



**“Analysis of Law in the EU  
Pertaining to Cross-Border Disaster Relief”  
(EU IDRL Study)  
Country Report by German Red Cross  
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## **1. Introduction**

### **1.1 The IDRL-Guidelines**

The present study was conducted within a study by five other National Red Cross Societies (Austria, Bulgaria, France, The Netherlands, UK) which was coordinated by the International Federation of Red Cross and Red Crescent societies.

The objective of the present part of this project was to analyse the existing legislation and policies as regards disaster response in Germany. Only through well-prepared legal and regulatory frameworks in the EU and its member states cross-border disaster assistance can be facilitated.

The study analyses to which degree law and regulations in various areas at the EU level and in Germany promote or hinder the speedy and effective flow of high-quality cross-border assistance within the EU in disaster situations. Best practices and were gathered and recommendations were made to address any weak areas found.

The study was built upon research methodology developed by the International Federation. As its frame of reference the new “Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance” (hereinafter, the “IDRL Guidelines”) were used which were adopted by all states being states parties to the Geneva Conventions at the 30<sup>th</sup> International Conference of the Red Cross and Red Crescent in November 2007. In addition to joining the consensus on the adopting resolution for the IDRL Guidelines, all EU member states signed a joint pledge of support for them. The Guidelines are specifically designed to assist states in developing legal systems that balance oversight and flexibility in the facilitation and regulation of international disaster assistance.

### **1.2 Facts about Germany**

Germany is a state in the middle of Europe and, with more than 82 million inhabitants, the most populous member of the EU. The nine neighbour states of Germany are Denmark, Poland, Czech Republic, Austria, Switzerland, France, Luxembourg, Belgium and The Netherlands. Furthermore, Germany is a member of the OECD, NATO, the OSCE and the Group of Eight (G8).

Germany is situated completely on the Eurasian plate; however, sometimes light earthquakes occur, especially in the West and South-West.

In the low mountain range the highest point is the Feldberg (1493 m, Black Forrest); the lowest walkable point of Germany is at minus 3.54 m in Schleswig-Holstein. In the North Sea and the Baltic Sea you find several inhabited islands. Six big rivers open into the sea: Rhine, Danube, Elbe, Oder, Weser and Ems. The climate is moderate and the average rain per year is 700 mm, i.e., between 40 mm (February) and 77 mm (June). With regard to the temperature, the lowest degree ever measured was minus 45.9°C., the highest was 40.2°C.



There are approximately 80 major cities, i.e., communities with more than 100,000 inhabitants. Fourteen of these consist of more than 500,000 inhabitants. A characteristic of Germany is the predominant peripheral disposition of the major cities. The largest cities are (December 2008): 1. Berlin 3.43 million, 2. Hamburg 1.78 million, 3. Munich 1.33 million, 4. Cologne 996,690 and 5. Frankfurt on the Main 664,838.

## **2. The National Legal Framework for the Disaster Relief System**

### **2.1 Terms and Definitions**

The German system of civil protection (*Bevölkerungsschutz*) is divided into two main components: disaster preparedness or disaster relief (*Katastrophenschutz*) and civil protection in the narrow sense (*Zivilschutz*). Underlying are two different legal concepts, even if both are combined and supplementary to each other. Terminology is not used consistently and differs to some extent from the English translation. The transition between both components is fluid. However, it is crucial to differentiate between them as responsibilities of the authorities depend on that very component.

Disaster relief in Germany encompasses all concrete measures and preparations for a disaster in order to keep the number of victims and the extent of damages as small as possible. This includes the planning of all measures to be taken in the case of a

disaster. Furthermore, disaster relief comprises the training of emergency auxiliaries, information and education of a potentially affected part of the population, the simulation of disaster scenarios, the development of action plans, the establishment of early-warning systems, the planning of evacuation and accommodation of the persons affected, logistics, channels of communication and the maintenance of stocks. Therefore, all measures for disaster prevention, disaster mitigation and disaster response are consolidated in the area of disaster relief/ disaster preparedness. The general understanding (among the relevant German actors) of the term 'disaster relief' is that it encompasses measures within Germany and the EU.

In the special case of a disaster caused by an ongoing armed conflict in Germany, the obligation of the state authorities to take measures for disaster preparedness is regulated by the Civil Protection and Disaster Assistance Act (*Zivilschutz- und Katastrophenhilfegesetz, ZSKG*), i.e., in the functional area of civil protection (in the narrow sense). According to para. 1 subpara. 1 of the ZSKG, it is the task of civil protection to protect the population, their homes, their working places, all essential civil agencies, enterprises, institutions, as well as the cultural heritage, by non-military means against the effects of war and to mitigate these effects. Civil protection includes self-protection, warning of the population, residence regulations, building of shelters, health protection measures, protection of cultural heritage and disaster preparedness in the case of defence according to para. 1 subpara. 2 ZSKG.

For the purposes of the present project, the term 'humanitarian assistance' should also be mentioned. This term defines a variety of supportive and relief measures for persons suffering from the effects of natural disasters, epidemics or armed conflict. Among the relevant German actors, 'humanitarian assistance' only defines measures taking place in third states outside the EU. Hence, the laws and principles governing this area are not the focus of this project. However, where relevant they are drawn upon for comparative or exemplary reasons.

## **2.2 Legal Framework and Responsibilities in Germany**

Germany is a federal system consisting of the German Federation (*Bund*) and 16 Länder (*Bundesländer*, federal states). Both the German Federation and each of the 16 Länder have the quality of a state, though only the German Federation has full sovereignty; sovereignty of the Länder is restricted. In consequence, the 1949

Constitution of the Federal Republic of Germany ('Basic Law') divides and shares the legislative and the executive power between the German Federation and the Länder.

The general rule, both for the legislative and the executive power, is to be found in Art. 30 of the Basic Law, according to which all state/governmental functions are exercised by the Länder, except where provisions of the Basic Law assign these functions—by way of exception—explicitly to the German Federation.

Art. 70 of the Basic Law repeats this general rule, assigning the legislative power generally to the Länder, except where the Basic Law explicitly provides that the legislative power is exercised by the German Federation. The Basic Law confers such legislative jurisdiction to the German Federation either in the form of exclusive legislation of the German Federation (Art. 70, para. 2, Art. 71 and Art. 73, Basic Law) or in the form of concurrent legislation of the German Federation (Art. 70, para. 2, Art. 72 and Art. 74, Basic Law).

## **2.3 Legislation**

This system leads to the following three levels of legislation. It has to be kept in mind that the higher ranking law prevails in case of conflict with another law.

Firstly, pursuant to the Basic Law, civil protection in the narrow sense falls within the responsibility of the German Federation (Art. 73, para.1 No.1). Therefore, the German Federation has its own laws on civil protection and administration, as well as rules, regulations and miscellaneous laws that are applied in exceptional cases of disaster. Additionally, the German Federation has entered into agreements with all of its nine neighbouring states, as well as with Russia, Hungary and Lithuania, about mutual assistance in case of disasters and severe accidents.<sup>1</sup> All of these

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<sup>1</sup> Abkommen zwischen der Bundesrepublik Deutschland und dem Königreich Belgien über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 6. November 1980 (BGBl. 1982 II, p. 1006) („German-Belgic Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und dem Königreich Dänemark über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 17. März 1988 (BGBl. 1988 II, p. 286) („German-Danish Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und der französischen Republik über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 3. Februar 1977 (BGBl. 1980 II, p. 33) („German-French Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und der Schweizerischen Eidgenossenschaft über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 28. November 1984 (BGBl. 1987 II, p. 75) („German-Swiss Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und der Republik Österreich über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 20. März 1992 („German-Austrian Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und der Russischen Föderation über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 16.



agreements contain similar provisions and are supposed to reduce procedural, factual, financial and technical obstacles. They are implemented in German law within a formal law of the German Federation according to Art. 52 (2) of the Basic Law. Their status is coequal to other laws of the German Federation.

Secondly, the competence to regulate disaster relief is assigned to the Länder according to Art. 70 of the Basic Law, as there is no explicit assignment to the German Federation. Because of this, there are 16 different disaster relief acts of the Länder, containing mostly similar regulations for the measures of emergency medical services, fire-fighting and procedures for technical assistance.<sup>2</sup> Furthermore, the Länder have the right to conclude agreements with foreign countries with consent of the federal government, according to Art. 32, para 3 of the Basic Law. Legal precondition is that the regulated matter falls within their legislative power, which is the case in the area of disaster relief. Thus, some of the Länder have concluded agreements with their neighbouring EU states or regions of those states. These agreements are legally based upon the agreements between the German Federation and other states.

Thirdly, even on the local level official agreements and unofficial arrangements exist between German municipalities and their direct neighbours across the border. These agreements on their part are legally based upon the agreements between the Länder and the other states.

Additionally, there is the impact of European Community law relevant to disaster relief. This area of law is mainly to be legally implemented on the federal level, but often must be practically implemented and made operational on the level of the Länder.

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Dezember 1992 (BGBl. 1994 II, p. 3542) („German-Russian Agreement“), Abkommen zwischen der Bundesrepublik Deutschland, dem Abkommen zwischen der Bundesrepublik Deutschland und der Republik Polen über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 10. April 1997 (BGBl. 1998 II, p. 1178) („German-Polish Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und der Tschechischen Republik über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 16. August 2002 (BGBl. 2002 II, p. 1874) („German-Czech Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und der Republik Ungarn über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 7. Juli 1998 (BGBl. 1998 II, p. 1189) („German-Hungarian Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und der Republik Litauen („German-Lithuanian Agreement“) über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen. Similar agreements with Italy and Bulgaria are currently being drafted.

Besides bilateral agreements and regional agreements, the EU Civil Protection Mechanism (CPM) provides another possibility to ask for assistance from the EU member states. Germany has not yet requested assistance via this mechanism and thus has not gained any practical experience in this area.

## **2.4 Operational Level**

The Länder have the executive power both for their own laws and generally also for those of the German Federation (Art. 83 of the Basic Law). However, while the Länder have the legislative power, disaster relief is to a large extent organised and executed on the level of municipalities. For example, the German Federation does not have its own fire brigades; these are run by the local communities. At the same time, the legal responsibility concerning fire brigades lies with the Länder, which materially supplement them for the purposes of disaster relief.<sup>3</sup>

The federal authorities shall render legal and administrative assistance to the Länder in cases of natural disasters and accidents affecting more than one Land (Art. 36, Basic Law). However, the right of initiative and the disaster management remains with the Länder.

Besides the state institutions involved, non-governmental relief organisations play a key role on the operational level in the German system of disaster relief. Traditionally, the German Federation, Länder and communities work together with the large relief organisations (German Red Cross, Arbeiter-Samariter-Bund, Deutsche Lebens-Rettungs-Gesellschaft, Malteser Hilfsdienst) in a vertically structured emergency aid system.<sup>4</sup> This area of non-police emergency management heavily relies on voluntary and honorary engagement.

## **2.5 Competent Federal Authorities**

While the leading responsibility for humanitarian assistance lies with the Federal Foreign Office, the Federal Ministry for the Interior is the leading responsible portfolio

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<sup>2</sup> In a number of Länder, the areas of disaster relief, fire brigades and emergency medical services are regulated in separate laws.

<sup>3</sup> The German Federation materially supplements the fire brigades for the purposes of civil protection in the narrow sense.

<sup>4</sup> See Art. 26 ZSKG and relevant provisions in the disaster relief acts of the Länder.

for disaster relief and management within Germany (and in view of the cross-border disaster relief as regards the EU). Relevant subordinate agencies of the Federal Ministry for the Interior are the Federal Office of Civil Protection and Disaster Assistance (*Bundesamt für Bevölkerungsschutz und Katastrophenhilfe*, see Art. 4, ZSKG) and the Federal Disaster Relief Organisation (*Technisches Hilfswerk*). On a subsidiary basis, also the resources of the Federal Armed Forces (*Bundeswehr*) can be drawn upon in case resources are not otherwise available<sup>5</sup>, as well as the Federal Police (*Bundespolizei*). Both institutions can render legal and administrative assistance in case of necessity.<sup>6</sup>

Following the cause of the impending or occurred disaster, other federal ministries or authorities might be involved in the disaster relief, e.g., the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (*Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit*) or the Federal Ministry for Transport, Building and Urban Affairs (*Bundesministerium für Verkehr, Bau und Stadtentwicklung*).

### **3. National Focal Point**

#### **3.1 Incoming Assistance**

The IDRL Guidelines suggest that consideration should be given to establishing a national focal point to liaise between international and government actors at all levels.<sup>7</sup> At the 30<sup>th</sup> International Conference of the Red Cross and Red Crescent, Germany pledged “to designate a focal point for sharing information and best practices internationally concerning legal preparedness for disaster response and issues raised by the Guidelines on the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance”.<sup>8</sup>

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<sup>5</sup> See VMBI 2008, No. 1, p. 2: Hilfeleistungen der Bundeswehr bei Naturkatastrophen oder besonders schweren Unglücksfällen und im Rahmen der dringenden Nothilfe: A. Naturkatastrophen oder besonders schwere Unglücksfälle (Artikel 35 Abs. 2 und 3 des Grundgesetzes) 11. Die Bundeswehr leistet Hilfe im Rahmen der zu diesem Zeitpunkt verfügbaren Ressourcen subsidiär nur so lange, bis zivile Einrichtungen und Organisationen wie Feuerwehr, Polizei, Technisches Hilfswerk, Rotes Kreuz usw. zur Durchführung einer ausreichenden Hilfe am Katastrophenort einsatzbereit sind und die Ablösung erfolgt ist

<sup>6</sup> Art. 35 para. 2 and 3, Basic Law, see above.

<sup>7</sup> Guideline 8 para. 2 IDRL Guidelines.

<sup>8</sup> Pledge p 163.

In Germany there is no clear and exclusively responsible national focal point for requesting international disaster relief and liaising with international aid providers. Instead, various focal points exist whose responsibility is determined according to the legal basis of the international request for assistance. However, the institution of a national focal point is not understood consistently by all of the stakeholders.

While the IDRL Guidelines recommend establishing a national focal point to facilitate the receipt of international aid in times of emergency, stakeholders in German national authorities seem to agree that the diverse responsibilities have traditionally developed due to the particularities of the German federal system and distribution of responsibilities between the different portfolios. Actors regard the system as working quite well in practice, even though the responsibilities are distributed among various federal and Länder authorities. Despite this notion, the setting up of one single responsible national focal point was considered reasonable by the stakeholders, especially in view of the IDRL Guidelines.<sup>9</sup> However, a special and newly-built institution was declined as it would lead to a further bureaucratization in the area of disaster relief in a mainly well-structured system.

The same applies with regard to outgoing assistance.

### **3.2 Outgoing Assistance**

When the international request for disaster relief is made within the framework of the EU CPM via the MIC (Monitoring and Information Centre), the MIC has to contact the situation centre (*Lagezentrum*) of the Federal Ministry of the Interior.<sup>10</sup> The request is further carried out by the German Joint Information and Situation Centre (*Gemeinsames Melde- und Lagezentrum, GMLZ*) of the Federal Office of Civil Protection and Disaster Assistance (*Bundesamt für Bevölkerungsschutz und Katastrophenhilfe, BBK*) to which the request is passed on. The GMLZ communicates and mediates between the requesting states and the potentially assisting actors in Germany. The offers of disaster assistance the GMLZ has collected and consolidated are passed on to the situation centre of the Federal

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<sup>9</sup> This was revealed in the discussions at the German IDRL-Workshop on 7.12.2009 in Berlin.

<sup>10</sup> See the non-binding Verfahren über die Entsendung von Einsatzkräften, Experten und Ressourcen, Ausschuss Feuerwehrangelegenheiten, Katastrophenschutz und zivile Verteidigung des Arbeitskreis V der Innenministerkonferenz („AFKzV Verfahren“, Stand 02/2009), Nr. 2; BBK (ed.), 50 Jahre Zivil- und Bevölkerungsschutz in Deutschland, p. 109

Ministry for the Interior, which communicates the offers to the MIC. Thus, even if one considers the situation centres of the Federal Ministry of the Interior as the focal point for requests for assistance in the context of the EU CPM, it does not liaise between the different government actors at all levels—this function is rather carried out by the GMLZ.<sup>11</sup>

Since the procedures designated in the bilateral agreements have precedence over the mentioned procedure concerning the CPM, foreign states that have entered bilateral agreements and seek disaster relief from Germany must contact the contact point or institution provided for in those agreements.<sup>12</sup>

Pursuant to the bilateral agreements between Germany and neighbouring or other European states, the relevant agency to be contacted for requests for assistance by the contracting party is usually the Federal Ministry of the Interior.<sup>13</sup> According to a number of bilateral agreements, requests can also be filed with the Ministries of the Interior of the Land or of the Länder that share borders with the state requesting disaster assistance.<sup>14</sup> Other bilateral agreements provide the option of filing the request for assistance with the district president (*Regierungspräsident*) who has been authorized by the Ministry of the Interior of the particular Land.<sup>15</sup> Under the bilateral agreements with Hungary and Lithuania, the Federal Foreign Office can also receive requests for assistance.<sup>16</sup> Certain bilateral agreements provide that authorities expressly designated in the agreements can name and authorize subordinate agencies (*nachgeordnete Behörden*) to be responsible for receiving (and implementing) requests for assistance.<sup>17</sup>

According to bilateral or trilateral agreements existing on the level of the Länder and local communities, next to the Ministry of the Interior of a Land, requests for assistance can often be filed with the local fire brigades, the situation centres of the police departments or the authorities of the municipality.<sup>18</sup> Annexes to agreements on

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<sup>11</sup> See also below III.

<sup>12</sup> AFKzV Verfahren, Nr. 1.

<sup>13</sup> See, e.g., Art. 3 of the German-Belgian, German-Hungarian and German-Czech Agreement; Art. 13 of the German-Russian Agreement.

<sup>14</sup> See, e.g., Art. 3 German-Czech, German-Polish, German-Austrian Agreement.

<sup>15</sup> See, e.g., Art. 3 German-French, German-German-Danish, German-Danish Agreement.

<sup>16</sup> Art. 3.

<sup>17</sup> Art. 3 German-Swiss, German-Austrian, German-Polish, German-Hungarian Agreement

<sup>18</sup> See, e.g., Art. 2 para. 1 Agreement between the Land of Brandenburg and Poland; Art. 3 para. 3 Agreement of the city of Aachen and the communities Kerkrade, Heerlen and Vaals; No. 2 read in conjunction with Annex of Agreement between the Land of Saarland and Lorraine.

the Länder or municipality level, often contain precise contact information, including phone and fax numbers.

Regarding international requests for disaster assistance via the UN or from states outside the EU, the situation centre of the Federal Foreign Office is the national focal point.

