

IDRL IN ITALY

A STUDY ON STRENGTHENING LEGAL PREPAREDNESS FOR INTERNATIONAL DISASTER RESPONSE



prepared for



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**INTERNATIONAL
DISASTER LAW
PROJECT**

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PREPAREDNESS FOR INTERNATIONAL
DISASTER RESPONSE**

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This report was commissioned by the Italian Red Cross and the International Federation of Red Cross and Red Crescent Societies, and prepared by **Mauro Gatti**, research fellow at the Department of Legal Studies of the University of Bologna, under the scientific supervision of Federico Casolari (University of Bologna).

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Responsibility for the content of this report, including any error or omission, rests solely with its author.

The International Disaster Law Project

The report has been prepared in the framework of the *International Disaster Law Project* (IDLP), an initiative of researchers from four Italian Universities (Uninettuno University, University of Bologna, University of Roma Tre, Scuola Superiore Sant'Anna), which is financed by the Italian Ministry of Education, University and Research under the grant programme FIRB "Futuro in Ricerca 2012".²

The main objective of the IDLP is to improve the effectiveness of the international mechanisms aimed at disaster prevention and management. In order to reach such goal, the Project intends to: Identify existing International Law norms regulating disaster prevention and management; Develop a shared vocabulary of international disaster law-related terms; Classify rights, duties and responsibilities of States, international organisations and non-State actors; Develop a catalogue of rights to which disasters' victims are entitled; Define the legal framework that regulates the implementation of international relief operations; Describe regional mechanisms in the area of disaster response; Assess the degree to which international disaster law has been incorporated into domestic legal systems.

Over the course of the Project, members of the team provide regular output, consisting of: (i) events (conferences, seminars, workshops);³ (ii) scientific publications (articles, books, working papers, newsletter);⁴ (iii) code of conducts and manuals aimed at promoting the application of international disaster law by relevant stakeholders; (iv) normative proposals in order to specifically address the shortcomings of the Italian legal system (which is the purpose of the present report).

The project is conducted by four research Units: International Telematic University Uninettuno – National Coordinator: Flavia Zorzi Giustiniani; Scuola Superiore Sant'Anna – Coordinator: Emanuele Sommario; University of Roma Tre – Coordinator: Giulio Bartolini; University of Bologna – Coordinator: Federico Casolari.

For further information, see the website of the IDLP: <http://disasterlaw.sssup.it>.

¹ For further information, see <http://www.ifrc.org/en/what-we-do/disaster-law/> (last accessed 24 July 2014).

² See <http://futuroinricerca.miur.it/index2012.html> (last accessed 24 July 2014).

³ See <http://disasterlaw.sssup.it/events/> (last accessed 24 July 2014).

⁴ See <http://disasterlaw.sssup.it/publications/> (last accessed 24 July 2014).

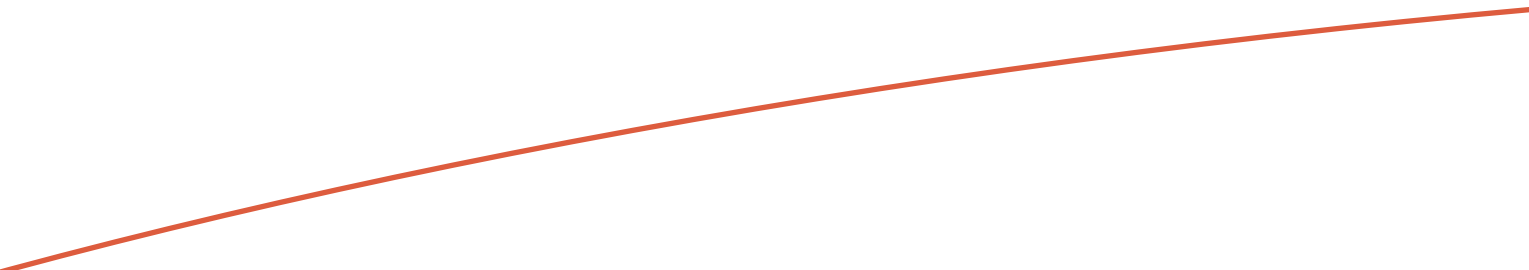
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Table of Contents

