM. Although some of the more radical elements of the proposal (EU ownership of assets and tactical control during deployments) did not make the final decision, all of the key elements were incorporated into the final decision.²⁵ The changes are, at times, small but nevertheless mark a significant departure in the EU's role in the field. Most, importantly, they have created the basis for a truly European disaster response capacity; the ability for the Commission to develop that capacity; an increased role for the EU in planning for such eventualities; and an enhanced budget envelope to develop it.²⁶

Although the language of legislation underpinning the new EUCPM continues to emphasise the centrality of the Member State in DRM (at the insistence of the Council), maintaining as it does, "the primary responsibility of Member States for preventing, preparing for and responding to natural and man-made disasters", this cannot disguise that fact that the 2019 decision represents a fundamental shift of the EU's role in an area long regarded as beyond the remit of the Union. In promoting "solidarity between Member States", the decision marks a shift towards supra-nationalism in a field that until recently was unthinkable.

IV To the rescEU: Reforming the EUCPM

At the heart of the new EUCPM is the new European Civil Protection Pool (ECPP).²⁷ This replaced the EERC and now comprises both a voluntary pool of Member State response modules (the old EERC) and an EU-level response capacity (the rescEU reserve). This new

²⁵ Decision 1313/2013/EU, above n 24.

²⁶ Decision 1313/2013/EU, above n 24.

²⁷ The Commission branded the whole reforms "rescEU" but this name is now only used for the rescEU reserve (see below). To avoid confusion, the latter approach is used in this chapter.

EU/Member-State resource has been developed to reduce the reliance upon voluntarily pre-committed Member-State assets. As had been exposed first in 2017, the previous approach left the EUCPM lacking the capacity to address simultaneous and multi-state disaster events within the EU.²⁸ As a consequence, the new Decision now makes a distinction between events occurring within (or have impacts within) the territory of EU Member States and marks a shift from the previous “global” approach to DRM in the EU.²⁹ However, the key change is the development of EU capacity which has the practical impact of shifting the EU’s competences from a “supporting” role, into something more substantial, at least within the territory of the EU. The new legislative framework provides the EU with the authority to develop this EU DRM capacity by a variety of means, including acquisition, or perhaps more likely, co-financing, rental or leasing.³⁰ The exact means by which the “rescEU reserve” will be developed and the resources to be acquired is largely a Commission responsibility. The original proposal envisaged that the Commission could own these assets directly but this proved a step too far for Member States. Instead, ownership will remain with Member States but rescEU resources will be subject to written contracts around the use that Member States can make of the resources.³¹ Tactical control of these units will also remain with Member States but, importantly, the capacity will remain separate from national capacities, with decisions on deployment in the hands of the Commission:³²

The decision on their deployment and demobilisation, and any decision in the event of conflicting requests, shall be taken by the Commission in close coordination with the requesting Member State and the Member State owning, renting or leasing the capacity, in accordance with operational contracts.

The reference to “close coordination” reflects a compromise with Member States that was added to the original Commission proposal. However, although the hosting Member State is to be part of the decision, the deployment decision of the rescEU asset lies with the EU level, no matter the specific role of an individual Member State in the ownership of the resource. This

²⁸ Casolari, above n 21.

²⁹ The rescEU reserve can be deployed outside the EU but not without Member State approval. The following discussion largely focussed on the internal deployment of rescEU resources. Decision No 1313/2013/EU, above n 24, art 10.

³⁰ Article 12(3).

³¹ Article 12(5).

³² Article 12(6).

places the EU, for the first time, at the heart of decisions around DRM in the EU and places final decisions for the deployment of rescEU with the Commission.

Delegated authority is also provided to the Commission to develop a new legislative framework to implement the new EUCPM and the rescEU capacity that underpins it. In the transitional period (until 2025), however, the Commission is utilising contractual relationships with Member States to utilise existing (but unused) resources as an immediate rescEU reserve, particularly in the field of forest fires. It is envisaged that, as the system develops, greater capacity will be added across a number of fields, although the exact resources required is left in the hands of the Commission.³³ Aside from a requirement that such decisions around the rescEU reserve must take into account “identified and emerging risks, overall capacities and gaps at Union level, in particular in the areas of aerial forest fire fighting, chemical, biological, radiological and nuclear incidents, and emergency medical response”, the Commission is free to develop such resources as it sees fit.³⁴

The new EUCPM also provides for an increased role for the Commission in enhancing the voluntary pool, which will still form the bulk of the ECPP. This has now been strengthened through increased funding for the training, equipping and deployment of voluntary pool contributions.³⁵ The enhanced financing arrangements have the additional benefit of increasing the compatibility of such assets, as the EU resources come with a requirement that recipients must accord to EU standards (to allow them to participate in EU missions). In addition, the existing Common Emergency and Information System (CECIS) which records national response assets (including those outside the voluntary pool) has been strengthened through a mandatory requirement that states record their assets on it. The strengthening of the Union’s role effectively allows the Commission to have access to information relating to all aspects of Member States’ civil protection capacities. This is, again, a significant and symbolic change given the close connection between a number of these assets and the defence capacity of a number of states.