Also, a single competent focal point for requests for initial recovery assistance from other EU states does not exist. While occasionally Germany has granted initial recovery assistance within the EU, according to the Federal Foreign Office, the general assumption in Germany is that EU member states affected by a disaster would be able to provide initial recovery assistance from their internal resources.<sup>19</sup>

## **4. Coordination of Relief and Information Exchange**

### **4.1 Coordination of Relief**

The coordination of relief has to be reviewed differentiated by outgoing and incoming assistance.

#### **4.1.1 Outgoing Assistance**

In the German system of disaster relief, the various focal points for cross-border disaster assistance<sup>20</sup> are not all in charge of the coordination of international and domestic relief. As mentioned, queries for available resources and experts with German authorities, as well as organisation and coordination of potential offers of assistance responding to international relief requests (within the framework of the EU CPM), are the task of the GMLZ. However, the GMLZ does not have the power to make decisions in this procedure. It is the Federal Ministry of the Interior which decides whether there is a “superior interest to assist” (*übergeordnetes Hilfsinteresse*) concerning a certain international request for assistance. In case such an interest is approved, the Ministry will provide funding for assistance offers. This is marked on the request for assistance, which the GMLZ passes on to the institutions potentially offering resources.<sup>21</sup> The Federal Ministry of the Interior has the power to

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<sup>19</sup> Recently Germany has granted initial recovery assistance in the village of Onna, Italy after the earthquake taking place in spring 2009. There were political and specific historical reasons for this support (in this village the German *Wehrmacht* had killed 17 civilians in 1944).

<sup>20</sup> See above II.

<sup>21</sup> AFKzV Verfahren, Nr. 4.

decide whether the resources of the German Federation will be offered, e.g., those of its disaster response organisation, THW (Technisches Hilfswerk). Otherwise, resources are mainly available with the Länder and—through them—with the local communities<sup>22</sup>, as well as with humanitarian organisations such as the German Red Cross (GerRC). When an offer of resources or experts of a German authority or organisation is accepted by the state requesting assistance, the Federal Ministry of the Interior and the GMLZ coordinate the provision of the resources with the MIC and the affected state.<sup>23</sup>

Regarding international requests for disaster relief from the UN or states outside the EU, the key instrument to coordinate humanitarian assistance is the crisis squad (crisis management group, *Krisenstab*), which can be established in the crisis reaction centre of the Federal Foreign Office according to demand.<sup>24</sup> However, the decisions of this crisis squad do not bind German humanitarian organisations like the GerRC, which mainly coordinate the disaster relief within the network of their organisations.

#### **4.1.2 Incoming Assistance**

With regard to the crisis management on the federal level in cases of an impending or occurred disaster affecting Germany, responsibility for its coordination lies with the portfolio, which is predominately responsible for the relevant damage or peril. A crisis squad is then established and responsible for the coordination within the German Federation and with the affected Länder.<sup>25</sup> For example, in situations of severe peril for internal security, a crisis squad will be established with the Federal Ministry of the Interior. The leading portfolio for the crisis management in case of a large-scale event with radiological effects affecting more than one Land is the Federal Ministry for Environment, Nature Conservation and Nuclear Safety.<sup>26</sup> The Federal Chancellor can

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<sup>22</sup> E.g., the fire brigades of the municipalities, see above.

<sup>23</sup> AFKzV Verfahren, Nr. 9.

<sup>24</sup> Members of the crisis squad are the competent federal ministries, and in cases of demand, also institutions outside the federal government; see Streicher: Krisen und Katastrophen außerhalb Deutschlands: Das Krisenmanagement im Auswärtigen Amt, in BBK, Nationales Krisenmanagement im Bevölkerungsschutz 2008, p. 46.

<sup>25</sup> Du Bois, R: Die Rolle des Bundes im nationalen Krisenmanagement, in BBK, Nationales Krisenmanagement im Bevölkerungsschutz 2008, p. 10.

<sup>26</sup> §§ 5, 6, 9 Strahlenschutzvorsorgegesetz.

resume the coordination when the disaster is of particular seriousness.<sup>27</sup> Furthermore, in cases of disasters with long-lasting effects affecting several Länder, a coordination group with several ministries involved (*Interministerielle Koordinierungsgruppe*) can be established and be responsible for drafting proposals for the crisis squads of the German Federation and the Länder.

The Länder have the core responsibility for the operative coordination of disaster relief.<sup>28</sup> This also applies in the case of when a disaster affects more than one Land. Operations and the actual coordination of disaster relief on the ground mostly rest within the responsibility of the local communities and towns.<sup>29</sup> These run, or work together with, local fire brigades, emergency medical services and voluntary engagement through humanitarian organisations.<sup>30</sup> Thus, in Germany the implementation of activities, plans and preparation for disasters are mainly carried out by actors at the local level. However, the Länder can receive assistance and resources, which the German Federation complements and holds available for the purposes of civil protection, e.g., vehicles, as well as the assistance of the THW and the Federal Armed Forces.<sup>31</sup>

In addition, the Civil Protection and Disaster Assistance Act (ZSKG), amended in April 2009, for the first time allows the German Federation to centrally coordinate measures of disaster assistance on request of a Land or several Länder.<sup>32</sup> In this case, too, the operational crisis management remains with the Länder and their

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<sup>27</sup> Bundesministerium des Inneren: System des Krisenmanagements in Deutschland, 22.04.2009., p. 13.

<sup>28</sup> See above I. – Operational Level.

<sup>29</sup> See § 1 para. 3 Disaster Relief Act Nordrhein-Westfalen (*KSG NRW*): (3) Die Kreise leiten und koordinieren den Einsatz bei Schadenfeuer, Unglücksfällen und Großereignissen, in denen Leben oder Gesundheit zahlreicher Menschen oder erhebliche Sachwerte gefährdet sind und in denen aufgrund eines erheblichen Koordinierungsbedarfs eine rückwärtige Unterstützung der Einsatzleitung erforderlich ist, die von einer kreisangehörigen Gemeinde nicht geleistet werden kann (Großschadensereignisse). Vergleichbare Ereignisse in kreisfreien Städten gelten ebenfalls als Großschadensereignisse.

<sup>30</sup> See, e.g., § 1 para. 1 KatSG NRW: „Die Gemeinden unterhalten den örtlichen Verhältnissen entsprechende leistungsfähige Feuerwehren, um Schadenfeuer zu bekämpfen sowie bei Unglücksfällen und bei solchen öffentlichen Notständen Hilfe zu leisten, die durch Naturereignisse, Explosionen oder ähnliche Vorkommnisse verursacht werden.“

§ See also Deutsches Komitee für Katastrophenvorsorge/Zentel, K.-O.: Germany – National Progress Report on the implementation of the Hyogo Framework for Action, Reporting period 2007-2009, p. 11

<sup>31</sup> See above I. In turn, in the state of defence, the German Federation relies on the resources the Länder hold available for disaster relief.

<sup>32</sup> § 16 para. 1 and 2 ZSKG. It is not clear which federal institution will be responsible for coordination under § 16 para. 2 ZSK.



councils and towns.<sup>33</sup> This principle is explicitly referred to in some of the Disaster Response Acts of the Länder.<sup>34</sup>

The body through which the Länder can coordinate their decisions and cooperation in the area of disaster relief is the Standing (Permanent) Conference of the Ministers of the Interior of the Länder (*Ständige Konferenz der Innenminister und -senatoren der Länder, Innenministerkonferenz*), in particular its Working Committee V for issues concerning fire brigades, rescue, disaster relief and civil defence (*Arbeitskreis V für Feuerwehrangelegenheiten, Rettungswesen, Katastrophenschutz und zivile Verteidigung*).

Concerning international disaster assistance rendered in Germany, the principle is that the assisting actors have to subordinate themselves to the orders of the local authorities in charge of disaster relief.<sup>35</sup> This principle is contained in all bilateral and trilateral agreements on the federal, Länder and community level, as well as in disaster relief acts of the Länder. The bilateral and trilateral agreements generally determine that the competent German authorities support the experts and other personnel of the contracting state in fulfilling their tasks to render assistance, and vice versa.<sup>36</sup> However, the local authorities supervise the foreign personnel assisting in disaster response and are answerable to the local population and to their own supervisory authorities. In this aspect, Germany's legislation and agreement is consistent with the relevant IDLR Principles (Principle 3).

## 4.2 German Disaster Relief Abroad

Regarding the requirements for German disaster relief abroad, pursuant to those disaster relief acts of the Länder which contain regulations relevant to cross-border

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<sup>33</sup> § 16 para .3 ZSKG.

<sup>34</sup> E.g., under § 29 para. 1 KatSG NRW, „[d]ie kreisfreien Städte und Kreise leiten und koordinieren bei Großschadensereignissen die Abwehrmaßnahmen. Sie können allen für den Einsatzbereich zuständigen unteren Landesbehörden Weisungen erteilen. Das gleiche gilt für die Hilfe leistenden Kräfte des Bundes oder anderer Länder für die Dauer der Hilfeleistung“.

<sup>35</sup> § 21 para.1 KSG Baden-Württemberg (BW): „Auf Anforderung einer benachbarten Katastrophenschutzbehörde, die in ihrem Zuständigkeitsbereich das Vorliegen einer Katastrophe im Sinne dieses Gesetzes festgestellt und Katastrophenalarm ausgelöst hat, hat die Katastrophenschutzbehörde den Einsatz von Einheiten und Einrichtungen des Katastrophenschutzdienstes sowie sonstiger verfügbarer Kräfte im Sinne von § 9 Abs. 2 im Bezirk der benachbarten Katastrophenschutzbehörde anzuordnen, soweit der Einsatz der Kräfte nicht im eigenen Bezirk erforderlich erscheint. Die eingesetzten Kräfte unterstehen danach der Leitung der anfordernden Behörde.“

<sup>36</sup> Vgl. z.B. Art. 8 (2) deutsch-polnisches Abkommen sowie die allgemeine Schutz- und Hilfeleistungspflicht, s. dazu IXX.)

disaster relief, rendering assistance to neighbouring states within the framework of disaster relief agreements is privileged.<sup>37</sup>

Concerning the question as to whether there are adequate procedures for ensuring coordination of international efforts with those at the national, provincial and municipal levels, views of German stakeholders differ. While on the level of the German Federation and the GerRC headquarters, doubts exist as to whether the competent German authorities are prepared to integrate and coordinate foreign disaster assistance; the assessment of the situation of most stakeholders on the level of the Länder and communities is more positive. Even in some of the Länder where actual disaster assistance has not taken place, yet, authorities consider the local coordination and operative bodies prepared to coordinate international relief efforts with regard to their neighbouring countries. This seems to be mainly due to common exercises between the local German authorities and the local authorities of their neighbouring regions, which often take place on a regular basis.<sup>38</sup>

#### **4.3 Participation in the EU Civil Protection Mechanism**

When the Federal government decides to participate in the EU CPM by providing modules, this decentralised system can result in quite a complex procedure. In the establishment of civil protection modules to implement Council Decision 2007/779/EC establishing a Community Civil Protection Mechanism (recast), the German Federation is dependent on the support of fire brigades, which are institutions solely belonging to the local communities. Thus, while it is for the German Federation to decide on the German involvement in the module system of the EU, it is internally dependent on the agreement of the Länder to draw upon the communal fire brigades.

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<sup>37</sup> § 14 (5) KatSG Sachsen: Einsätze im Ausland bedürfen der Zustimmung der obersten Brandschutz-, Rettungsdienst- und Katastrophenschutzbehörde, sofern der Einsatz nicht in Erfüllung einer Vereinbarung zur Hilfeleistung im benachbarten Ausland durchzuführen ist. Dem Einsatz im benachbarten ausländischen Grenzgebiet kann die untere Brandschutz-, Rettungsdienst- und Katastrophenschutzbehörde vorläufig zustimmen, wenn die sofortige Hilfeleistung angefordert wurde und erforderlich erscheint. Bei Einsätzen im Ausland bestimmt die den Einsatz anordnende Brandschutz-, Rettungsdienst- und Katastrophenschutzbehörde, welcher deutschen Stelle die eingesetzten Kräfte unterstehen.

§ 21 (2) KatSG BW.: Einsätze im Ausland dürfen nur mit Zustimmung des Innenministeriums angeordnet werden, sofern der Einsatz nicht in Erfüllung einer Pflicht zur Hilfeleistung im benachbarten Ausland durchzuführen ist; § 21 (3): Die Katastrophenschutzbehörde kann den Einsatz von Einheiten und Einrichtungen des Katastrophenschutzdienstes oder sonstiger verfügbarer Kräfte im Sinne von § 9 Abs. 2 im benachbarten ausländischen Grenzgebiet vorläufig anordnen, wenn die sofortige Hilfeleistung angefordert wurde und geboten erscheint.

The Länder are responsible for ensuring the financing for the deployment of the fire brigades and to prepare them for international disaster relief operations in accordance with the named Council Decision.

#### **4.4 Information Exchange**

The GMLZ of the BBK provides information for the Länder and the federal government, as well as aid organisations in large-area damage situations or other circumstances of national importance. It draws up situation reports and forecasts current dangers or damages, whereby use is made of the existing situation reports provided by other (expert) institutions. Information exchange between the German Federation and the Länder is at any time ensured by the situation centre of the BMI and the GMLZ.<sup>39</sup> The BBK has also established the database German emergency plan information system (*deutsches Notfallvorsorge Informationssystem, deNIS II*). The key task of this database is to provide a network to process and provide information for the management of major disasters. It merges information regarding potential dangers and means of assistance which are widespread among different (German) authorities. Among these authorities is, for example, the Robert-Koch-Institute, a scientific institute. Its task is to cooperate with competent federal and Länder authorities, national reference centres and other scientific institutions, as well as foreign and international organisations. The Institute coordinates within the framework of the European network for epidemiological surveillance and control of communicable diseases.<sup>40</sup>

The Principles and Rules for Red Cross and Red Crescent Disaster Relief, which are focused on the duties of components of the Movement, require the National Societies

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<sup>38</sup> E.g., between Mecklenburg-Vorpommern and the bordering region of Poland or in the Euregio (North Rhine-Westphalia, Belgium, The Netherlands).

<sup>39</sup> Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Hartfrid Wolff (Rems-Murr) (...) weiterer Abgeordneter und der Fraktion der FDP – Drucksache 16/9671 -: Gewährleistung einer flächendeckenden Alarmierung der Bevölkerung in der Bundesrepublik Deutschland, 03.07.2008, BT-Drs. 16/9907: Frage 13: Wie stellt sich die rechtzeitige, zeitnahe Alarmierung der Bevölkerung über (...) Bundesgrenzen hinweg dar?

<sup>40</sup> § 4 IfSG; § 4 Allg. Verwaltungsvorschrift für ein Bund-Länder-Informationsverfahren in epidemisch bedeutsamen Fällen nach § 5 IfSG.

to inform the International Federation of the Red Cross (IFRC) in case of disaster. The IFRC then acts as a centre of information.<sup>41</sup>

#### 4.5 Assessment

Recently some amendments have been made to the key piece of federal legislation for civil protection and disaster relief that grant the German Federation more powers to coordinate disaster relief. However, just as there is not one single national focal point for international disaster relief in Germany, there is still not a single agency or comprehensive planning tool coordinating disaster relief within or outside Germany that would include all sectors. Indeed, many national stakeholders and experts of the GerRC agree on the advantages of the German system of disaster relief, which is decentralized both vertically (between German Federation, Länder and communities) and horizontally (between the different portfolios and institutions). The system secures a high standard of disaster relief as decisions are made on the spot and where the expertise relevant to the impending or occurred disaster is located. Among the stakeholders the view prevails that due to exercises (*Länderübergreifende Krisenmanagement-Übung/Exercise, "LÜKEX"*) in which the German Federation, the Länder and all of the (relevant) portfolios participate, and despite the complexity of the system, the coordination of disaster relief would work well in practice.<sup>42</sup> In particular, despite the various authorities involved, there is no time delay in providing disaster assistance.

While the system has indeed proven successful until now, the question remains open as to whether the complex and decentralised German system will be able to indeed coordinate and operate effectively, particularly in the occurrence of a disaster of a scale that would make Germany dependent on international assistance.

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<sup>41</sup> RC/RC-rules: 12. Initial information: To enable the Federation to act as the disaster information centre, National Societies shall immediately inform it of any major disaster occurring within their country, including data on the extent of the damage and on the relief measures taken at the national level to assist victims. Even if the National Society does not envisage appealing for external assistance, the Federation may, in the spirit of Federation solidarity, send a representative/s to the disaster-affected area to gather information and assist the National Society in dealing with the international dimensions of the disaster. 16. Regular communication of information: The National Society of the stricken country will keep the Federation informed on the development of the situation, the relief given and the needs still to be met. The Federation will forward this information to National Societies to which the Appeal had been made.

<sup>42</sup> Since their introduction in 2004, three exercises have taken place: LÜKEX 2004 - scenario terrorist attack and power cut; LÜKEX 2005 – scenario world championship 2006; LÜKEX 2007 – scenario pandemic.

## **5. Role of the National RC Society in the Field of Cross-Border Disaster Relief**

While the German state has the primary responsibility to ensure disaster response in the German territory, GerRC plays a key supporting role in accordance with the IDRL Guidelines (Guideline 3). In the German Red Cross Act of 2008, the legal status of the GerRC is defined as “the National Red Cross Society on the territory of the Federal Republic of Germany and a voluntary aid society, auxiliary to the German authorities in the humanitarian field”.<sup>43</sup> Among the tasks explicitly assigned to the GerRC in the GerRC Law are those provided in the Geneva Convention (Art. 26 GC I, Art. 24 GC II, Art. 122 GC III, Art. 136 GC IV, Art. 25 (2) GC IV), *inter alia*, the provision of tracing services.<sup>44</sup> It is provided that in addition the GerRC performs the tasks assigned to it by federal law or the laws of the Länder.<sup>45</sup>

The GerRC is expressly mentioned in the federal statute of key relevance, the Civil Protection and Disaster Assistance Act (ZSKG). While it is clarified in the context of civil protection in the narrow sense, i.e., in the context of armed conflict<sup>46</sup>, that the status of the GerRC as a recognized National Red Cross Society remains unaffected<sup>47</sup>, other provisions explicitly deal with its role in disaster response. In accordance with the German system of disaster response, the federal Civil Protection and Disaster Assistance Act provides that “the assistance of public and private organisations in the implementation of the tasks under this law is regulated by the disaster relief legislation of the Länder”. Among others, the GerRC is mentioned as particularly qualified for assistance.<sup>48</sup> The Act assigns to the assisting organisations the task to train the necessary number of assisting persons, to provide the appropriate arrangements and maintenance of assistance and to ensure the operational readiness of its units and facilities.<sup>49</sup> For the implementation of tasks

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<sup>43</sup> Art. 1 Gesetz über das Deutsche Rote Kreuz und andere freiwillige Hilfsgesellschaften im Sinne der Genfer Abkommen of 5 December 2008, BGBl. p. 2346 (*DRK-Gesetz* - “GerRCLaw”) (translation GerRC)

<sup>44</sup> In accordance with Art. 26 GC IV, Art. 33 (3), 74 AP I; see Art. 2 Para. 1 GerRC Law.