Acronyms	V
Executive Summary	VI
Introduction.....	IX
A Methodological Note	X
 PART I – CONTEXT FOR THE ANALYSIS.....	 1
 Chapter 1 – Possible Risk Scenarios	 3
1. Earthquakes	5
2. Volcanoes.....	5
3. Tsunamis	5
4. Floods	6
5. Wildfires	6
6. Industrial Risk.....	6
7. CBRN	7
 Chapter 2 – The Italian Legal System.....	 9
1. The Sources of Italian Law	11
2. International Law in the Italian Legal System	12
3. European Union Law in the Italian Legal Order	13
4. Separation of Powers at the State Level.....	14
5. Distribution of Competences between the State and Territorial Authorities	16
 Chapter 3 – The Italian Civil Protection Service	 19
1. Civil Protection Competences of the State and of the Territorial Authorities.....	21
2. Operational Structures of the Civil Protection System	23
3. The Italian Red Cross	24
4. The Participation of Private Organizations in the Civil Protection Service	25
 Chapter 4 – Italy and International Cooperation in Disaster Response.....	 27
1. Cooperation within International Organizations other than the EU	29
2. Cooperation in the Framework of Multilateral Agreements	30
3. Bilateral Cooperation	32
4. The Union Civil Protection Mechanism.....	34
5. Intervention of the Italian Civil Protection Abroad.....	35



PART II – MAIN RESULTS OF THE RESEARCH	39
Chapter 5 – Institutional Aspects of International Aid Management.....	41
1. Characterization of Disaster and the Possibility of International Intervention.....	43
2. The State of Emergency as a Facilitator of International Assistance.....	43
3. International Early Warning.....	44
4. Request for International Assistance.....	45
5. Termination of International Assistance	46
Chapter 6 – International Actors in the Italian System	49
1. International Actors as Subjects of the Italian Legal Order	51
2. Foreign Public Authorities in Italian Civil Protection.....	51
3. Foreign NGOs in Italian Civil Protection.....	52
4. The Coordination of International Aid	55
5. The Exchange of Information between International Actors and Civil Protection Authorities ..	57
Chapter 7 – Personnel	59
1. International Operators as ‘Public Services Providers’	61
2. Privileges and Immunities of International Operators	62
3. The Entry of International Personnel.....	63
4. Residence Formalities.....	65
5. International Operators and Italian Labour Law	67
6. Recognition of Professional Qualifications.....	68
Chapter 8 – Goods and Equipment	71
1. Import Barriers.....	73
2. The Importation of Food.....	73
3. The Importation of Medicines	75
4. The Importation of Animals.....	76
5. The Importation of Dual Use Goods	76
6. The Importation of Currency	77
7. The Importation of Telecommunications Devices.....	77
8. Rules on Unused Humanitarian Goods.....	77
Chapter 9 – The Circulation and Transportation Of Aid.....	79
1. Access to Victims	81
2. Docking of Ships.....	81
3. Movement of Aircraft	82
4. Motor Vehicles	82
Conclusions.....	85
Recommendations	87
Annex 1 – Sources.....	89
Annex 2 – Questionnaire Sent to the Italian Red Cross and to State Administrations.....	97