In common with the rest of the CPM, rescEU can only be utilised when a Member State (or third-party state) requests the help of the EU through the ERCC. Once such a request is made, rescEU assets will only be deployed if the voluntary pool is unavailable or insufficient.³⁶ The rescEU reserve’s role is thus as a last resort, to fill the gap when pre-committed Member State

³³ Article 12(2).

³⁴ Article 12(2).

³⁵ Article 23.

³⁶ Article 12(1).

resources are unavailable. However, this emphasis on Member State resources should not be over-emphasised as, since the establishment of a transitional rescEU reserve in 2019,³⁷ it has been extensively used (primarily in relation to forest fires).³⁸ In addition, the fact that Member States are explicitly expected to plan for disasters and have a responsibility to adequately protect citizens from the effects of disasters, also brings with it a European-level requirement that such planning is effective.³⁹ Member States (and the EU) do not wish to see their resources used to make up for poor planning and response capacity on the part of their partners. Thus, the creation of a European resource has led to an inevitable spill over of EU responsibility into the field of national planning for such eventualities.

As a natural consequence of the above, the new EUCPM places increased emphasis on EU approaches to prevention and planning, rather than just response. On one level this reflects a global shift from disaster risk management (DRM) to disaster risk reduction (DRR) but, in a European context, the expansion of the EU's authority is significant.⁴⁰ At the heart of this is a new information sharing system (European Civil Protection Knowledge Network), whereby the Member States must provide the Commission with a summary of their risk assessments and the risk management capability every three years (beginning in 2020) or when significant changes occur. This obligation to share information around Civil Protection is particularly focussed on "cross-border impacts" and "low probability risks with a high impact".⁴¹ Although this requirement as yet pertains only to the provision of information, the fact that states now accept a role for the EU assisting the co-ordination of such events is noteworthy given that, until 2019, no such responsibility existed. The legislative framework also lays down for (as yet undefined) "consultation mechanisms" around European DRM.⁴²

Perhaps the most interesting change in this area, however, is the Commission's power to request Member States to provide additional information regarding prevention and preparedness provisions within the state, "where a Member State frequently requests the same

³⁷ Although the legislation around rescEU was only enacted in March, a transitional rescEU firefighting fleet was established in May 2019 (utilising underutilised assets from Croatia, France, Italy, Spain and Sweden): "rescEU: EU establishes initial firefighting fleet for next forest fire season" (21 May 2019) European Commission <ec.europa.eu>.

³⁸ RescEU was first deployed in Greece in July 2019: "rescEU assets mobilised to help Greece fight devastating forest fires" (8 August 2019) European Commission <ec.europa.eu>.

³⁹ Gestri, above n 8.

⁴⁰ The Economist Intelligence Unit *Towards Disaster-Risk Sensitive Investments: The Disaster Risk-Integrated Operational Risk Model* (Report commissioned by the United Nations Office for Disaster Risk Reduction, 2016).

⁴¹ Decision 1313/2013/EU, above n 24, art 6(1)d.

⁴² Article 6 (2).

type of assistance through the Union Mechanism for the same type of disaster”.⁴³ This last power is particularly significant as it allows the Commission to both investigate and assist Member State planning when frequent calls are made on EU resources. The results of such investigations can lead to the Commissions making recommendations “to strengthen the level of prevention and preparedness”, as well as monitoring the implementation of such recommendations.⁴⁴ As such, it is a direct result of the creation of EU capacity and increased sharing of resources, as Member States wish to avoid freeloading. By creating a European response capacity, Member States have thus also created an unavoidable spill-over of EU responsibility from response to preparation.

The creation of this obligation on Member States to communicate with the Commission is a relatively minor shift in practical terms, but it is a deeply symbolic one. Although other regional response mechanisms in other parts of the globe have long incorporated such domestic requirements into their models, the EU has been reluctant to do so, with Member States jealously guarding their prerogatives in this area.⁴⁵ Acceptance that the European level has a role in co-ordination of domestic disaster response provides further evidence of an expanded role for the EU in a field that has been traditionally seen as core Member State business.