<sup>45</sup> Art. 2 Para. 3 GerRC Law.

<sup>46</sup> See above I.

<sup>47</sup> Art. 3 Para. 2 Civil Protection and Disaster Assistance Act (ZSKG).

<sup>48</sup> Art. 26 Para.1 Civil Protection and Disaster Assistance Act (ZSKG).

<sup>49</sup> Art. 26 Para. 2 Civil Protection and Disaster Assistance Act (ZSKG).

under the Act, assisting private organisations receive funding under certain circumstances.<sup>50</sup>

The GerRC is mentioned and recognized as an assisting partner in the disaster relief legislation of (almost) all Länder, either expressly or by reference.<sup>51</sup> In the disaster relief legislation of the Länder, there are differing though similar legal arrangements for the cooperation (assistance) of the GerRC (and other voluntary aid organisations) in disaster relief. While in some of the Länder the GerRC has an obligation to assist in disaster relief<sup>52</sup>, in most Länder the GerRC (as well as other aid organisations) notifies its willingness to assist in a letter of intent, and the competent authorities then have to agree to the cooperation.<sup>53</sup> In the latter case, the GerRC is among those

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<sup>50</sup> Art. 26 ZSKG Para. 3 read in conjunction with Art. 29 Civil Protection and Disaster Assistance Act (ZSKG). „... Sie können die ihnen zugewiesene ergänzende Ausstattung für eigene Zwecke nutzen, soweit hierdurch die Aufgaben des Katastrophenschutzes und des Zivilschutzes nicht beeinträchtigt werden.“

<sup>51</sup> Some acts refer to the associations of non-profit welfare work („Verbände der Freien Wohlfahrtspflege“) or voluntary aid organisations („freiwilligen Hilfsorganisationen“). Also note that in some of the Länder, combined acts consist that regulate the areas of disaster relief, fire brigades and emergency medical services comprehensively, while in other Länder separate laws exist for all of the three areas, see above I.

<sup>52</sup> Art. 7 Para.1 Disaster Relief Act (Katastrophenschutzgesetz - *KatSG*) Bayern: Katastrophenhilfe ist die auf Ersuchen der Katastrophenschutzbehörden zu leistende Mitwirkung im Katastrophenschutz. Sie muß geleistet werden, wenn nicht durch die Hilfeleistung die Erfüllung dringender eigener Aufgaben ernstlich gefährdet wird. Under Art. 7 Para. 3, obliged to render disaster assistance are, among others, voluntary aid organisations and associations of the non-profit welfare work.

<sup>53</sup> Art. 20 Para. 1 Disaster Relief Service Regulations (*Katastrophenschutzdienstverordnung – KatSDVO*) Berlin: „The intent of a private relief organisation to cooperate in disaster relief service is to be declared in writing to the Ministry of the Interior of the Land of Berlin“; see also Art. 21 Disaster Relief Service Regulations Berlin: the Agreement of the competent authorities depends on the qualification and operational readiness of the organisations. The letter of intent and the agreement regarding the cooperation can be withdrawn, see Art. 22 and Art. 23 Disaster Relief Service Regulations Berlin. § 18 Para.1 Disaster Relief Act (*Brandenburgisches Brand- und Katastrophenschutzgesetz – KatSG*) Brandenburg: „Die Aufgabenträger nach § 2 Abs. 1 setzen zur Erfüllung ihrer Aufgaben neben der Feuerwehr, soweit sie es für erforderlich halten, insbesondere die Einheiten und Einrichtungen des Deutschen Roten Kreuzes (...) ein, wenn sich diese allgemein zur Mitwirkung bereit erklärt haben“, see also Administrative Regulation to the Disaster Relief Act of the Ministry of the Interior of Brandenburg. Art. 41 Para.1 Disaster Assistance Act (*Bremisches Hilfeleistungsgesetz-KatSG*) Bremen: „Einheiten und Einrichtungen privater Träger wirken im Katastrophenschutz mit, wenn sie hierzu geeignet sind und ihr Träger die Bereitschaft zur Mitwirkung erklärt“; Art. 5 Para. 1 Disaster Relief Act (*Hamburgerisches Katastrophenschutzgesetz - KatSG*) Hamburg; Art. 19 Disaster Relief Act ( *Hessisches Gesetz über den Brandschutz, die Allgemeine Hilfe und den Katastrophenschutz - KatSG*) Hessen; Art. 6 Para.1 Disaster Relief Act (*Landeskatastrophenschutzgesetz - KatSG*) Mecklenburg-Vorpommern; Art. 14 Para. 2 Disaster Relief Act (*Niedersächsisches Katastrophenschutzgesetz - KatSG*) Niedersachsen; Art. 18 Para.1 Disaster Relief Act (*Gesetz über den Feuerschutz und die Hilfeleistung - KatSG*) Nordrhein-Westfalen; Art. 17 Para. 1 Disaster Relief Act (*Brand- und Katastrophenschutzgesetz – KatSG*) Rheinland-Pfalz; Art. 19 Para.2 Disaster Relief Act (*Gesetz über den Brandschutz, die Technische Hilfe und den Katastrophenschutz – KatSG*) Saarland; Art. 40 Para. 1 Disaster Relief Act (*Sächsisches Gesetz über den Brandschutz, den Rettungsdienst und den Katastrophenschutz – KatSG*) Sachsen; Art. 12 Para. 2 Disaster Relief Act (*Katastrophenschutzgesetz – KatSG*) Sachsen-Anhalt; Art. 10 Para. 2 Disaster Relief Act (*Katastrophenschutzgesetz - KatSG*) Schleswig-Holstein; Art. 28 Para. 2 Disaster Relief Act (*Thüringer Brand- und Katastrophenschutzgesetz – KatSG*) Thüringen

organisations that are generally accepted for assistance by law.<sup>54</sup> In some Länder, when the competent authorities assign the GerRC the task to cooperate in a disaster relief operation, they do so on behalf of the responsible authorities of the Länder.<sup>55</sup>

Once the GerRC is recognized for assistance in disaster relief in the relevant Land, it is obliged to provide qualified personnel and appropriate equipment in operative readiness as well as to participate in exercises.<sup>56</sup> The disaster relief acts of almost all of the Länder determine that the GerRC receives, under certain circumstances, allocations for disaster relief operations, equipment and exercises from the competent authorities of the Länder.<sup>57</sup> In the Land of Sachsen, e.g., the GerRC can receive funding for measures promoting the cooperation in disaster relief with the neighbouring Czech Republic and Voivodeship Lower Silesia.<sup>58</sup>

Some of the disaster relief laws of the Länder assign to the GerRC the task of establishing information bureaus in cases of disasters for the purposes of tracing missing persons and family reunification.<sup>59</sup>

As regards the implication of the GerRC Society in the Coordination Mechanisms for International Relief, the GerRC is a recipient of requests for international assistance

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<sup>54</sup> Art. 12 Para. 3 Disaster Relief Act (Katastrophenschutzgesetz-KatSG) Berlin read in conjunction with Art. 21 Para. 2 Disaster Relief Service Regulations Berlin; § 41 Para. 1 Disaster Assistance Act Bremen: „Die allgemeine Eignung eines Trägers wird durch die Landeskatastrophenschutzbehörde festgestellt, soweit sie nicht bereits vom Bund aufgrund des Zivilschutzgesetzes festgestellt worden ist. Die besondere Eignung der Einheiten und Einrichtungen wird durch die Ortskatastrophenschutzbehörde festgestellt“; Art. 27 Para. 3 KatSG Hessen; Art. 14 Para. 2 Disaster Relief Act Niedersachsen; Art. 19 Para. 3 No. 3 Disaster Relief Act Saarland; Art. 12 Para. 1 Disaster Relief Act Sachsen-Anhalt

<sup>55</sup> Art. 18 Para. 2 Disaster Relief Act Brandenburg; Art. 18 Para. 4: „...handeln die privaten Hilfsorganisationen als Verwaltungshelfer der anordnenden Behörde“.

<sup>56</sup> See Art. 18 Para. 2 Disaster Relief Act Brandenburg; Art. 41 Para. 3 Disaster Assistance Act Bremen; Art. 6-7 Disaster Relief Act Hamburg; Art. 27 Para. 4 Disaster Relief Act Hessen; Art. 6 Para. 2 Disaster Relief Act Mecklenburg-Vorpommern; Art. 18 Para. 3 Disaster Relief Act Nordrhein-Westfalen; Art. 19 Para. 6 Disaster Relief Act Saarland; Art. 40 Para. 2 Disaster Relief Act Sachsen; Art. 11 Para. 5 Disaster Relief Act Schleswig-Holstein

<sup>57</sup> Art. 31 Disaster Relief Act Niedersachsen; Art. 3 Richtlinie über die Gewährung von Zuwendungen für Ausstattung und Ausbildung von Katastrophenschutzseinheiten privater Zuwendungsempfänger Niedersachsen; Art. 40 Disaster Relief Act Nordrhein-Westfalen; Art. 35 Disaster Relief Act Rheinland-Pfalz; Art. 24 Disaster Relief Act Sachsen-Anhalt; Art. 4 Richtlinie zur Förderung von Maßnahmen auf dem Gebiet des Katastrophenschutzes Schleswig-Holstein; Para. 47 Disaster Relief Act Thüringen

<sup>58</sup> §§ 3, 4 KatSVO Sachsen: zur Bereitschaftserklärung zur Mitwirkung von Hilfsorganisationen Gem. Art. 1 der Verwaltungsvorschrift des Sächs. Staatsministeriums des Inneren zur Förderung von Maßnahmen der grenzüberschreitenden Zusammenarbeit mit der Tschechischen Republik und der Woiwodschaft Niederschlesien in den Bereichen Brandschutz, Rettungsdienst und Katastrophenschutz für den Geltungsbereich der entsprechenden Gemeinschaftsinitiativprogramme INTERREG III A v. 1. September 2004, Sächsisches Amtsblatt Nr. 39 v. 23. September 2004, p. 969

<sup>59</sup> Art. 3 Paras. 1-2 Disaster Relief Act (Landeskatastrophenschutzgesetz - KatSG) Baden-Württemberg; Art. 7 Para. 2 Disaster Relief Act Schleswig-Holstein; see also the option provided in Art. 31 Disaster Relief Act Nordrhein-Westfalen; Art. 20 a Disaster Relief Act Sachsen-Anhalt

which the GMLZ passes on to the various actors in disaster relief.<sup>60</sup> Concerning humanitarian assistance, the GerRC is a member of the coordinating committee for humanitarian assistance (*Koordinierungsausschuss Humanitäre Hilfe*) of the Federal Foreign Office. However, the GerRC can render assistance independently of the national disaster relief system, i.e., bilaterally upon request of and in cooperation with another National Society or upon the appeal of the IFRC or the ICRC. Experts of the GerRC have mentioned in this context that the theoretical problem could arise in the situation that the National Society in the affected state rejects an offer for assistance by the GerRC, and at the same time the GerRC receives a request for assistance from the GMLZ following the relevant state's request via the EU Civil Protection Mechanism. However, the problem seems to be of only a theoretical nature and the GerRC would not assist in a foreign state against the expressed will of another RC/RC National Society.

The Principles and Rules for Red Cross and Red Crescent Disaster Relief assign the Red Cross a supporting role in relation to the state authorities.<sup>61</sup> The duty to help is stated in Art. 2 of the Principles and Rules for Red Cross and Red Crescent Disaster Relief.<sup>62</sup>

In addition, the GerRC is part of high-level planning committees, both on the level of the German Federation and on the level of the Länder. On the federal level, while not being a permanent member to a crisis squad, its experts have the role of consultants both with regard to the crisis squad of the Federal Ministry for the Interior and concerning the structures of the GMLZ. In accordance with a number of disaster relief acts of the Länder, the GerRC is among the standing members of relevant high-level planning committees, either expressly or as one of the aid organisations assisting in

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<sup>60</sup> See above AFKzV-Verfahren, in Chapter II.

<sup>61</sup> RC/RC-Rules: 3. Role of the Red Cross and Red Crescent: Prevention of disasters, assistance to victims and reconstruction are first and foremost the responsibility of the public authorities. The International Federation of Red Cross and Red Crescent Societies, (hereinafter referred to as the Federation [1]) will actively offer assistance to disaster victims through the agency of the National Society in a spirit of cooperation with the public authorities. In principle, Red Cross and Red Crescent help is of a complementary and auxiliary nature and is given primarily in the emergency and reconstruction phase. However, if circumstances require and provided the Red Cross and Red Crescent is assured of the necessary resources and means, it may undertake longer-term disaster assistance programmes. Such programmes should be designed to reduce vulnerability to disasters, and prepare for future possible disasters.

<sup>62</sup> RC/RC-Rules: 2. The duty to assist, 2.1 The Red Cross and Red Crescent in its endeavour to prevent and alleviate human suffering, considers it a fundamental right of all people to both offer and receive humanitarian assistance. Hence it has a fundamental duty to provide relief to all disaster victims and assistance to those most vulnerable to future disasters.



disaster relief.<sup>63</sup> The main task of the planning committees is to support the competent authorities in planning and preparing disaster prevention and disaster response by consultation. Also, on the community level there are planning committees of which the GerRC is a member.<sup>64</sup> According to the Principles and Rules for Red Cross and Red Crescent Disaster Relief, in case of disaster a national emergency plan should possibly be developed by the National Society.<sup>65</sup>

However, experts of the GerRC point out that the degree to which the GerRC is involved in disaster relief does not primarily depend on the strength of the legal foundation in which the function of the GerRC, e.g., in planning committees, is provided, but on the skills and involvement of the relevant individual experts of the GerRC involved in the disaster relief committees or working groups. Another factor that affects the factual impact of the GerRC in disaster relief is the strength of the tradition in cooperation with the local authorities, which varies throughout the Länder. Thus, while the GerRC generally has a strong role both as a consultant to high-level planning committees in disaster relief and in assisting in relief operations, according to GerRC experts its role as an actual decision maker on the operational level is much less significant.

## **6. External Early Warning**

The IDRL Guidelines urge states to have in place early warning mechanisms to inform other states about emerging hazards and disasters.<sup>66</sup> The point of such

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<sup>63</sup> Art. 38 Disaster Relief Act Brandenburg; Art. 30, 43, 56 Disaster Relief Act Hessen; Art. 44 Disaster Relief Act Nordrhein-Westfalen; Art. 6 Disaster Relief Act Saarland; Art. 9 Disaster Relief Act Sachsen-Anhalt read in conjunction with Art. 1 Para. 1 No. 14 Verordnung über den Landesbeirat für Brandschutz, Allgemeine Hilfe und Katastrophenschutz.

<sup>64</sup> zB Krisenstab Nordrhein – Bezirksinspektor.

<sup>65</sup> RC/RC-rules: 8. National relief plan, 8.1 In order to cope with the effects of disaster, each country should have a national plan outlining an effective organisation of relief. If such a plan does not exist, the National Society should instigate its establishment. 8.2 The national plan shall assign to all sections of the community - public services, Red Cross and Red Crescent, voluntary agencies, social welfare organisations and qualified persons - precise tasks in the fields of disaster prevention, relief and reconstruction. 8.3 To ensure rapid mobilization as well as complete and effective use of material and personnel resources, the national plan should envisage coordination through the establishment of a centralized managing body. Such a body should be able to provide authoritative information on the effects of a disaster, its evolution and the needs.

<sup>66</sup> Guideline 7 Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2007).

warnings is to “minimize transboundary impacts and maximise the effectiveness of any international assistance that may be required”.<sup>67</sup>

In German law external early warning procedures are specified, partly as the implementation of international treaties and bilateral agreements Germany and individual Länder have concluded with neighbouring states and regions. Regarding international reporting procedures and obligations, Germany—as well as all other member states of the EU, Switzerland and Croatia—takes part in the nuclear incident warning system ECURIE (Community Urgent Radiological Information Exchange). The competent national authorities are obliged to activate the warning system when they have to take extensive measures for the protection of the population.<sup>68</sup> Germany is further bound by the provisions on early warning pursuant to Council Directive 96/82/EC of 9 December 1996 on the control of major accident hazards involving dangerous substances (Seveso II) and the United Nations Economic Commission for Europe (UNECE) Convention on Long Range Transboundary Air Pollution.

Under the German Protection against Infections Act (*Infektionsschutzgesetz, IfSG*) implementing its international obligations following the ratification of the International Health Regulations (IHR), the competent Robert-Koch-Institute has to inform the World Health Organisation (WHO) on cases of infections listed in the annexes to the IHR occurring in Germany.<sup>69</sup> While it is the duty of the competent local health authorities to inform the Robert-Koch-Institute promptly and to promptly provide certain data to the member states and the EU Commission, there is no such (time) requirement regarding contacting WHO.

In accordance with the Convention on Early Notification of a Nuclear Accident, the German supervisory bodies are obliged to contact the IAEA (*Internationale Atomenergiebehörde, IAEA*) in cases of nuclear accidents that reach a certain threshold.<sup>70</sup> The usual procedure is that all accidents reported will be listed in the

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<sup>67</sup> Guideline 7 Para. 1.

<sup>68</sup> Antwort der Bundesregierung auf die kleine Anfrage der Abgeordneten Sylvia Kotting-Uhl u. a., BT-Drs. 16/9735, p. 1

<sup>69</sup> See Art. 12 Protection against Infections Act (IfSG): Infektionen gem. Anlage 2 der Internationalen Gesundheitsvorschriften (2005) (IGV) vom 23. Mai 2005 (BGBl.2007 II p. 930), die eine gesundheitliche Notlage von internationaler Tragweite im Sinne von Artikel 1 Abs. 1 IGV darstellen könnte.