Acronyms

AIFA	Agenzia Italiana del Farmaco [Italian Medicines Agency]
AII	Adriatic Ionian Initiative
c.p.	Codice penale [the Italian Criminal Code]
CBRN	Chemical, Biological, Radiological, and Nuclear
CRI	Croce Rossa Italiana [Italian Red Cross]
D	Decreto [Decree]
Dec	EU Decision
DIM	Decreto Inter-Ministeriale [Inter-Ministerial Decree]
DG ECHO	Directorate-General for International Cooperation, Humanitarian Aid, and Crisis Response
Dir	EU Directive
DL	Decreto Legge [Decree-Law]
DLgs	Decreto Legislativo [Legislative Decree]
DM	Decreto Ministeriale [Ministerial Decree]
DPC	Dipartimento della Protezione Civile [the Italian Civil Protection Department]
DPCM	Decreto del Presidente del Consiglio dei Ministri [Decree of the President of the Italian Council of Ministers]
DPR	Decreto del Presidente della Repubblica [Decree of the President of the Republic]
EADRCC	Atlantic Disaster Response Coordination Centre
EC	European Community
EMA	European Medicines Agency
ERCC	Emergency Response Coordination Centre
EU	European Union
EUR	Euro
Euratom	European Atomic Energy Community
FIRE	Force d'Intervention Rapide Européenne [European Rapid Operational Force]
HNSG	Host Nation Support Guidelines
IDRL	International Disaster Response Law
IFRC	International Federation of Red Cross and Red Crescent Societies
INSARAG	Search and Rescue Advisory Group
IVA	Imposta sul Valore Aggiunto [Value Added Tax]
IVASS	Istituto per la Vigilanza sulle Assicurazioni [Italian Institute for the Oversight of Insurance Companies]
L	Legge ordinaria [Ordinary Law]
LP	Legge provinciale [Provincial Law]
LR	Legge regionale [Regional Law]
NATO	North Atlantic Treaty Organization
OCHA	Office for the Coordination of Humanitarian Affairs
OJEU	Official Journal of the European Union
NGO	Non-Governmental Organization
PPRD	Prevention, Preparedness, and Response to Natural and Manmade Disasters Programme
Reg	EU Regulation
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
THW	Technisches Hilfswerk [German Federal Civil Protection Agency]
TWIST	Tidal Wave in the South Tyrrhenian Sea [Civil protection drill]
UCI	Ufficio Centrale Italia [Italian Office for International Insurance]
VVF	Vigili del Fuoco [Firefighters]

Executive Summary

Italy is often struck by catastrophes, such as floods and earthquakes, and has developed a disaster response mechanism that has proved effective on a number of occasions. However, Italy may require international assistance in case of particularly serious disasters. Moreover, the growth of links between Italian and foreign non-governmental organizations (NGOs), as well as between territorial authorities in Italy and abroad, makes it possible that external aid may come into Italy, even when national resources are adequate on paper.

Experience shows that a number of rules may hinder the delivery of external aid in disaster situations. This report seeks to identify the main obstacles that existing rules create for international cooperation in the event of disasters in Italy: It does so by looking to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (hereinafter the IDRL Guidelines), adopted by state parties to the Geneva Conventions at the 30th International Conference of the Red Cross and Red Crescent, and to the EU Host Nation Support Guidelines (HNSG), a nonbinding document prepared by European Commission staff with the support of the Member States, which identifies key actions that assisted States should take in dealing with emergency planning, emergency management and coordination, logistics, transport, and legal and financial issues. The analysis seeks also to point out solutions (mostly legislative ones) that may contribute to enhancing international cooperation in response to disasters occurring in Italy.

The report finds that Italy has developed advanced and flexible disaster response mechanisms. Furthermore, Italy's participation in international cooperation arrangements, notably the European Union (EU) Civil Protection Mechanism, reinforces the country's capacities and preparedness. As of today, the country has seldom relied on external assistance, and when it did, international cooperation did not prove problematic. Indeed, it would seem that Italian law is generally in line with the prescriptions of the IDRL Guidelines and the HNSG, especially as concerns assistance originating from other EU countries.

However, the investigation has also indicated three main problems that need to be addressed in order to ensure effective and accountable assistance in the future. In the first place, the institutional framework is fragmented: Numerous organs with different resources and powers intervene in disaster response. In the second place, it is not always easy to say what rules apply: There is a multiplicity of instruments that regulate disaster response, and their identification and interpretation is often complex. And, in the third place, some of the rules may hinder incoming aid: There are cases in which the law may prevent the provision of assistance or may discourage it by imposing onerous procedures and financial obligations.

These problems can be addressed by fixing the flaws identified in the report, that is, by clarifying existing law, repealing outdated provisions, and introducing specific norms designed to regulate and facilitate international cooperation. To this end, the report offers the following recommendations for the competent authorities:

1.	Italian lawmakers should consider clarifying the legal framework applicable to disaster response by repealing outdated laws and consolidating into a single piece of legislation the different provisions applicable to this area.
2.	Lawmakers should more clearly define the powers of each decision-making body involved in disaster response.
3.	Regional authorities should consider listing the Red Cross among the organizations that by default sit on the regional organs that ensure operational coordination in disaster response.
4.	Lawmakers should introduce rules that explicitly address international cooperation in disaster response. To this end, it may be useful to first define the situations in which external aid may be relied on (e.g. type B events).
5.	Lawmakers should explicitly identify the institutions (one or more) competent to request and coordinate external aid in responding to the different types of disaster.
6.	The procedure for early warning and for requesting international assistance should also be defined in detail, whether in primary or secondary legislation.
7.	The position of international actors (other states, international organizations, and NGOs) in the institutional structure should be clarified. One possibility is to explicitly include such actors among the entities contributing to the Italian Civil Protection Service. It would be particularly useful to clarify the status of foreign NGOs in that service.
8.	Lawmakers should provide some guidance as to the status of those who staff international entities. If international personnel are not deemed providers of public services, lawmakers should consider defining their rights and obligations in detail, so as ensure that they are protected as well as accountable.
9.	Lawmakers and the competent administrations should consider enacting rules designed to favour the entry and stay of non-EU personnel in the event of disaster. These rules may take the form of procedural facilitations, specific visa and residence permits for disaster relief operators, or exemptions from the existing requirements for visa and residence permits. It would also be advisable to eliminate bureaucratic and financial burdens imposed on incoming personnel.
10.	The recognition of foreign qualifications should be simplified. Operators with EU citizenship and EU qualifications may be exempted from the obligation to inform the competent administration of their intention to operate in Italy. During response to disasters, the recognition of EU qualifications obtained by non-EU citizens may be exceptionally accepted at the same conditions applicable to EU citizens who have an EU qualification. Italian authorities should also consider facilitating the recognition of non-EU qualifications issued by certain third countries.
11.	Lawmakers and/or the competent state administrations should consider introducing procedural facilitations for importing disaster response supplies from non-EU countries.
12.	Imported foodstuffs functional to disaster response should be exempted by lawmakers from border control duties.
13.	Lawmakers should facilitate the import of medicines in such a way that the import of medicines whose use is already authorized in other EU Members is liberalized during disaster response.

14. Italy should promote the modification of EU rules on the circulation of animals, so as to reduce the requirements applicable to the entry of rescue dogs in case of disaster.
15. Italian authorities should consider ratifying the Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (Tampere Convention) and implementing this convention domestically.
16. The Italian administration should introduce procedural facilitations for the entry into Italy of ships carrying international assistance.
17. Lawmakers should facilitate the entry of foreign civilian aircraft by exempting them from the payment of duties.
18. Lawmakers should allow foreign motor vehicles participating in disaster response not to register in Italy for the entire disaster response period. Lawmakers should also consider enabling foreign operators, at least some of them, to use alarm and visual signalling devices.
19. If it proves impossible to change applicable laws, it would be advisable to at least provide for standardized guidelines for emergency orders issued by the head of the Italian Civil Protection Department, in such a way that the rules posing the greatest hindrance to international cooperation may be swiftly lifted.
20. Italian authorities should consider drawing up a document in English, also drawing on the EU Host Nation Support Guidelines, in order to provide information on Italian civil protection rules and procedures, as well as to clarify the rights and duties of foreign disaster relief personnel.

Introduction

Italy is often struck by catastrophes, such as floods and earthquakes, and has developed a disaster response mechanism that has proved effective on a number of occasions. However, Italy may require international assistance in case of particularly serious disasters. Moreover, the growth of links between Italian and foreign non-governmental organizations (NGOs), as well as between territorial authorities in Italy and abroad, makes it possible that external aid may come into Italy, even when national resources are adequate on paper.

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The report is organized in two parts. Part I lays out the general context of Italian disaster response and introduces the possible risk scenarios (Chapter 1), the Italian legal system (Chapter 2), the Italian civil protection system (Chapter 3), and the main frameworks for cooperation between Italy and other international actors (Chapter 4). Part II of the report analyzes the main rules applicable to international cooperation in Italy, focusing on the institutional aspects of disaster response (Chapter 5), the status of international actors in the Italian system (Chapter 6), the rules applicable to international personnel (Chapter 7), the import and export of goods necessary for disaster response (Chapter 8), and the transport of international aid in Italy (Chapter 9). The conclusion summarizes the results of the analysis, and the last section contains recommendations that Italian and European institutions should follow in working to solve the main problems identified in the report.

¹ IFRC Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, available at <https://www.ifrc.org/en/what-we-do/idrl/idrl-guidelines/> (last accessed 13 July 2014).

² SWD(2012) 169 final, available at http://ec.europa.eu/echo/files/about/COMM_PDF_SWD%2020120169_F_EN_.pdf (last accessed 14 July 2014).

³ See Chapter 4.4 below.