The EUCPM reforms of 2019 thus mark a significant and symbolic shift in EU approaches towards DRM. Firstly, they give the EU the power to develop a European capacity in the field through the ability to purchase, lease or rent equipment, in addition to pre-committed voluntary Member States’ assets. Secondly, the new model places significant emphasis on information sharing and creates an explicit EU responsibility around co-ordination of such plans. Finally, the introduction of a new “empowerment” clause in the Council decision which allows the Commission to “adopt implementing acts defining rescEU capacities” also marks an acceptance by the Member States of the need for EU autonomy in the field.⁴⁶ Overall, the changes are both practically important, as the deployment of rescEU resources in 2019 makes clear, and symbolically significant, as Member States, perhaps reluctantly, accept the need for greater EU involvement in the field of civil protection.

⁴³ Defined as three times within three consecutive years: Decision 1313/2013/EU, above n 24, art 6(4).

⁴⁴ Article 6(4)b(ii).

⁴⁵ It is *notable* in particular that, although the ASEAN Agreement on Disaster Management and Emergency (AADMER) contains significant obligations around domestic preparedness, it is not effectively enforced by the parties of ASEAN. See Hopkins, above n 6. For a more general discussion of these mechanisms see Simon Hollis *The Role of Regional Organizations in Disaster Risk Management: A Strategy for Global Resilience* (Palgrave Macmillan, London, 2015).

⁴⁶ Decision 1313/2013/EU, above n 24, art 30.

V RescEU and the Future of European Regional Integration

According to traditional theories of European integration, supranational integration is not something that one would expect in the area of civil protection, lying as it does, outside the core of the former Community “pillar” and in a field so dominated by security concerns. Indeed, some authors even regard use of the term as outdated as the EU has moved towards an intergovernmental model.⁴⁷ This perhaps reflects a tendency to focus on the more “glamorous” areas of international affairs and politics, where states have indeed tended towards intergovernmental co-operation. Nevertheless, in more bread and butter matters of concern to most citizens (such as DRM), the role of the EU retains significant supranational elements. In the case of civil protection, these have been significantly enhanced in the wake of the reforms of the 2019 EUCPM reforms.

These developments also appear to show that reports of the death of that most unfashionable of integration theories, neo-functionalism, may have been greatly exaggerated. Faced with a need to develop mechanisms to respond to a pan-European threat, states have become far more open to supranational approaches in the field of DRM. This has led to “spill-over” effects into related fields around prevention and the potential for extensive further extension given the all-encompassing nature of disaster prevention.

The experience of the EU in the field of Civil Protection provides an interesting example of how the EU’s existing mechanisms are capable of being reinvented to address issues that were never envisaged during its early years. As something that it is at the heart of the Westphalian state’s very *raison d’être*, DRM was always a difficult area for deep integration. Nevertheless, the increasing realisation of modern society’s fragility, high demands by populations for protection and the dawning reality of climate change means that disaster response can no longer be handled effectively within national boundaries. Such a European response requires true collective decision making by an independent agency. This has driven a supra-national approach in an area that few would have expected, particularly in the current political environment.

The Commission has responded to both a functional requirement and the UK’s departure to push the current civil protection elements of the Treaties to their limits and create a truly European resource in the field of the DRM through the establishment of the rescEU reserve. That this has been achieved with the almost unanimous support of the (remaining) Member States marks a remarkable shift in attitude and provides a welcome good news story for a

⁴⁷ K Lenaerts and P Van Nuffel *European Union Law* (3rd ed, London, Sweet & Maxwell, 2011) at 16–17.

European level that has struggled with its association with neo-liberalism and austerity. It is also notable that the EU's advances in this area are an exception, as although many other regions have attempted to increase co-operation in the field (notable ASEAN), the results have been patchy. The EU, with its robust institutions and level of inter-governmental trust, has, by contrast, made significant strides in the short time in which it has had clear responsibility for the field. Put simply, without the framework of the EU, it is difficult to imagine how a the current EUCPM, and rescEU, could be developed. For this reason, rescEU is (and will likely remain) unique in a global context.

The new EUCPM, and rescEU within it, has shown that European supranationalism is not dead. In fact, the new approach to CPM is reflective of Monnet's original vision of practicalities trumping politics. The current improved European approach to DRM would not have been possible without the existing framework that underpins the EU. The further expansion of the EU into areas such a Civil Protection suggests that the EU's future may be brighter than many suggest and perhaps that new areas of integration, essential in our rapidly changing world, may occur areas not traditionally ripe for such co-operation. The Union may yet come to Europe's rescEU.