<sup>70</sup> Übereinkommen über die frühzeitige Benachrichtigung bei nuklearen Unfällen vom 26. September 1986 (BGBl. 1989 II p. 435); Gesetz zu dem IAEA-Benachrichtigungsübereinkommen und zu dem IAEA Hilfeleistungsübereinkommen vom 16. Mai 1989 (BGBl. 1989 II p. 434), in Kraft gem. Bek. v. 4.8.1993, II 1830 v. 15.10.1989. Beim nationalen Meldeverfahren werden in Deutschland zunächst die Landesbehörden eingeschaltet, die später das Bundesamt für Strahlenschutz und das

NEWS-database of the IAEA and are then referred to the affiliated national authorities. In Germany, the Association for Safety of Facilities and Nuclear Reactors (*Gesellschaft für Anlagen- und Reaktorsicherheit, GRS*) then assesses the incident on behalf of the competent Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (*Bundesumweltministerium, BMU*). This evaluation serves as a basis for notifications of the BMU to the atomic energy authorities in the Länder. The slowness of this complicated procedure has often been criticized.<sup>71</sup> However, in favour of this procedure it is argued that statements made on short notice may contain information that is not sufficiently analysed and can be counterproductive from the aspect of a safe-system operation.<sup>72</sup>

As to other institutions involved in the external early warning, the German Meteorological Service (*Deutscher Wetterdienst, DWD*) provides weather forecasts and data through its Satellite Application Facilities and seeks to warn the public through the media, or internet and the relevant authorities directly, in case of an extreme weather event. While the focus is on warning within Germany, warning across boundaries is sometimes provided optionally by the GMLZ, which obtains the information from DWD.<sup>73</sup>

The BBK operates the databases deNIS and deNIS II, respectively, together with partners from all areas of disaster relief.<sup>74</sup> Key tasks of deNIS are the comprehensive networking, the preparation and the provision of information for the management of disasters. DeNIS II merges information concerning risk and assistance potentials, which are scattered among various specialised authorities. While this database is not especially aimed for international use, as can already be concluded from its name, it

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Bundesumweltministerium informieren. Das Ministerium meldet den Vorfall an die Europäische Union und die Internationale Atomenergiebehörde IAEA.

<sup>71</sup> See Staudt: Die Zentrale Melde- und Auswertestelle des VBG – ein Instrument des Informations- und Erfahrungsaustauschs, in: atw. 52.Jg. (2007), H. 2, p. 77

<sup>72</sup> Staudt: Die Zentrale Melde- und Auswertestelle des VBG – ein Instrument des Informations- und Erfahrungsaustauschs, in: atw. 52.Jg. (2007), H. 2, p. 77

<sup>73</sup> Deutsches Komitee für Katastrophenvorsorge/Zentel, K.-O.: Germany – National Progress Report on the implementation of the Hyogo Framework for Action, Reporting period 2007-2009, p.19. The DWD aims to take a single voice approach because it usually has, as a federal state authority, the sole duty to warn the public, although not by law. It plans to improve early warning particularly by including the prediction tools of other nations(...) but altogether data access across national boundaries is complicated, time consuming and at times impossible, as individual data owners must be addressed in each country. Therefore, new international agreements need to be reached, based on the examples of the GFZ and BBK

<sup>74</sup> <http://www.denis.bund.de>.

is surprising that it is only available in German, whereas all federal ministries and most federal authorities, such as the BBK itself, have also English websites.

Generally, the competent authorities for external early warning are the situation centre of the Federal Ministry of the Interior and the GMLZ on the federal level and the situation centre of the Ministries of the Interior of the Länder.<sup>75</sup>

The disaster relief legislation of the Länder does contain some references regarding cross-border early warning. For example, pursuant to the Saxon regulation on flood communications and alarm service, it is the duty of this service to exchange data relevant for floods with neighbouring states.<sup>76</sup>

A number of disaster relief acts of the Länder provide that emergency plans (*externe Notfallpläne*<sup>77</sup>) have to contain details on the provision of information to the emergency units of, *inter alia*, neighbouring states in cases of severe accidents with possible cross-border impact.<sup>78</sup>

The disaster relief acts of some of the Länder explicitly regulate that in case of incidents with possible cross-border impact, the competent authorities in the neighbouring states have to be provided with sufficient information in order to be able to apply the relevant regulations of Council Directive 96/82/EC of 9 December 1996 on the control of major accident hazards involving dangerous substances.<sup>79</sup>

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<sup>75</sup> Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Hartfrid Wolff (Rems-Murr) (...) weiterer Abgeordneter und der Fraktion der FDP – Drucksache 16/9671 -: Gewährleistung einer flächendeckenden Alarmierung der Bevölkerung in der Bundesrepublik Deutschland, 03.07.2008, BT-Drs. 16/9907: Frage 13: Wie stellt sich die rechtzeitige, zeitnahe Alarmierung der Bevölkerung über (...) Bundesgrenzen hinweg dar?

<sup>76</sup> §§ 1, 3 Verordnung des Sächsischen Staatsministeriums für Umwelt und Landwirtschaft über den Hochwassernachrichten- und Alarmdienst im Freistaat Sachsen.

<sup>77</sup> Ein externer Notfallplan ist ein Einsatzplan, dessen Zweck und Inhalt gesetzlich vorgeschrieben sind. Die Einzelheiten sind in der Verordnung über die externen Notfallpläne nach dem Katastrophenschutzgesetz – ExtNotfallplanVO KatSG – geregelt. Ein externer Notfallplan ersetzt für den betreffenden Betriebsbereich einen objektbezogenen Einsatzplan, s. <http://www.berlin.de/-sen/inneres/katastrophenschutz/lexikon.html#e>; § 5a KatSG Rheinland Pfalz: Externe Notfallpläne für Unfälle mit gefährlichen Stoffen. „Der externe Notfallplan wird erstellt, um 1. Schadensfälle einzudämmen und unter Kontrolle zu bringen, sodass die Folgen möglichst gering gehalten und Schäden für Menschen, Umwelt und Sachen begrenzt werden können, 2. Maßnahmen zum Schutz von Menschen und Umwelt vor den Folgen schwerer Unfälle einzuleiten, 3. notwendige Informationen an die Öffentlichkeit sowie betroffene Behörden oder Dienststellen in dem betreffenden Gebiet weiterzugeben (...)“.

<sup>78</sup> Art. 40 Para. 2 No. 7 Disaster Relief Act Brandenburg; Art. 43 Para. 1 No. 7 Disaster Relief Act Sachsen; § 13 (4) Disaster Relief Act Mecklenburg-Vorpommern, § 24 a (2) Disaster Relief Act NRW; § 34 (2) Disaster Relief Act Saarland; § 33 (3) Disaster Relief Act Thüringen, Art. 5 a Disaster Relief Act Rheinland-Pfalz

<sup>79</sup> Art. 43 Disaster Relief Act Sachsen; Art. 5 a Para. 6 Disaster Relief Act Rheinland-Pfalz, referring to Art. 11-13 of the Directive.

Furthermore, bilateral agreements of the Länder with neighbouring states and regions provide for early warning duties in the case of a disaster or severe accident when the option cannot be ruled out that assistance will be needed or that the incident will impact the territory of the contracting party.<sup>80</sup> In an agreement on mutual information on dangers and harm that can have an effect on the territory of the neighbouring state between the German Land Saarland and the French region of Lothringen, a detailed early-warning procedure is determined.<sup>81</sup> This includes, amongst others, contact details of both contracting parties and a fax form that is to be used for the purpose of early warning.

Next to the early-warning procedures based on legislation of international agreements that often provide for a vertical procedure through the hierarchy of the authorities<sup>82</sup>, early-warning procedures are commonly practiced horizontally between some neighbouring regions without an explicit legal basis.<sup>83</sup> In the latter case, local fire brigades or police stations (*benachbarte Dienststellen*) situated close to the border inform each other on incidents informally.

It seems to be the common view in the various German authorities on the level of the German Federation as well as of those Länder that share borders with another European state, that there are no (significant) delays in early warning, mainly due to practices in everyday cooperation or exercises.

## **7. Requests for Assistance**

The IDRL Guidelines suggest that “the affected State should decide in a timely manner whether or not to request disaster relief or initial recovery assistance and communicate its decision promptly”.<sup>84</sup> The initiation of international disaster relief should be adequately addressed in legal, policy and institutional frameworks.<sup>85</sup>

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<sup>80</sup> Art. 5 Para. 1 Agreement Brandenburg-Polen; Absprache zwischen Lothringen und dem Saarland über die gegenseitige Information bei Gefahren und Schäden; Art. 5 Vereinbarung zwischen dem Minister für innere Angelegenheiten und öffentliche Verwaltung und dem Innenministerium des Landes Mecklenburg-Vorpommern.

<sup>81</sup> Absprache zwischen Lothringen und Saarland über gegenseitige Information bei Gefahren und Schäden; annexes.

<sup>82</sup> Information in Form von Lagebericht auf unterster Ebene von ausl. Hilfsmannschaften würde dann den dt Behördenweg gehen: Leitstelle (Kreis) – Bez.reg. – Krisenstab LMI – GMLZ. Zeitliche Vorgabe: 30min laut Information einer Mitarbeiterin der Aachener Verwaltung.

<sup>83</sup> Nach Information einer Mitarbeiterin der Aachener Verwaltung.

<sup>84</sup> Guideline 10 Para. 1 IDRL Guidelines (2007).

<sup>85</sup> Guideline 8 Para. 2 IDRL Guidelines (2007).

In Germany, regarding requests for disaster assistance, as in other issues addressed by the IDRL Guidelines, a distinction has to be made between requests made within the framework of bilateral agreements with other European states, and other requests for international assistance. While the bilateral agreements provide a legal framework for the initiation of international disaster relief, German law does not otherwise address this issue. This lack of relevant legislation can primarily be explained by the fact that so far there has not been a disaster on German territory resulting in a (true) need for international assistance. The general assumption among German authorities and organisations is that in hardly any case imaginable would Germany actually need to request international disaster assistance. Therefore, national stakeholders do not see any requirement to fill this legislative gap.

### **7.1 Requests within the Framework of Bilateral Agreements**

In the framework of bilateral (and trilateral) agreements, the same authorities are responsible for requesting international assistance as are responsible for the receipt of international requests for assistance. In the bilateral agreements concluded between Germany and other states, this can be any authority that is agreed upon, i.e., the Federal Foreign Office<sup>86</sup>, as well as subordinate authorities in the Länder<sup>87</sup> or local fire brigades, the situation centres of the police departments or local counties pursuant to agreements of the community level.<sup>88</sup>

Regarding the criteria as to when assistance may be requested, some bilateral agreements describe generally that the contracting parties shall assist each other according to their capabilities in cases of disaster or severe accidents which cause serious damage or danger to the physical integrity of persons, goods or the natural environment and when these cannot be entirely coped with by the means of the requesting state alone.<sup>89</sup> Other bilateral agreements determine that the competent authorities of each contracting party can request assistance when it is their view that location, extent and nature of the disaster or the severe accident result in assistance being necessary, considering the available personnel and equipment.<sup>90</sup> The

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<sup>86</sup> Art. 4 German-Russian Agreement.

<sup>87</sup> Art. 3 German-Swiss, German-Austrian, German-Polish, German-Hungarian Agreement

<sup>88</sup> See above II. National Focal Point.

<sup>89</sup> Art. 1 German-Polish, German-Latvian Agreement.

<sup>90</sup> Art. 3 Para. 2 German-Dutch Agreement; See also Agreement on assistance between the communities Aachen-Heerlen, Aachen-Kelmis, Aachen-Kerkrade, Aachen-Vaals.

competent authority explains its request and the tasks to be assigned, in as much detail as possible, to the relief units.<sup>91</sup>

It was pointed out by a local disaster relief authority that it is known to the local personnel in charge how much time it takes the neighbouring relief teams to arrive and which resources they have available, so these factors would also be considered when deciding whether to request assistance. Formal requirements, such as a prior official declaration of a disaster or emergency, need not be fulfilled before assistance is requested from the contracting party.

## **7.2 Requests Outside the Bilateral Framework**

Regarding requests for international assistance outside the bilateral framework, hardly any regulation can be found. The requirements and procedures for requests for assistance to the IAEA in cases of nuclear accidents under the Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency are applicable in Germany.<sup>92</sup>

In view of the absence of further regulation, some general conclusions can be drawn from the system and competences of disaster relief in Germany. As disaster relief is within the sole competence of the Länder, it is for their responsible authorities to decide whether international assistance is needed. There was agreement among the persons responsible for disaster relief within the German authorities and experts at the GerRC that the Länder have discretion in deciding whether international assistance is needed. Generally, this would be the case when the needs resulting from a disaster exceed the capabilities and resources of the affected Land, as well as those of other Länder and of the federal resources (Federal Armed Forces, THW). While most disaster relief acts of the Länder contain provisions on an official declaration of an emergency/disaster, almost all interviewed stakeholders in federal and Länder authorities agreed that in practice, a request for assistance could and would also be made without an according declaration.

The competent authorities of the Länder would then turn to the situation centre of the Federal Ministry of the Interior and ask to pass on the request to European or

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<sup>91</sup> Art. 3 Para. 3 German-Dutch Agreement.

international assistance mechanisms or other states. Depending on the nature of the disaster, it might also be for the common crisis squad of the Federal Ministry of the Interior and the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety to decide whether international assistance should be requested, e.g., in the case of crimes committed with radioactive material.<sup>92</sup> However, as a general principle even if the German Federation coordinates disaster relief pursuant to Art. 16 para. 2 of the ZSKG, a request for international assistance is to be made—at least—with the consent of the affected Land or the affected Länder.

In principle, it was assumed that the threshold to request international assistance would be rather high and not free of political considerations. At the moment there is a political reluctance to regularise the issue of requests for assistance to states that Germany has not contracted a bilateral agreement with. This is the case because in the view of the stakeholders, to-date Germany has been able to cope with any occurring disasters.

The Principles and Rules for Red Cross and Red Crescent Disaster Relief determine that in case of disaster, National Societies contact the IFRC first.<sup>94</sup>

### **7.3 Acceptance of Foreign Offers**

In Germany there are no legal or express policy requirements for the acceptance of foreign offers. However, several persons in competent national authorities stated that in case Germany would make a request for international assistance, the resources needed would be described in detail, so that imprecise or vague offers of assistance

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<sup>92</sup> Gesetz zu dem IAEO-Benachrichtigungsübereinkommen und zu dem IAEO-Hilfeleistungsübereinkommen vom 16. Mai 1989 (BGBl. 1989 II p. 434), in Kraft getreten gem. Bek. v. 4.8.1993, II 1830 v. 15.10.1989).

<sup>93</sup> Bundesministerium des Inneren: System des Krisenmanagements in Deutschland, 22.04.2009. S.13 ff.

<sup>94</sup> RC/RC-rules: 14. Request for assistance and appeal, 14.1. Any request from a National Society of a stricken country for international assistance shall be addressed to the Federation. Such a request must contain an overview of the situation in the disaster area, the number of persons to be helped and the nature, quantities and priorities of relief supplies needed by the National Society. 14.2. On receipt of such a request, the Federation will, when conditions call for it, launch an Appeal to all National Societies or, depending on the circumstances, to a certain number of them. No Appeal will be launched by the Federation without a request from the National Society of the stricken country or without its agreement. 14.3. The Federation may, however, take the initiative to offer assistance, even though the National Society has not asked for it. The National Society will consider such offers with urgency and goodwill, bearing in mind the needs of the disaster victims and the spirit in which such offers are made.



would be avoided in the first place. It was furthermore mentioned that in the European context, Germany could well estimate the capabilities of the resources, especially after the introduction of the module system within the framework of the EU civil protection mechanism.

As mentioned, apart from the assistance rendered within the framework of bilateral agreements on the regional level, Germany has hardly any experience with international assistance on its territory.<sup>95</sup> Not all bilateral agreements have led to cooperation beyond common exercises. However, where cross-border assistance between neighbouring regions does take place, it seems to be functioning quite smoothly.<sup>96</sup>

## **8. Privileges and Immunities**

Art. 1 Abs. 4 lit. c) of the IDRL Guidelines clarifies that the Guidelines do neither aim at a change in the existing rights on privileges and immunities nor do they suggest improvement in this area.

The privileges and immunities granted to diplomats and consular officials in Germany match those of the Vienna Conventions, as the provisions of both international treaties are applicable in Germany pursuant to Art. 25 of the German Basic Law as general rules of international law, and through transformation into domestic German law through the implementing legislation respectively.<sup>97</sup>

The recognition procedure of privileges and immunities of international organisations follows the relevant international treaties and the national provisions enacted for that purpose.<sup>98</sup> The scope of the privileges and immunities granted to each international organisation and their government representatives and staff is determined by these international agreements and the concurrent domestic regulations. The legal status of

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<sup>95</sup> An exception is a request of Bavaria via the GMLZ to Austria for snow blowers in the year 2006.

<sup>96</sup> In particular in the EUREGIO, see interviews with persons in the competent authorities in the Länder Saarland and Nordrhein-Westfalen.

<sup>97</sup> Gesetz zu den Wiener Übereinkommen über diplomatische Beziehungen vom 18. April 1964 (BGBl. 1964 II S.957) und das Gesetz zu den Wiener Übereinkommen über konsularische Beziehungen vom 24. April 1969 (BGBl. 1969 II S.1585), see Rundschreiben des Auswärtigen Amtes vom 19.09.2008 betreffend Diplomaten und andere bevorrechtigte Personen, Einleitung; Hobe/Kimmich, Einführung in das Völkerrecht, 8. Aufl. 2004, p. 230.

<sup>98</sup> See, e.g., Verordnungsermächtigung in Art. 2 (2) des Gesetz zu den Abkommen vom 10. November 1995 zwischen der Bundesrepublik Deutschland und den Vereinten Nationen über den Sitz des Freiwilligenprogramms der Vereinten Nationen, BGBl 1996 II S.903.

the organisation and its members is determined in headquarters agreements.<sup>99</sup> They vary in accordance with the tasks of each organisation. Among the international organisations so far recognized in Germany are the International Organisation of Migration (IOM) and Office of the United Nations High Commissioner for Refugees (UNHCR).<sup>100</sup>

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<sup>99</sup> Since 1996 the standard for the establishment headquarters of UN organisations in Germany is the Headquarters Agreement with the UN Volunteers (UNV) of 1995, see Rundschreiben des Auswärtigen Amtes vom 19.09.2008 betreffend Diplomaten und andere bevorrechtigte Personen, Abschnitt II C.

<sup>100</sup> Freiwilligenprogramm der Vereinten Nationen (UNV); Sekretariat des Rahmenübereinkommens der VN über Klimaänderungen (UNFCCC); Sekretariat der Konvention zur Bekämpfung der Wüstenbildung (UNCCD); Sekretariat des Übereinkommens zur Erhaltung der wandernden wildlebenden Tierarten (UNEP/CMS); Sekretariat des Abkommens zur Erhaltung der afrikanisch-eurasischen wandernden Wasservögel (UNEP/AEWA); Sekretariat des Abkommens zur Erhaltung der Kleinwale in Nord- und Ostsee (UNEP/ASCOBANS); Sekretariat des Abkommens zur Erhaltung der europäischen Fledermauspopulationen (UNEP/EUROBATS); Sekretariat der Vereinten Nationen für die Internationale Strategie zur Katastrophenvorsorge-Plattform zur Förderung von Frühwarnung (UN/ISDR-PPEW); Universität der Vereinten Nationen – Institut für Umwelt und menschliche Sicherheit (UNU-EHS); Universität der Vereinten Nationen – Internationales Programm zur Sozialen Dimension der Globalen Umweltveränderung (UNU-IHDP); Universität der Vereinten Nationen – Vizerektorat in Europa; Weltgesundheitsorganisation – Regionalbüro Europa, Europäisches Zentrum für Umwelt und Gesundheit (WHO-ECEH); Regionales Informationszentrum der Vereinten Nationen für Westeuropa – Verbindungsbüro in Deutschland (United Nations Regional Information Centre – UNRIC); Welttourismusorganisation (UNWTO), Beratungsstelle für biologische Vielfalt und Tourismus für vom Tsunami betroffene Länder; Internationales Zentrum für Berufsbildung der UNESCO (UNESCO-UNEVOC); Regionales Informationszentrum der Vereinten Nationen – Verbindungsbüro in Deutschland (UNRIC), dient als Kontaktstelle für die Vereinten Nationen in Deutschland; Programm für Kapazitätsentwicklung im Rahmen der Wasserdekade der Vereinten Nationen, Bonn; Sekretariat der Studie „Die Ökonomie von Ökosystemen und der Biodiversität“ (UNEP-TEEB), Bonn; Plattform der Vereinten Nationen für Raumfahrtgestützte Informationen für Katastrophenmanagement und Notfallmaßnahmen (UNOOSA/UN-SPIDER); Zwischenstaatliche Ozeanographische Kommission – Sekretariat der zwischenstaatlichen Koordinierungsgruppe zum Aufbau des Tsunamiwarnsystems für den Nord-Ost-Atlantik, Mittelmeer und Benachbarte Meeresgebiete (UNESCO/IOC/ICG/NEAMTW); Internationaler Seegerichtshof (ISGH), Hamburg; Internationale Finanz-Corporation – Die Weltbankgruppe – Büro in Deutschland, Frankfurt/M; Internationale Arbeitsorganisation (ILO) – Vertretung in Deutschland, Berlin; UNESCO-Institut für lebenslanges Lernen (UNESCO-IUIL), Hamburg; UNHCR – Vertretung für Deutschland und Österreich, Berlin; Welternährungsprogramm der Vereinten Nationen (WFP) –Büro Deutschland, Berlin; Weltbank-Büro Berlin; Arabische Liga - Büro der Liga der Arabischen Staaten in Berlin; Asiatische Entwicklungsbank – Europabüro, Frankfurt/M; Deutsch-Französisches Jugendwerk – Büro in Deutschland, Berlin; Deutsch-Polnisches Jugendwerk – Büro Potsdam; Europäische Agentur für Flugsicherheit (EASA), Köln; Europäisches Laboratorium für Molekularbiologie, Heidelberg; Europäisches Patentamt, München (u Berlin); Europäisches Astronautenzentrum (ESA/EAC), Köln; Europäisches Operationszentrum für Weltraumforschung (ESA/ESOC), Darmstadt; Europäische Weltraumorganisationen (ESA/ST-ECF), Garching bei München; Europäische Organisation für Astronomische Forschung in der südlichen Hemisphäre, Garching bei München; Europäische Organisation für die Nutzung von Meteorologischen Satelliten, Darmstadt; Europäische Zentralbank, Frankfurt/M; Internationale Organisation für Migration (IOM) – Verbindungsstelle bei der Regierung der BRD, Berlin, u. Nürnberg; NATO EF 2000 and Tornado Development Production and Logistics Managment Agency, Unterhaching; Gemeinsame Organisation für Rüstungskoooperation (OCCAR), Bonn; Organisation für wirtschaftliche Zusammenarbeit und Entwicklung (OECD), OECD Berlin Centre.

Regarding the privileges and immunities for the European communities and their members, the Protocol on the Privileges and Immunities of the European Union is applicable.<sup>101</sup>

Neither the ZSKG nor other legislation regulating disaster relief contains provisions granting privileges and immunities to disaster relief personnel of other states. Bilateral agreements on the level between Germany and another state only specify certain privileges concerning the liability of foreign disaster relief personnel.<sup>102</sup>

## **9. Eligibility for Legal Facilities and Registration of Humanitarian Organisations**

Part IV of the IDRL Guidelines recommends, *inter alia*, that the affected state shall provide legal facilities for assisting states and humanitarian organisations. In particular, Guideline 14 para. 2 suggests that states establish criteria for assisting humanitarian organisations seeking eligibility for legal facilities. German law provides some legal facilities for foreign states or organisations assisting in disaster relief, which are scattered throughout different laws and agreements and will be discussed in the relevant chapters according to their content. However, the law does not determine under which criteria foreign humanitarian organisations would be eligible for legal facilities. Therefore, none of the requirements concerning eligibility criteria suggested in the IDRL Guidelines exist in Germany.<sup>103</sup>

It might be an idea if such criteria were geared to the international agreements and according national regulations as, for instance, the recognition of privileges and immunities are.<sup>104</sup> This would include the criterion of a showing by the organisation of its willingness and capacity to act in accordance with the responsibilities described in paragraph 4 of the IDRL Guidelines (Art. 14 (2) IDRL Guidelines).

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<sup>101</sup> BGBl. 1965 II p. 1482.

<sup>102</sup> See detailed discussion in Chapter 19. Accountability of assisting actors.

<sup>103</sup> See in particular Guideline 14.

<sup>104</sup> See, e.g., regulation of authorization in Art. 2 (2) Gesetz zu den Abkommen vom 10. November 1995 zwischen der Bundesrepublik Deutschland und den Vereinten Nationen über den Sitz des Freiwilligenprogramms der Vereinten Nationen, BGBl 1996 II S. 903.

## **10. Domestic Legal Status of Foreign Humanitarian Organisations**

Guideline 20 para. 1 recommends affected states grant assisting humanitarian organisations at least temporary authorization to legally operate on their territory.<sup>105</sup>

Under Art. 23 of the German Civil Law Code (*Bürgerliches Gesetzbuch, BGB*), an association which does not have a registered office in the German territory can be granted legal personality through decision of the Federal Council.<sup>106</sup> However, this provision is only of little practical relevance.<sup>107</sup> Rather, in Germany the status and law of foreign associations and legal persons is fragmentary, and to a large extent, shaped by jurisprudence. A draft prepared by ministry officials exists for an act regarding the international private law of associations and legal persons; yet, it is unclear whether or when this draft will be adopted.<sup>108</sup>

Foreign legal persons that have been effectively formed and come into existence under their right of residence also enjoy legal capacity (*Rechtsfähigkeit*) in Germany without a special act of recognition being necessary.<sup>109</sup> Also, pursuant to the principle of automatic recognition (recognition *ipso iure*), no other registration is required.<sup>110</sup> The question of whether a legal person exists and is capable of holding rights depends on its personal status, i.e., regarding organisations that have been formed in a member state of the EU or the EEA according to the law of the state where they are incorporated (incorporation theory). For other legal persons, the law of their registered office is decisive (registered seat theory). It was held by the ECJ (decision *Überseering*; C-208/00) that the recognition of European companies in other EU member states shall be granted. Consequently, foreign humanitarian organisations are capable of holding rights and being a party to legal proceedings when they are in a state where they are incorporated or registered. They can open bank accounts and enter into contracts without having to comply with any formalities.<sup>111</sup> This also applies to groups of persons being a so-called BGB company (*Gesellschaft bürgerlichen*

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<sup>105</sup> See below XV. Currency exchange.

<sup>106</sup> § 23 BGB: Einem „Verein, der seinen Sitz nicht in einem *Bundesstaate* hat, [...] in Ermangelung besonderer *reichsgesetzlicher* Vorschriften Rechtsfähigkeit durch Beschluss des *Bundesrates* verliehen werden.“

<sup>107</sup> Palandt-Ellenberger, § 23.

<sup>108</sup> Referentenentwurf für Gesetz zum IPR der Gesellschaften, Vereine und juristischer Personen v. 08.01.2008.

<sup>109</sup> BGH 53, 181, BayOLG 86, 61; Saarbr JZ 89, 904; Düss RIW 93, 325; LG Traunstein IPRspre 98, Nr 21; Palandt-Thorn, Anh zu EGBGB 12 (IPR), Rn. 20), see Palandt-Ellenberger, § 23.

<sup>110</sup> Palandt-Ellenberger, § 23

<sup>111</sup> See Staudinger-Großfeld, IGR, Rn. 167; see also below 16. – Currency exchange.

Rechts (GbR), § 705 BGB), which is a group of persons syndicated for a distinct purpose; this purpose can also be carrying out disaster assistance together. The group can be set up ad hoc by natives as well as by aliens. With its jurisdiction, the BGH has granted the GbR extensive legal status.

Furthermore, the recognition of legal persons is often secured in state treaties.<sup>112</sup>

In contrast, Germany is not a member of the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations of 1986, which provides, with limited exceptions, that the legal personality and capacity of an international NGO acquired in one state party will be recognized by the others.

Still Germany complies with the recommendations of Guideline 20, para. 1; assisting humanitarian organisations are granted at least temporary authorization to legally operate on its territory.

## **11. Entry of Personnel**

The IDRL Guidelines recommend that with “regard to disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organisations, affected States should grant visas and any necessary work permits, ideally without cost, renewable within their territory, for the time necessary to carry out disaster relief or initial recovery activities; in disaster relief operations, the affected State should waive or significantly expedite the provision of visas and work permits”.<sup>113</sup> Guideline 19 (3) of the IDRL Guidelines states that any applicable exit, transit and entry visas for the operating personnel of transport vehicles should be promptly issued.

Due to the freedom of movement, the entry of disaster relief personnel from other EU member states is unproblematic.<sup>114</sup> In addition, German immigration law contains general provisions regarding the entry of international disaster relief personnel.<sup>115</sup>

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<sup>112</sup> Art. XXV Para. 5 German-U.S. American treaty of 29.10.1954 (BGBl. 56 II 487).

<sup>113</sup> Guideline 16 Para. 1 IDRL Guidelines.

<sup>114</sup> Art. 39-42 EC; § 2 FreizügG/EU.

<sup>115</sup> Art. 99 Aufenthaltsgesetz; Art. 14 Aufenthaltsverordnung: „Von der Passpflicht befreit sind 1. Ausländer, die aus den Nachbarstaaten, auf dem Seeweg, oder im Wege von Rettungsflügen aus anderen Staaten einreisen und bei Unglücks- und Katastrophenfällen Hilfe leisten oder in Anspruch nehmen wollen, und 2. Ausländer, die zum Flug- und Begleitpersonal von Rettungsflügen gehören.

In the EU no visa is necessary for the entry. Furthermore, bilateral agreements, e.g., between Germany and Switzerland, state that the assisting personnel is exempted from the obligation to carry a passport. This exemption is also stated in § 6 PassV. It applies, *inter alia*, to Germans who assist or need assistance in case of disaster, as well as to pilots and cabin crew of planes. However, after almost all contracting parties to the agreements have become members of the EU, these exemptions seem to be of primary relevance only with regard to Russia.

## **12. Recognition of Professional Qualifications**

According to the IDRL Guidelines, affected states should establish “expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers, driving licences and other types of licence and certificate that are necessary for the performance of disaster relief or initial recovery functions and that have been certified as genuine by the concerned assisting State or eligible assisting humanitarian organisation, for the time necessary to carry out disaster relief or initial recovery activities”.<sup>116</sup>

The mutual recognition of professional qualifications is provided for in the EC regulation 2005/36/EC. This regulation was implemented in German law with the Gesetz zur Umsetzung der Richtlinie 2005/36/EG des Europäischen Parlaments und des Rates über die Anerkennung von Berufsqualifikationen der Heilberufe vom 2.12.2007.<sup>117</sup> As regards the procedure of the recognition, this aspect is only covered by Art. 51 of the regulation. This norm contains a respite that appears in view of a case of disaster inappropriately long. However, according to some of the Ministries of the Interior of the Länder, this aspect would not cause a problem in the case of disaster.<sup>118</sup> Still, the question arises if it is necessary and reasonable to regulate the procedure of recognition in the special event of a disaster.<sup>119</sup>

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Die Befreiung endet, sobald für den Ausländer die Beschaffung oder Beantragung eines Passes oder Passersatzes auch in Anbetracht der besonderen Umstände des Falles und des Vorrangs der Leistung oder Inanspruchnahme von Hilfe zumutbar wird.“

<sup>116</sup> Guideline 16 Para. 1 lit.c IDRL Guidelines.

<sup>117</sup> BGBl. Jg. 2007 Teil I Nr. 60.

<sup>118</sup> According to the saying “necessity knows no laws“.

<sup>119</sup> For instance, it might be an idea to catch up with the formalities after the disaster and let people already practice if they indeed are endowed with an equivalent professional training.

As regards the relationship between Germany and its neighbouring states, this question can be answered in the negative because the bilateral agreements take equivalent training of the assistance teams for granted. Concerning this matter, the agreements state that disaster assistance is to be carried out by qualified, trained personnel.<sup>120</sup> Since the training and education of disaster assistance teams from abroad will generally be gained abroad, these norms only make sense if equivalent training is automatically recognized in the states of the contracting parties. With regard to the neighbouring states with which Germany cooperates in the area of disaster relief within bilateral agreements, in practice professional qualifications are recognized, at least with regard to medical personnel.

### **13. Customs**

The IDRL Guidelines contain a number of detailed recommendations regarding the exemption and simplification of custom requirements with regard to goods for disaster relief and initial recovery assistance.<sup>121</sup>

German legislation and international treaties that Germany is a member of provide for various exemptions and simplification of custom requirements for relief goods.

The bilateral treaties Germany has concluded state, for example, that equipment and goods are exempted from all import duties, prohibitions and restrictions, given that they are only utilized for disaster relief.<sup>122</sup> Formal requirements concerning the passage of relief goods and customs offices are lifted or restricted to a minimum in these agreements.<sup>123</sup> Still, after all states bordering Germany have become members

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<sup>120</sup> See, e.g., Art. 4 (1) German – Dutch/ - Polish Agreement; Art. 2 Abs. 1 German – Danish/ - French/ - Belgian Agreement; Art. 3 Abs. 1 German – Russian Agreement; Art. 5 Abs. 1 German – Austrian Agreement.

<sup>121</sup> Guideline 18-19 IDRL Guidelines. For example, Guideline 18 Para. 1 states that “originating, transit and affected States should: a. Exempt them from all customs duties, taxes, tariffs and governmental fees; b. Exempt them from all export, transit, and import restrictions; c. Simplify and minimize documentation requirements for export, transit and import; d. Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organisation owns and wishes to retain”.

<sup>122</sup> Art. 6 Para. 2 German-Latvian, German-Polish, German-Russian Agreement, Art. 5 Para. 4 German-Belgian Agreement, Art. 7 para. 4 German-Dutch Agreement

<sup>123</sup> See Art. 7 Para. 1 German-Austrian, German-Swiss Agreement; Art. 6 Para. 1 German-Latvian, German-Polish, German-Russian Agreement; Art. 5 Paras. 2 and 6 German-Belgian, German-Danish, German-French Agreement; Art. 6 Para. 5 German-Dutch Agreement.

of the Schengen Treaty, these regulations will not have lost relevance in this respect because the situation caused by a disaster is not covered by any TEC regulation.<sup>124</sup>

Further, the bilateral agreements determine that principally, all unused relief goods have to be re-exported.<sup>125</sup>

A waiver of custom fees is under certain conditions possible for goods imported in the context of a disaster<sup>126</sup> or for goods imported by non-profit welfare organisations.<sup>127</sup> The GerRC is recognized as a non-profit welfare organisation for the purposes of the named provisions; since July 2009 it is among the automatically qualified organisations which can import goods in the context of a disaster.<sup>128</sup>

Furthermore, there are a number of exemptions regarding import prohibitions, tariffs and formal custom requirements for the import and export of goods used for disaster relief, e.g., certain dogs<sup>129</sup>, foods<sup>130</sup>, narcotic substances<sup>131</sup> and medicine.<sup>132</sup> These are dealt with below.<sup>133</sup>

While the recommendations of the IDRL Guidelines with regard to disaster relief goods are thus, to a far extent, implemented in Germany, there is a lack of exemptions for goods and equipment for initial recovery assistance as regards commercial providers. According to a GerRC financial expert, no experience exists in this area. However, some privileges would be conceivable.<sup>134</sup> It might be an idea to draft a regulation geared to import prohibitions, tariffs and formal custom requirements for the import and export of goods used for disaster relief but not for goods and equipment for initial recovery assistance.<sup>135</sup> Like this, an equal treatment

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<sup>124</sup> However, there exist EC directives about customs in disasters; see EU regional report by BIICL on this.

<sup>125</sup> Art. 7 Para. 3 German-Austrian Agreement, Art. 7 Para. 4 German-Swiss, German-Dutch Agreement, Art. 6 Para. 3 German-Polish, German-Latvian, German-Russian Agreement

<sup>126</sup> Art. 79 (1) ZollbefreiungsVO – Verordnung (EWG) Nr. 918/83 des Rates vom 28. März 1983 über das gemeinschaftliche System der Zollbefreiungen.

<sup>127</sup> Art. 65 (1) a), (2) ZollbefreiungsVO.

<sup>128</sup> See Homepage of the Federal Ministry of Finance, [http://www.zoll.de/b0\\_zoll\\_und\\_steuern/a0\\_zoelle/f0\\_freier\\_verkehr/d0\\_zollfr\\_vzb/b1\\_befr\\_gemrecht/a1\\_zollbefrvo/r0\\_katastrophenhilfe/a0\\_anerkannte\\_organisationen/index.html](http://www.zoll.de/b0_zoll_und_steuern/a0_zoelle/f0_freier_verkehr/d0_zollfr_vzb/b1_befr_gemrecht/a1_zollbefrvo/r0_katastrophenhilfe/a0_anerkannte_organisationen/index.html).

<sup>129</sup> § 2 (1) Hundeverbringungs- und Einfuhrbeschränkungsgesetz.

<sup>130</sup> §§ 53-57, 68 Lebensmittel- Bedarfsgegenstände-und Futtermittelgesetzbuch (LFGB).

<sup>131</sup> §§ 4, 5 BtMG.

<sup>132</sup> §§ 4, 10, 71-73 Arzneimittelgesetz (AMG)

<sup>133</sup> See 17. Transport.

<sup>134</sup> Though, it has to be kept in mind that, e.g., the system of environmental tax is already currently designed very complex.

<sup>135</sup> Regarding the already existing directives (see above), this matter should be dealt with on the European level. Therefore, no recommendation in this direction is made aiming directly on the German national level.



of all providers of goods and equipment for the initial recovery phase could be achieved. However, the distinction between non-profit welfare organisations and commercial providers was not drawn arbitrarily. Against this background, no further exceptional regulation seems necessary.

## **14. Taxation**

The IDRL Guidelines recommend that “[a]ffected States should provide exemptions to assisting States and eligible assisting humanitarian organisations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance”.<sup>136</sup> Also the Principles and Rules for Red Cross and Red Crescent Disaster Relief recommend the National Societies obtain reductions on taxes, e.g., in the field of transport services.<sup>137</sup>

In Germany, corporate bodies, associations and legal estates receive tax relief when they are recognized as being non-profit (*‘gemeinnützig’*). In order to be recognized as a non-profit organisation, the organisation’s activities must aim at promoting the public materially, intellectually or morally.<sup>138</sup> The recognition is affected by the competent tax authorities after the corresponding application (*‘Anlage zur Körperschaftssteuererklärung’*) has been handed in. This can be done in advance<sup>139</sup> or together with the first annual financial report. Among others, organisations that promote assistance for the victims of disasters can be recognized as being non-profit.<sup>140</sup> Recognised non-profit organisations are exempted from corporate tax and trade tax and privileged with regard to VAT.<sup>141</sup> When fulfilling certain additional criteria, no real estate tax is to be paid.<sup>142</sup>

Foreign organisations that are recognised as being non-profit receive the same privileges and exemptions as domestic non-profit organisations.<sup>143</sup> This equal

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<sup>136</sup> Guideline 21 IDRL Guidelines.

<sup>137</sup> RC/RC-rules: 9.4 National Societies should make every effort to obtain facilities from governmental or private transport services in their countries for the rapid transport, whenever possible free or at reduced rates, of relief supplies, including goods in transit, for disaster victims.

<sup>138</sup> §§ 51-68 Abgabenordnung (AO).

<sup>139</sup> The recognition would then be temporary.

<sup>140</sup> § 52 Abs. 2 Nr.9 AO.

<sup>141</sup> § 5 Abs. 1 Nr. 9 KStG i.V.m. §§ 51-68 AO; § 3 Nr. 6 GewStG.

<sup>142</sup> § 3 Abs. 1 Nr. 3b GSTG.

<sup>143</sup> Pursuant to the jurisprudence of the Federal Court of Finance (BFH) the criterion of “promotion of the public” (§ 52 Para. 1 AO) is to be construed in a manner that includes not only the German public, but also those of other states, see Referentenentwurf Jahressteuergesetz 2009 v. 28.04.2008, p. 97.

treatment is the result of the jurisprudence of the European Court of Justice in recent years, which found that German tax legislation as it was before, i.e., privileging German associations only, constituted violations of European law.<sup>144</sup>

Tax relief will be granted for persons working for non-profit organisations when this work does not constitute their regular occupation.<sup>145</sup>

Thus, it can be assessed that in Germany in recent years, due to the implementation of European jurisprudence, humanitarian organisations that qualify as being non-profit are exempted from various taxes, as recommended by the IDRL Guidelines.

## **15. Insurance**

No IDRL guideline directly covers the field of insurance.<sup>146</sup> On the field of insurance there are mainly two issues to be discussed. Firstly, the insurance of personnel and cars abroad and foreign personnel and cars in Germany, respectively, has to be guaranteed. Secondly, the insurance of persons in the affected state sometimes determines that a medical treatment in a foreign state is not covered by the contract.

Regarding the first aspect, it is determined in various bilateral agreements and Germany has concluded that the affected state has to care for the assisting personnel.<sup>147</sup> This covers the supply of an accommodation and meals, as well as of free medical care. The common national insurance (i.e., health, accident, work insurances) of the personnel also covers the disaster relief actions of deployed personnel abroad.<sup>148</sup>

Concerning the insurance of vehicles, in Germany humanitarian organisations are exempted from the regulations of the log-book procedure (*FahrzeugzulassungsVO*) while working in disaster management if this is necessary for the performance of their duties. As a rule the log-book, amongst others, shows that a car is sufficiently insured. Some of the bilateral agreements provide that for disaster relief vehicles no

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<sup>144</sup> EuGH v. 14.09.2006, C 386/04 (Stauffer); s. auch BFH v. 20.12.2006, I R 94/02, DStZ 2007, 196. Entsprechende Änderung des § 5 Abs. 1 Nr. 9 KStG durch JStG 2009 v. 19.12.2008, BGBl. I S. 2794 v. 25.12.2008

<sup>145</sup> § 3 Nr. 26 EStG, § 3 Nr. 26a EStG.

<sup>146</sup> See p. 130 IDRL desk study.

<sup>147</sup> E.g., Art. 9 (3) German - Polish/ - Czech/ - Hungarian/ - Lithuanian Agreement; Art.9 (2) German – Dutch Agreement, Art. 10 (3) German – Swiss/ - Austrian Agreement; Art. 8 (2) German - Belgian/ - Danish/ - French Agreement. See also XXII. Other facilities.

<sup>148</sup> See Grenzüberschreitende Hilfeleistung in der Euregio Maas-Rhein, p. 11, 131.

international insurance card is needed.<sup>149</sup> Other agreements state that the assisting state has to provide for vehicle insurance that covers the deployment as well.<sup>150</sup>

As regards the second aspect, the medical insurance of affected persons provides, as a rule, that an affected person has to pay for a transport to a hospital and his/her insurance respectively.<sup>151</sup> In the Euregios (Germany – Belgium – The Netherlands) different systems of payment are applied in all three states (direct payment or reimbursement). These are not well known area-wide. Thus, bills sometimes remain unpaid.<sup>152</sup> Experience in this area was gained only on the field of rescue services, but not with regard to disaster assistance.

## **16. Currency Exchange**

Guideline 20 of the IDRL Guidelines states that relevant entities of assisting states and eligible assisting humanitarian organisations should be granted an authorization to legally operate on the territory of the affected state so as to enjoy the rights, *inter alia*, to open bank accounts, enter into contracts and leases, for the purpose of providing disaster relief and initial recovery assistance. Furthermore, assisting states and eligible assisting humanitarian organisations should be granted the right to freely bring the necessary funds and currencies in or out of the country through legal means and to obtain legal exchange rates in connection with their disaster relief or initial recovery assistance.

Since the ECJ Judgement *Überseering BV v Nordic Construction Company Baumanagement GmbH (NCC)* (Rs C-208/00), foreign companies and organisations from EU member states can open bank accounts and enter into contracts in Germany and vice versa.<sup>153</sup> National registration documents have to be shown to open an account. It is even possible to open an account in a national currency (not Euro), which (only) makes sense if there is a high cash flow in the specific national currency. In the EU, this would, of course, only be relevant for states that are not part of the Euro-zone.

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<sup>149</sup> See Art. 6 Abs. 5 German – Czech Agreement.

<sup>150</sup> See Art. 3 Abs. 2 Brandenburg – Poland Agreement; *Grenzüberschreitende Hilfeleistung in der Euregio Maas-Rhein*, p. 138.

<sup>151</sup> *Grenzüberschreitende Hilfeleistung in der Euregio Maas-Rhein*, p. 117; GHOR Zuid-Limburg, *Evaluatieverslag pilotproject ambulance-burenhulp regio Aachen (D) en Zuid-Limburg*. Heerlen 2004.

<sup>152</sup> *Grenzüberschreitende Hilfeleistung in der Euregio Maas-Rhein*, p. 117.

<sup>153</sup> See above 10. Domestic Legal Status.

There exist no preferential exchange rates for humanitarian organisations. The Guidelines only request “legal exchange rates” (Art. 20 (2) IDRL Guidelines). According to the Deutsche Bank, discounts do not seem to be feasible.

The Principles and Rules for Red Cross and Red Crescent Disaster Relief state in section 24.1.1 that the conducting National Society should open a separate bank account to accept the money and to cover the expenditures of the individual operation.

Thus, the Guidelines concerning currency exchange seem to be already sufficiently implemented by German law.

## **17. Transport**

According to Guideline 19 (1) of the IDRL Guidelines originating, transit and affected states should grant, without undue delay, permission for the speedy passage of land, marine and air vehicles operated by an assisting state or eligible assisting humanitarian organisation, or on its behalf, for the purpose of transporting disaster relief or initial recovery assistance and, ideally, waive applicable fees. The Principles and Rules for Red Cross and Red Crescent Disaster Relief recommend that National Societies obtain from their governments exemption from all taxes and customs duties concerning the entry into and transit through the country of funds and relief supplies intended for the victims of disasters.<sup>154</sup>

As can be seen below, German law and the bilateral agreements cover in detail the aspects mentioned in Guideline 19 of the Guidelines, i.e., allowing speedy passage and reducing or waving fees. Potential problems in the practice are mostly solved through pragmatic solutions in the field.

### **17.1 Transport Service**

The availability of sufficient transport of goods and personnel in case of a disaster is guaranteed by miscellaneous German laws, e.g., §§1 ff Verkehrsleistungsg. The German Federation is entitled to ask the responsible authority to provide for the

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<sup>154</sup> RC/RC-rules: 9.5 National Societies should also endeavour to obtain from their governments exemption from all taxes and customs duties, concerning the entry into and transit through the country, of funds and relief supplies intended for the victims of disasters.

necessary measures to transport relief goods and the means of conveyance. The authorities in charge of this task are in their specific area of responsibility the Federal Authority for the Transport of Goods (*Bundesamt für Güterverkehr*), the Federal Waterways Directorate (*Wasser- und Schifffahrtsdirektionen*), the Federal Authority for Aircraft (*Luftfahrt-Bundesamt*) and the Federal Railway Authority (*Eisenbahn-Bundesamt*). There are no rules according to which humanitarian organisations could directly order the provision of traffic services. It is for the German Federation to determine the beneficiary of the services, which could be a German as well as a foreign assisting organisation.<sup>155</sup>

## 17.2 Exceptional Regulations Concerning Traffic

Miscellaneous German federal laws or local orders contain exceptional regulations on traffic in the case of disaster. These concern the area of finance (tolls and taxes), as well as the operative level (signals and speed limit).

Relief vehicles do not need to pay tolls (§ 1 (2) *AutobahnmautG*). This norm does not distinguish between national or foreign vehicles. Precondition for the exemption is that the vehicle can be recognized as being determined for the purpose of disaster assistance. Of all the bilateral agreements, Art. 6 Abs. 5 of the German – Czech Agreement also states the aforementioned exemption. Furthermore, no taxes have to be paid for vehicles exclusively used for disaster assistance (§ 3 No 5 *KraftfahrzeugsteuerG*). According to § 3 No 5 lit. a) of the *KraftfahrzeugsteuerG*, this applies to vehicles of humanitarian organisations respectively for the period of time in which the organisation transports relief goods abroad or prepares such transport. The norm does not discriminate between vehicles of a German or a foreign organisation.

More specific regulations exist for the use of optical or acoustical signals. Compared to German rules<sup>156</sup>, those of The Netherlands are narrower. Therefore, in the Euregios it causes no problem if foreign vehicles use their signals in Germany. But German vehicles in The Netherlands are officially not allowed to use their acoustical signal because of the different tune. However, the use of signals is tolerated in practice and even based on an operative guideline.<sup>157</sup>

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<sup>155</sup> § 7 Abs. 4 *Verkehrsleistungsgesetz*.

<sup>156</sup> See para. 1.2 *Blaulichterlass NRW*.

<sup>157</sup> *Hulpverleningsregio Twente. Optische en geluidssignalen; versie SMH. 2006.*

Another exemption of traffic rules concerning speed, distance, passing, right-of-way etc., is made to vehicles of disaster assistance in case of urgent matters by § 35 para. 1 of the StVO. According to § 35 para. (1a) of the StVO, this exemption applies to foreign officials, too, who cross the border within the scope of international agreements. The exemption is narrowly tailored; it might only be exercised to rescue life or to avert grave injuries and in compliance with public peace (§ 35 para. 8 StVO).

Regarding water transport, there is no need for approval of boats relating to disaster assistance (§ 5 para. 13 No 2 a) BinnenschiffsuntersuchungsO). No distinction is made regarding the nationality of the vessel.

As regards Guideline 19 (2) of the IDRL Guidelines, permission should be granted for over-flight, landing and departure of aircraft. Such aircraft should also be authorized to operate within the territory of the affected state as required for the delivery of assistance. Some bilateral agreements state that aircraft can be used to transport personnel and relief goods, as well as directly for the actions of assistance.<sup>158</sup> According to the Frankfurt Airport take-offs and landings are—for the purposes of disaster assistance—granted beyond the official airports, as well as rights for fly-over.<sup>159</sup>

### **17.3 Import/ Export**

Relief goods are exempted from the duty of approval for goods according to section 19 para. 1 No 15 of the Außenwirtschaftsverordnung. Furthermore, liability is limited for pharmaceutical producers if drugs are put in circulation for the purpose of disaster assistance (§ 7 AMG-ZSVO).

As a rule the import and export of narcotics and drugs has to be specially permitted by the Federal Institute for Medicinal Products according to section 3 para. 1 of the BtMG. An exemption applies where (German or foreign) medics transport drugs in the scope of cross-border assistance services (sec. 4 para. 1 No 4 a) BtMG). This provision applies to the transport of medicinal products in vehicles as well.

German vehicles carrying Fentanyl, Dormicum, Morphin, Valium and Naloxon aboard must generally not bring these substances into The Netherlands. However, bilateral

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<sup>158</sup> See, e.g., Art. 8 para. 1 German-Dutch Agreement, Art. 6 para. 1 German-French Agreement; Art. 7 para. 1 German-Czech Agreement.

<sup>159</sup> See § 46 (1) KatSG Hessen.

agreements facilitate formalities at the border for the import and export of relief goods and material needed for relief assistance. E.g., no import documents are issued and no entries have to be paid if the material is wholly expended for its purpose. Otherwise the material has to be re-exported.<sup>160</sup> Some bilateral agreements even overrule certain export restrictions concerning relief goods and assistance materials.<sup>161</sup> These regulations also apply in case of transit through Germany.<sup>162</sup>

According to employees of the German Red Cross and of the Federal Ministry of the Interior the red tape, as regards import and export, highly depends on the political will. If needed, relief goods can be transported rather quickly and with high priority.

## **18. Accountability of the Affected State Government**

States and assisting humanitarian organisations should cooperate to prevent unlawful diversion, misappropriation or fraud concerning disaster relief or initial recovery goods, equipment or resources and initiate proceedings as appropriate (Guideline 6 (1) IDRL Guidelines).

The liability depends on the responsibility of the authorities as well as on issues of funding.

### **18.1 Responsibility**

In Germany, the local authorities (Länder and municipalities) are responsible for the execution of disaster assistance.<sup>163</sup> Private organisations do assist the local authorities in their disaster assistance. The municipalities decide on the ability of assisting in the particular case. The organisations can be requested by the coordinating office of the local authorities. These local authorities supervise the assistance. This system of assistance and supervision by private organisations and local authorities, respectively, complies with the administrative law in, e.g., Northrhine-

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<sup>160</sup> See Art. 6 German – Czech Agreement; Art. 5 German – French Agreement; Art. 5 German – Belgian Agreement; Art. 7 German – Austrian Agreement; Art. 6 German – Russian Agreement; Art. 5 German – Danish Agreement; Art. 7 German – Dutch Agreement.

<sup>161</sup> See Art. 6 para. 3 German – Czech Agreement; Art. 7 para. 3 German – Austrian Agreement; Art. 6 para. 3 German – Russian Agreement.

<sup>162</sup> See Art. 6 para. 5 of the German - Lithuanian/ - Polish/ - Hungarian Agreements; Art. 6 para. 6 German – Czech Agreement.

<sup>163</sup> See above, Legal Framework.

Westphalia.<sup>164</sup> Private persons and private institutions can fulfil administrative tasks of the federal state or municipality under supervision of the responsible authorities, which is the responsible ministry. The supervising authority bears the responsibility for the fulfilment of delegated tasks.<sup>165</sup>

## **18.2 Funding, Cost Unit and Supervision of Funding**

According to Art. 4 (3) lit. j) of the Guidelines, the disaster relief and initial recovery assistance of the assisting actor should be to the greatest extent practicable, amongst others, provided in a transparent manner, sharing appropriate information on activities and funding. Pursuant to Art. 5 (1) providing funding to other assisting actors should encourage them to act in a manner consistent with the provisions of paragraph 4.

Bilateral agreements between Germany and neighbouring states determine that assistance will not be refunded; by exemption this does not apply to the deployment and use of aircraft.<sup>166</sup> Art. 35 (1) of the Commission Decision of 29 December 2003 determines as regards costs that “[i]f not agreed otherwise, the State requesting assistance shall bear the costs of assistance provided by the participating States”. The bilateral agreements fulfil the criterion of “agreed otherwise” in the sense of this norm. This implies that what is determined in the bilateral agreements will continue to apply also in view of the CPM. This is partly unknown to the stakeholders. Hence, some persons responsible for disaster relief in the Länder have expressed doubts as to whether the Länder will actually be interested in applying and participating in the European Civil Protection Mechanism, as here principally the affected state (or Land) has to pay for the assistance rendered.

Due to the German federal system when Germany provides disaster relief abroad, in principle it has to be funded by the responsible authority (German Federation or one of the federal states) which offers the assistance.<sup>167</sup> As a rule the Länder and municipalities bear the costs for all activities within their responsibility, including the

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<sup>164</sup> OLG Hamm, VersR 1992, 1227 m.w.N.

<sup>165</sup> The role and obligations of the so-called *Verwaltungshelfer* is not expressly covered by law.

<sup>166</sup> See Art. 5 para. 3 German – Dutch Agreement; Art. 8 para. 3 German – Belgian Agreement; Art. 8 para. 3 German – Danish Agreement; Art. 8 para. 1 German – French Agreement; Art. 10 German – Austrian/ - Swiss Agreement; Art. 9 para. 2 German – Polish Agreement. The situation is a different one with view to Russia and Lithuania.

<sup>167</sup> See AFKzV-Verfahren, Chapter III. above.



assistance in a foreign affected state within the scope of a bilateral agreement.<sup>168</sup> In principle, if a humanitarian organisation declared its willingness to assist in disaster situations, consequently it has to pay the connected costs according to the disaster laws of the federal states within their capabilities.<sup>169</sup> Certain trainings of the organisations concerning disaster preparedness which are in the interest of the federal state might be sponsored by the latter.<sup>170</sup>

The Principles and Rules for Red Cross and Red Crescent Disaster Relief state in section 29 that donations have to be used according to the expressed will of the donator and must not be spent on administration included in the annual budget. In addition the RC/RC Principles state in section 24.1.1 that the operating humanitarian organisation should open a separate bank account for the funds of the given operation of disaster relief. The funding is supervised by the responsible organ within the humanitarian organisation. Once a year the calculation and the account have to be presented.<sup>171</sup>

### **18.3 Dispensation of Relief Goods**

Guideline 6 (2) of the IDRL Guidelines states that affected States should use funds and relief goods donated to them, and which they have accepted in relation to a disaster, in a manner consistent with the expressed intent with which they were given.

The Länder and municipalities as the responsible authorities have to ensure the correct diversion of relief goods and funds. As regards this issue, no general rules exist on how to deal with funds and goods. This issue depends, amongst others, on

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<sup>168</sup> See, e.g., Art. 6 para. 1 Agreement Aachen – Heerlen; Agreement Aachen – Kelmis; Agreement Aachen – Kerkrade; Agreement Aachen – Vaals; Art. 7 Agreement Saarland – Lothringen/ Dept. Moselle. Furthermore: § 40 FSHG NW. However, for the costs of disaster assistance within the scope of civil protection the regulations of the German Federation apply according to which the German Federation has to bear the costs if it assigns the federal states and the municipalities for their assistance. The German Federation does not pay for administrative costs. (§ 40 (10) FSHG NW).

<sup>169</sup> See above Chapter III Coordination.

<sup>170</sup> See above Chapter III Coordination.

<sup>171</sup> See also RC/RC-rules: “7.2 Red Cross and Red Crescent relief is administered with economy, efficiency and effectiveness. Its utilization is the subject of reports, including audited accounts of income and expenditure, reflecting a true and fair view of the operation.” See also 24.1.1 RC/RC-rules (Financial reporting) and 24.1.3 RC/RC-rules (Auditing).

the type of the disaster, i.e., flood, earthquake, etc. After the Elbe flood in 2002 the following principles were set up:<sup>172</sup>

- insurances and state assistance are to be handed out first;
- test regarding the actual need;
- the additional financial assistance is less than 100% of the damage caused;
- at a maximum for household and personal effects 15,000€ are paid, 25,000€ is the maximum rate for a residential building and up to 35,000€ for industry.

To prevent a double compensation of damages, the federal state Sachsen set up the database PHOENIX. All municipalities and humanitarian organisations had access to this database. Relevant information of the applicant and the amount of loss were saved in this database. Up to now it was the only one of its kind and exemplary for the future. However, regarding the recommended settlement by the insurance, the data depended on the information provided by the affected person. Thus, double compensation was not totally precluded.<sup>173</sup>

Beyond this the organisations GerRC, Caritas and Diakonischen Werk agreed on criteria concerning the allocation and application procedure for direct assistance and reconstruction.<sup>174</sup>

The Principles and Rules for Red Cross and Red Crescent Disaster Relief state that assistance to victims is given without any distinction as to sex, nationality, race, religion, social condition or political opinion. It is made available solely on the basis of the relative importance and urgency of individual needs.<sup>175</sup>

#### **18.4 Criminal Liability**

Abuse of relief goods or funds is covered by the general prohibitions pursuant to the Criminal Code (§ 263 (fraud), § 266 (breach of trust) StGB).

The accountability of the affected state depends on the legal responsibility for, as well as, the actual access to the funds. The supervision of the assisting organisations

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<sup>172</sup> Deutsches Komitee für Katastrophenvorsorge, Hochwasservorsorge in Deutschland, p. 66.

<sup>173</sup> Deutsches Komitee für Katastrophenvorsorge, Hochwasservorsorge in Deutschland, p. 66.

<sup>174</sup> See Deutsches Komitee für Katastrophenvorsorge, Hochwasservorsorge in Deutschland, p. 66.

<sup>175</sup> RC/RC-rules: 7. Ways and means of assistance, 7.1 Red Cross and Red Crescent assistance to victims is given without any distinction as to sex, nationality, race, religion, social condition or political

by the local authorities and the existing legal framework contribute to prevent abuse of relief goods. In addition, abuse will result in criminal liability.

## **19. Accountability of Assisting Actors**

For the assistance in a foreign state the assisting actors have to know which legal regulations they must comply with, what the relevant standard of quality concerning the given assistance is and which issues have to be observed as regards the involvement of local personnel or damages.

### **19.1 Applicable Law of the Affected State**

Guideline 4 (1) of the IDRL Guidelines recommends that assisting actors and their personnel abide by the laws of the affected state and applicable international law, coordinate with domestic authorities and respect the human dignity of disaster-affected persons at all times.

The bilateral agreements Germany has concluded with other European states determine that in case of disaster the law of the affected state applies with regard to the cooperation of local and foreign authorities and organisations.<sup>176</sup> However, some of the agreements cover regulations concerning special fields, e.g., drugs, where—exceptionally—the law of the assisting state applies. For instance, narcotics shall only be administered by the qualified personnel and according to the regulations of their home country.<sup>177</sup>

Concerning employment, German law has to be abided by when the personnel works in Germany (e.g., KündigungsschutzG); no exemptions exist for foreign organisations. In the case that a humanitarian organisation brings its own staff for the assisting actions, this is a matter of deployment and hence the law of the assisting actor has to be observed. This is relevant regarding, e.g., insurance and taxes in the state of the assisting organisation.

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opinion. It is made available solely on the basis of the relative importance and urgency of individual needs.

<sup>176</sup> See, e.g., Art. 13 German – Swiss Agreement or German – Austrian Agreement.

<sup>177</sup> See art. 7 (4) German – Austrian Agreement; art. 7 (5) German – Swiss Agreement; Art. 7 (6) German – Dutch Agreement; Art. 6 (4) German – Polish Agreement; German – Lithuanian Agreement; German – Russian Agreement.

No further legal regulations exist in Germany implementing the principle that aid priorities are calculated on the basis of need alone, without adverse distinction to disaster-affected persons, without seeking to further a particular political or religious standpoint, or to gather sensitive information, but only provided in accordance with the principles of humanity, neutrality and impartiality (Guideline 4 (2) lit. a) IDRL Guidelines).<sup>178</sup> Art. 3 (3) of the Basic Law generally states that: “No person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions. No person shall be disfavoured because of disability“. On the one hand, the principle that assistance is provided on the basis of need alone is part of the statute of some of the humanitarian organisations that provide assistance in the field. But these are not a matter of binding rules and are especially not applicable to any private individual.<sup>179</sup>

Therefore, it might be an idea to implement the criterion of need into the disaster laws of the Länder as regards the provision of assistance.

## 19.2 Quality Standard

Guideline 4 (3) of the IDRL Guidelines suggests that disaster relief and initial recovery assistance should be responsive to the special needs, if any, of women and particularly vulnerable groups, as well as adequate for the needs of affected persons and consistent with any applicable international standards of quality; it should be provided by competent and adequately trained personnel.

While the responsiveness to needs is not expressly addressed by any regulation, the bilateral agreements contain relevant requirements concerning personnel.<sup>180</sup> Thus, assistance might be performed by specialists and personnel qualified and trained for the particular type of disaster that have the appropriate equipment at their disposal.<sup>181</sup>

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<sup>178</sup> But it is, *inter alia*, a task of humanitarian organisations—coordinated by the local authorities—to disseminate relief goods and these organisations, as, e.g., the RC, have adopted fundamental principles as humanity, neutrality and impartiality. The Principles and Rules for Red Cross and Red Crescent Disaster Relief expressly state in section 7.1 that Red Cross and Red Crescent assistance to victims is given without any distinction as to sex, nationality, race, religion, social condition or political opinion. It is made available solely on the basis of the relative importance and urgency of individual needs.

<sup>179</sup> As regards private individuals, see below 19.3.

<sup>180</sup> See Art. 4 (1) German – Polish Agreement; Art. 4 (1) German – Lithuanian Agreement; Art. 5 (1) German – Swiss Agreement; Art. 5 (1) German – Austrian Agreement; Art. 2 (1) German – Belgian Agreement; Art. 2 (1) German – French Agreement; Art. 2 (1) German – Danish Agreement; Art. 3 German – Russian Agreement.

<sup>181</sup> See also Art. 4 (3) f) IDRL Guidelines.

In case Germany accepts disaster assistance of a non-EU member state, Germany would pay attention that the assistance complies with UN standards.<sup>182</sup>

After the implementation of the module system on the European level the quality of disaster assistance has become more predictable.<sup>183</sup> The EU member states shall compose modules of disaster relief equipment and personnel which are rapidly operational at any time. This puts the MIC in the position to react more specifically to a query of an affected EU member state in view of what is actually needed in the particular area of the disaster. The capacities of each EU member state shall be registered in the EU Common Emergency Communication and Information System (CECIS), which shall be accessible to the MIC and to the local coordinating offices of each EU member states. The module system enables an affected state to ask for only that amount and type of relief goods that is in fact needed. Thus, through specific and precise requests it is possible to prevent the delivery of too many or even unsuitable relief goods and equipment.<sup>184</sup> Since the module system of the EU prescribes a certain quality level concerning relief goods, the standard of quality in the EU becomes comparable. Further means to create an EU reserve system are opposed by, *inter alia*, Germany.<sup>185</sup>

According to the Federal Ministry of the Interior the quality of disaster assistance concerning the training of the personnel, as well as regards the equipment and the relief goods, is regarded as being equivalent within the EU. The question whether even more (formalised) assimilation between the EU member states is wanted or needed was answered in the negative by the rescue services in the Euregios. In this regard it has to be kept in mind that even within Germany discrepancies exist on certain fields between the Länder, as well as on the level of municipalities.

### **19.3 Involvement of Private Individuals**

Guideline 4 (3) lit. e) of the IDRL Guidelines proposes that disaster relief and initial recovery assistance should be coordinated with relevant domestic and assisting

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<sup>182</sup> According to the Federal Ministry of the Interior.

<sup>183</sup> [https://www.umwelt-online.de/cgi-bin/parser/Drucksachen/drucknews.cgi?texte=0185\\_2D08B](https://www.umwelt-online.de/cgi-bin/parser/Drucksachen/drucknews.cgi?texte=0185_2D08B).

<sup>184</sup> See section 17.4 IDRL-Guidelines.

<sup>185</sup> The idea came up to set up a permanent EU disaster assistance team funded by the EU. The deployment of this team should in the event of a disaster then have been mandatory and had to be accepted by the EU member states.

actors and should be carried out with adequate involvement of affected persons, commensurate with their organisational capacities.

In general, the local authorities are responsible for the coordination of the disaster assistance in Germany. No special regulation covers the involvement of the local population or other private individuals in the disaster assistance. According to the GMLZ it seems more likely that states and organisations are involved in assistance, rather than affected private individuals.<sup>186</sup> Pursuant to the Ministry of the Interior of the Saarland, assistance by volunteers might only be relevant on the local level, e.g., neighbours, neighbouring municipalities, but not in an organized way. According to miscellaneous stakeholders, this issue has never caused any problems in the practice.

However, an employee of the GerRC mentioned problems that were caused by so-called 'convergent volunteers' in connection with the Oder flood. These private persons who especially arrive for providing assistance, are hard to incorporate into the complex system and cooperation of the different assistance teams in the field. A special organisational unit would have to be set up for this purpose. Additionally, the reasons and the motivation of these volunteers might be slightly different from those of the professionals. This may be caused by the fact that a volunteer knows a person who is directly affected by the disaster and wants to help this friend or relative first. To avoid these problems, in Mecklenburg-Vorpommern a project is conducted, according to the example of Austria: Volunteers do have to register in a database first and are only allowed to come into the field and provide assistance when they are expressly asked for.

The strengthening of local disaster risk reduction, relief and recovery capacities and the reduction of future vulnerabilities to disasters (Guideline 4 (3) lit. h) IDRL Guidelines) is one of the tasks of the Red Cross. It is covered by the Principles and Rules for Red Cross and Red Crescent – Disaster Relief.<sup>187</sup> Exercises and training for the local personnel are carried out, among others, by the local Red Cross associations.<sup>188</sup>

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<sup>186</sup> Though, affected individuals helped during, e.g., the Oder-flood wherever assistance was needed, this did not happen in a formalized way.

<sup>187</sup> Prepared by the International German Federation of Red Cross and Red Crescent Societies in consultation with the ICRC, revised 1995 Geneva.

<sup>188</sup> Statement of a staff member of the rescue services in the Euregio and other local authorities.

## 19.4 Liability/ Damages

According to Guideline 17 (4) of the IDRL Guidelines, assisting States and eligible assisting humanitarian organisations should assume responsibility for removing or disposing of any unwanted and unused disaster relief and initial recovery goods, particularly if they may pose a threat to human health or safety or to the environment. These demands are covered by German private law (§ 823 BGB). According to this rule a person is liable for the damage caused by dangerous behaviour, including the (not exercised) control over dangerous objects.

However, bilateral agreements on the level of neighbour municipalities in the Euregios, *inter alia*, state that there will be no claims for damages if persons get injured or property of the affected state is damaged.<sup>189</sup> This applies to damages which are caused by personnel of an assistance team while performing their tasks. Of course, these regulations are not applicable in case of intent. The affected state is responsible for damages which are caused to third persons not being part of the assistance teams<sup>190</sup>; damages have to be paid according to the affected state's laws.

The relevant German legislation is not restricted to private law titles. An accident caused by breaking the law can have penal consequences, too.<sup>191</sup> According to the local authorities in the Euregios, there has never been a case of liability in the daily rescue experience concerning situations of disaster.

## 20. Security

Guideline 22 of the IDRL Guidelines covering the aspect of security is implemented through bilateral agreements which Germany concluded with a number of European states. Hence, the authorities of the affected state have to provide for help and protection of the disaster response teams.<sup>192</sup> There are no further legal regulations particularly concerning the insurance of the assisting personnel and the relief goods. However, following the LEMA principle (Local Emergency Management Authority) it

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<sup>189</sup> E.g., Art. 7 (1) of the Agreements between Aachen – Heerlen, Aachen – Kelmis, Aachen – Kerkrade, Aachen – Vaals. The bilateral agreements on the level of the Länder contain similar provisions.

<sup>190</sup> Art. 7 (3) Hilfeleistungsabkommen Aachen – Heerlen, Aachen – Kelmis, Aachen – Kerkrade, Aachen – Vaals.

<sup>191</sup> Grenzüberschreitende Hilfeleistung in der Euregio Maas-Rhein, p. 131.

<sup>192</sup> See Art. 7 (3) German – Belgian Agreement; Art. 9 (3) German – Austrian Agreement; Art. 9 (4) German – Swiss Agreement; Art. 5 (3) German – Dutch Agreement.

is German policy that the local authorities whilst being responsible for disaster relief have to take care of the relief goods and personnel. In addition, the police have to take care for the security of all persons, including the assisting personnel.

## **21. Freedom of Access**

The aspect of freedom of access is covered by Guideline 16 of the IDRL Guidelines, according to which the affected state should facilitate freedom of access for the personnel of the assisting state to, in and from the disaster-affected area, bearing in mind the safety of disaster relief and initial recovery personnel.

German legislation does not expressly address the issue of freedom of access to the area of disaster. However, formalities at the border are restricted to an indispensable minimum in bilateral agreements.<sup>193</sup> Moreover, the Schengen Agreement facilitates the crossing of borders of the “Schengen states”.<sup>194</sup> Personnel of humanitarian organisations do not need a residence title in Germany.<sup>195</sup>

Since the local authorities are at first instance responsible for the disaster relief and initial recovery measures, the personnel of an organisation deployed by the assisting state would be subordinate to the local authorities. Bilateral agreements, as well as German administrative law, provide that the local authorities should assist the personnel deployed by the assisting state and thus grant them free access.<sup>196</sup> In the field access can be granted on the basis of the rules of administrative law.<sup>197</sup>

## **22. Extended Hours**

In case of disaster, state-operated offices and services essential to the timely delivery of international disaster relief should—if necessary—function outside of normal business hours (Guideline 23 IDRL Guidelines).

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<sup>193</sup> See above Transport – Visa and Entry of personnel.

<sup>194</sup> See Art. 2 Übereinkommen zwischen den Regierungen der Staaten der Benelux-Wirtschaftsunion, der Bundesrepublik Deutschland und der Französischen Republik betreffend den schrittweisen Abbau der Kontrollen an den gemeinsamen Grenzen vom 14. Juni 1985.

<sup>195</sup> § 9 Verordnung über die Zulassung von neu einreisenden Ausländern.

<sup>196</sup> E.g., Art. 7 (3) German – French/ - Danish/ - Belgian Agreement.

<sup>197</sup> E.g., § 14 Abs. 1 OBG NW; public peace.



There are no specific regulations in Germany as regards extended hours in case of disaster. However, pursuant to the bilateral agreements<sup>198</sup> and policy it is possible to avoid certain procedures in case of emergency. These were more relevant before the Schengen Agreement came into force.

Concerning disaster relief especially from a non-EU state, the transport of goods and personnel by plane seems to be most expedient. At all the main German airports where the planes in question would land or depart the custom offices are open around-the-clock. In addition, certain regulations, e.g., a ban on night flights, could be suspended for a short time.<sup>199</sup>

### **23. Other Facilities for International Aid Providers**

German legislation is fragmented in the matters proposed by Guideline 24 (2) of the IDRL Guidelines, i.e., the provision of certain services to assisting states and eligible assisting humanitarian organisations at reduced or no cost, e.g., in-country transport, the use of buildings and land or the use of cargo handling equipment and logistic support. In this regard there may be scope for recommendation to the legislative.

For instance, in Germany transport of personnel and relief goods is indeed provided for sufficiently, however, not for free. According to § 9 Verkehrsleistungsgesetz in connection with § 20 (1) Bundesleistungsgesetz, the beneficiary of transport services has to pay for these. An exemption should be granted in § 9 Verkehrsleistungsgesetz concerning the situation that the beneficiary is a humanitarian organisation. In this case the German Federation that is entitled to ask the responsible authority to provide for the necessary measures should bear the costs.

According to the bilateral agreements, the affected state provides for accommodation and meals for the assisting units and specialists of the assisting state (free of charge).<sup>200</sup> Furthermore, goods for personal use have to be made available for the assisting personnel. If need be the assisting personnel is entitled to free logistic

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<sup>198</sup> See, e.g., Art. 4 German – Belgian/ - Danish/ - French Agreements; Art. 6 para. 5 German - Dutch Agreement.

<sup>199</sup> According to the Federal Ministry of the Interior.

<sup>200</sup> Art. 9 (3) German - Polish/ - Czech/ - Hungarian/ - Lithuanian Agreement; Art.9 (2) German – Dutch Agreement, Art. 10 (3) German - Swiss/ - Austrian Agreement; Art. 8 (2) German - Belgian/ -Danish/ - French Agreement.

assistance, including medical care. Similar provisions were agreed to on the local level of municipalities.<sup>201</sup>

The main organisation in the field is conducted by the local authorities and their offices may also be used for meetings of the crisis squad. As there is no experience with disasters on the German territory, the possibility for foreign humanitarian organisations to use warehouse space for their relief goods is not covered by any regulation. According to some of the stakeholders, this issue seems to be even less important to them as the use of cargo-handling equipment and logistic support. The latter would be provided for by the big German airports, according to the Frankfurt Airport. It would depend on the individual case if a fee were charged. These issues should be covered by rules to clarify the situation and make the entitlement reliable.

In case assistance is to be refunded—in whole or in parts—as is the case in German-Russian and German-Lithuanian agreements, this will be done afterwards on request—as long as nothing else is agreed on.<sup>202</sup> Costs arise especially from personnel, transport, insurance, consumption, damage and loss of equipment, as well as from medical care of the assisting personnel.

The bilateral agreements also provide that the costs for the use of aircraft have to be paid by the affected state.<sup>203</sup> According to the Frankfurt Airport, humanitarian organisations do not get special conditions as regards the use of aircraft.

## **24. Termination**

Guideline 12 of the IDRL Guidelines states that when an affected state or an assisting actor wishes to terminate disaster relief or initial recovery assistance, it should provide appropriate notification. Upon such notification, the affected state and the assisting actor should consult with each other, bearing in mind the impact of such termination on disaster-affected communities. Additionally, the Principles and Rules for Red Cross and Red Crescent Disaster Relief state in art. 2.2 that providing assistance means also to look to the future and ensure that people are not left more

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<sup>201</sup> See Art. 6 (2) Agreement Aachen-Heerlen, Aachen-Kelmis, Aachen-Kerkrade, Aachen-Vaals; Paßlik, H.: Grenzüberschreitende Hilfeleistung bei Großschadensereignissen in der EUREGIO, in: Eildienst/Landkreistag Nordrhein-Westfalen (2006), 5, S. 177 (179).

<sup>202</sup> Art. 9 (2) German - Lithuanian/ - Russian Agreement.

<sup>203</sup> See above and Art. 9 (2) German - Polish/ - Czech/ - Hungarian Agreement, Art. 8 (3) German - Belgian/ - Danish Agreement.

vulnerable to future disasters. Wherever possible, relief programmes should attempt to build upon the capacities of those being assisted, involve them in the management and implementation of the programme and act with a sense of accountability towards the beneficiaries.<sup>204</sup>

Also the Tampere Convention contains regulations on the issue of termination. However, to-date (01/2010) Germany has not ratified this convention.<sup>205</sup>

Aside from Art. 12 of the German – Czech Agreement, no regulations on termination exist—neither in the laws nor in bilateral agreements. According to the aforementioned article, the assisting personnel have to immediately terminate the assistance if the responsible authorities ask them to do so. Otherwise the assistance ends when all the tasks are fulfilled. Afterwards, the assisting units have to depart. This norm does not set up a duty to inform the local authorities about the termination of the disaster relief. As the humanitarian organisations and personnel from assisting states work together closely with the local authorities, it is usual to inform the co-operating partners in one of the regular meetings before leaving. No special regulation seems to be necessary covering this issue.

## **25. When Relief Transits Across the Territory Toward Another Country**

Neither German legislation nor policies exclusively address the transit of relief goods and equipment or personnel. Rather, the law and policies as regards the situations that Germany accepts the assistance and is giving assistance respectively are applied accordingly. Some of the rules mentioned cover the transit expressly parallel to entry or import/ export regulations.<sup>206</sup>

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<sup>204</sup> 2.2 RC/RC Rules: We recognize that in helping disaster victims to survive, relief programmes must also look to the future and ensure that people are not left more vulnerable to the future disasters. Wherever possible, relief programmes should attempt to build upon the capacities of those being assisted, involve them in the management and implementation of the programme and act with a sense of accountability towards the beneficiaries.

<sup>205</sup> Date: 27.01.2010.

<sup>206</sup> See above, e.g., XVI. Transport – Import/ Export, Visa.

## **26. Exceptions to Disaster Facilities**

As described above, certain regulations already implement parts of the issues proposed in the IDRL Guidelines. Most of these constitute exceptions expressly and narrowly tailored to the case of disaster.

To hold up the balance between the interests of national security, public order, public and environmental health, and public morals of the concerned state affected, the aforementioned legislation only applies in case of a disaster and only under further preconditions (and counter-exceptions), e.g., the exceptional rights concerning road traffic for relief vehicles under § 35 Abs. 1 StVO may only be called upon if public security is observed (§ 35 Abs. 8 StVO). § 71 AMG is another example of an exceptional regulation. In case of disaster, medicine can be handed out even though the date of expiry already has passed. But in this case the responsible authorities have to ascertain that the drugs are still of good quality, of efficacy and harmless.

The bilateral agreements, too, are tailored especially to the case of disaster and only apply in this particular case.

## **27. Communication**

Good interpersonal contacts are the basis on which a good cooperation can work and problems can be solved easier this way.<sup>207</sup> Therefore, it is crucial not only to know the language but also the system of the foreign state. An example for well functioning cross-border assistance is the Euregio (North Rhine-Westphalia, Germany/ Belgium/ The Netherlands).

### **27.1 Language**

Language seems to be a minor problem at the border between Germany and The Netherlands where people often do speak both of the rather closely-related

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<sup>207</sup> Regarding the personal contact see Grenzüberschreitende Hilfeleistung in der Euregio Maas-Rhein, S. 134: „Alle Beteiligten kennen einander und pflegen gute Kontakte zueinander. So gibt es Kontakte zwischen den Leitstellen, den Rettungsdiensten, den Behörden und den Krankenkassen. Im Rahmen des Eucrow-Projekts werden Veranstaltungen zum gegenseitigen Kennenlernen organisiert. Außerdem finden regelmäßig Symposien statt. Eine noch breitere Teilnahme insbesondere von Seiten des Personals der Rettungsdienste aller Länder könnte diese positive Entwicklung unterstützen.“

languages. In Belgium one finds French as well, but at meetings of all the three states, German is the working language since most of the participants are German.<sup>208</sup>

More complicated as regards the language is the relationship at the German-French border, according to the rescue service. Section 6 of the Agreement between the Saarland and the French Dept. Moselle states that relief means for reasons of facilitation shall be produced in both languages if necessary. Pursuant to section 4 of the Agreement, the affected state has to provide for an interpreter on the local steering team.

According to the Ministry of Interior of Mecklenburg-Vorpommern, in the vehicles used in areas next to the border, Poland has arranged special equipment, e.g., computer programmes, in Polish as well as in German. Furthermore, all the forms are drafted bilingually.

## **27.2 Technical Communication and Mutual Knowledge of the Systems**

According to the Federal Agency for Digital Radio of Security Authorities and Organisations (*Bundesanstalt für den Digitalfunk der Behörden und Organisationen mit Sicherheitsaufgaben*), the mutual knowledge of the systems can be improved. The differences between the states cause problems since the systems are rather complex. Radio traffic is used between the ambulances and between an ambulance and the coordinating office. The European Tetra-Standard<sup>209</sup> assures that the different national systems are compatible. The planned digital German system was planned to correspond to this standard.<sup>210</sup> However, according to some of the stakeholders, it in fact does not. Concerning this system, communication problems arise between neighbouring states as well as within Germany. As long as there is no common standard, various possibilities of communication are in use. For instance, in the Euregio vehicles communicate with other vehicles by mobile phones or via the coordinating office.<sup>211</sup> Section 5 of the agreement between the Saarland and the

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<sup>208</sup> Contributions are translated into French.

<sup>209</sup> For more detailed information see [http://www.bdbos.bund.de/cIn\\_109/nn\\_421176/DE/Bundesanstalt/Projekt\\_Digitalfunk/projekt\\_digitalfunk\\_node.html?\\_\\_nnn=true](http://www.bdbos.bund.de/cIn_109/nn_421176/DE/Bundesanstalt/Projekt_Digitalfunk/projekt_digitalfunk_node.html?__nnn=true).

<sup>210</sup> While the nationwide introduction of the digital system had already been planned for 2006, only in some of the Länder it has actually been introduced, while in most Länder this is only to take place in the next years.

<sup>211</sup> See *Grenzüberschreitende Hilfeleistung in der Euregio Maas-Rhein*, p. 134.

French Dept. Moselle states that the frequency of radios of foreign personnel has to be adjusted to the local frequencies by the local authorities.

In the Euregios consultations between the coordinating offices take place four to five times a year where mainly technical problems are discussed. Developments in the field of the internet contribute to the simplification of processes.

Furthermore, the different responsibilities could cause discussion and a loss of time in case of disaster. Information of the personnel as regards the structures and the competences in the foreign state has to be provided. For instance, the Eucrew-Project offers a wide range of information.<sup>212</sup>

## **28. In the future Imaginable Disasters**

In view of the current climate development, Germany is facing a rush of temperature. The emissions of greenhouse gas are increasing rampantly, which directly leads to warmer temperatures globally. Connected to this rise of temperature, the ice caps and glaciers are melting faster, which leads to an at present still underestimated sea-level rise.<sup>213</sup> Very hot summers like the one in 2003 will occur often, which will increase the danger of forest fires. The climate change will also affect the pattern of rainfall; therefore, it should be kept in mind that floods might arise more often.

Additionally, according to the Robert-Koch-Institute, the spread of to-date unknown pathogens might be possible. No data or experience yet exists as regard this issue.

These criteria make the occurrence of disasters possible and might render the assistance from abroad necessary.

## **29. Conclusion and Recommendations**

Mainly because of Germany's federal structure, there is not one standard law covering all aspects relevant to disaster relief. Instead, each of the 16 Länder—which are responsible for this matter—has its own laws as regards this matter. In addition, the German Federation has in some cases the responsibility to coordinate the

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<sup>212</sup> See Grenzüberschreitende Hilfeleistung in der Euregio Maas-Rhein, p. 129-130.

<sup>213</sup> <http://www.copenhagendiagnosis.org>.

disaster relief. Furthermore, aspects relevant to disaster relief are regulated in special legislation covering a particular area of law.

The legal desk research has shown that some of the issues of the IDRL Guidelines are already implemented by German law, as well as by agreements between Germany and other European states. These are mostly exceptional regulations explicitly drafted for the case of disaster. Other issues are not covered by any legislation or regulation, but certain policies exist. Especially with regard to the scenario that international disaster assistance is rendered in Germany, often neither legislation nor policy or practice exist, so preliminary conclusions can only be drawn from general principles of German law or policy. As regards the very relevant issues which currently are not but should be covered by a norm, adequate recommendations to the legislative were given in the text.<sup>214</sup> These are:

- Determining criteria under which foreign humanitarian organisations would be eligible for legal facilities and which are geared to the international agreements and according national regulations, including the criterion of a showing by the organisation of its willingness and capacity to act in accordance with the responsibilities described in paragraph 4 of the IDRL Guidelines (Art. 14 (2) IDRL Guidelines) (see above 9.);
- Regulating a short-term procedure for the mutual recognition of professional qualifications in the special event of a disaster which applies to all states (see above 12.);
- Implementing the binding criterion of need into the disaster laws of the Länder as regards the provision of assistance (see above 19.1);
- Clarifying rules to make the entitlement to the use of cargo-handling equipment and logistic support by the big German airports free of charge reliable (see above 23.).

Germany has not yet asked for any assistance within the CPM. The willingness to apply the CPM in practice was doubted by some of the stakeholders with reference to the manageability, transmission errors as regards the request for assistance and the length of the procedure that turned out at exercises.<sup>215</sup> According to the stakeholders,

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<sup>214</sup> See above 9., 12., 13., 19.1 and 23.; no amendments of German law required as regards the lack of legislation mentioned in chapters 7., 24. and 25.

<sup>215</sup> The CPM itself was not doubted.

the probability of the application of the CPM declines the closer the regional cooperation is. The participation of the Länder in the CPM is due to a regulation as regards the funding if the assistance is within the interest of the German Federation. A participation of the Länder on the basis of its own funding is not excluded by this.

Further insight especially concerning policies and practical problems was gained at the national workshop in Berlin on December 7<sup>th</sup>, 2009. However, according to a number of stakeholders, there is hardly any German experience as regards cross-border disaster assistance in Europe, yet.



## **Annex I**

### **German Legislative Framework**

#### **INTERNATIONAL CONVENTIONS, REGULATIONS and DECISIONS**

- Recommendations of the Customs Cooperations Council to expedite the forwarding of relief consignments in the event of disasters (8<sup>th</sup> June 1970)
- Draft Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (24<sup>th</sup> September 2007)
- United Nations Office for the Coordination of Humanitarian Affairs, field coordination support section (INSARAG Secretariat), INSARAG Guidelines and methodology (2007/2008)
- Principles and Rules for Red Cross and Red Crescent Disaster Relief, adopted by the XXI<sup>st</sup> International Conference of the Red Cross (Istanbul, 1969) -revised by the XXII<sup>nd</sup>, XXIII<sup>rd</sup>, XXIV<sup>th</sup> and XXV<sup>th</sup> and XXVI<sup>th</sup> International Conferences in Tehran (1973), Bucharest (1977), Manila (1981), Geneva (1986) and Geneva (1995)
- Schengen Agreement of 1985, full citation: 'Übereinkommen zwischen den Regierungen der Staaten der Benelux-Wirtschaftsunion, der Bundesrepublik Deutschland und der Französischen Republik betreffend den schrittweisen Abbau der Kontrollen an den gemeinsamen Grenzen vom 14. Juni 1985' GMBI. 1986, p. 79 ff.
- Council Regulation (EC) No 1167/2008 of 24 October 2008 amending and updating Regulation (EC) No 1334/2000 setting up a community regime for the control of exports of dual-use items and technology
- Council Regulation (EC) No. 428/2009 of 5<sup>th</sup> May 2009 setting up a community regime for the control of exports, transfer, brokering and transit of dual-use items (recast)
- Council Decision (EC) No. 2007/779 of 8 November 2007 establishing a Community Civil Protection Mechanism (recast)
- Council Regulation (EC) No 274/2008 of 17 March 2008 amending Regulation (EEC) No 918/83 setting up a community system of relief from customs duty
- Istanbul Convention, "Convention on temporary admission", done at Istanbul, on 26 June 1990
- Kyoto Convention, "International Convention on the simplification and harmonization of Customs procedures (Kyoto Convention)", done at Kyoto, Japan, on 18 May 1973, entered into force in 1974; revised Kyoto Convention in June 1999
- Tampere Convention on the Provision Telecommunication Resources for Disaster Mitigation and Relief Operations of 1998

## GERMAN FEDERATION

### Legislation / Regulations

- German Medicines Act (Arzneimittelgesetz, AMG), full citation: 'Gesetz über den Verkehr mit Arzneimittelgesetz in der Fassung der Bekanntmachung vom 12. Dezember 2005 (BGBl. I S. 3394)', updated on 23<sup>rd</sup> November 2007
- Decree on exemptions concerning the application of the German Medicines Act of 2003/2006, full citation: 'AMG-Zivilschutz Ausnahmeverordnung vom 17. Juni 2003 (BGBl. I S. 851), zuletzt geändert durch Artikel 1 der Verordnung vom 29. März 2006 (BGBl. I S. 593)'
- Internal instruction for the German customs offices; full citation: 'Interne Dienstanweisung des Bundesministers der Finanzen zum AMG bezüglich der Mitwirkung der Zolldienststellen bei der Überwachung der Ein- und Ausfuhr von Arzneimitteln', Kloesel/ Cyran, Ordnungsnummer A 2.49'
- Tax code (Abgabenordnung, AO) of 2009; full citation: 'Abgabenordnung in der Fassung der Bekanntmachung vom 1. Oktober 2002 (BGBl. I S. 3866; 2003 I S. 61), das zuletzt durch Artikel 13 Abs. 9 des Gesetzes vom 25. Mai 2009 (BGBl. I S. 1102) geändert worden ist'
- Decree on the safety representative and the reporting of nuclear incidents; full citation: 'Atomrechtliche Sicherheitsbeauftragten- und Meldeverordnung vom 14. Oktober 1992 (BGBl. I S. 1766), zuletzt geändert durch Artikel 5 der Verordnung vom 18. Juni 2002 (BGBl. I S. 1869)'
- Residence Act (Aufenthaltsgesetz - AufenthG); full citation: 'Aufenthaltsgesetz in der Fassung der Bekanntmachung vom 25. Februar 2008 (BGBl. I S.162), zuletzt geändert durch Artikel 1a des Gesetzes vom 22. Dezember 2008 (BGBl. I S.2965)'
- Residence Decree (Aufenthaltsverordnung, AufenthV); full citation: 'Aufenthaltsverordnung vom 25. November 2004 (BGBl. I S. 2945), zuletzt geändert durch Artikel 3 des Gesetzes vom 20. Dezember 2008 (BGBl. I S. 2846)'
- Foreign Trade Act (Außenwirtschaftsgesetz, AWG); full citation: 'Außenwirtschaftsgesetz in der Fassung der Bekanntmachung vom 27. Mai 2009 (BGBl. I S. 1150)'
- Foreign Trade Decree, full citation: 'Außenwirtschaftsverordnung in der Fassung der Bekanntmachung vom 22. November 1993 (BGBl. I S. 1934, 2493), zuletzt geändert zur Umsetzung der VERORDNUNG (EG) Nr. 428/2009 DES RATES vom 5. Mai 2009 über eine Gemeinschaftsregelung für die Kontrolle der Ausfuhr, der Verbringung, der Vermittlung und der Durchfuhr von Gütern mit doppeltem Verwendungszweck am 25. Juni 2009'
- Autobahn Toll Act; (Autobahnmautgesetz für schwere Nutzfahrzeuge - ABMG); full citation: 'Autobahnmautgesetz für schwere Nutzfahrzeuge in der Fassung der Bekanntmachung vom 2. Dezember 2004 (BGBl. I S. 3122), zuletzt geändert durch Artikel 1 des Gesetzes vom 22. Dezember 2008 (BGBl. I S. 2967)'

- Federal Office for Civil Protection Act, full citation: 'Gesetz über die Errichtung des Bundesamtes für Bevölkerungsschutz und Katastrophenhilfe (BBKG) vom 27.04.2004 (BGBl. I S. 630), geändert durch Artikel 2 des ZSGÄndG vom 02.04.2009 (BGBl. I S. 693)'
- Act implementing regulation 2005/36/EC on the recognition of professional qualifications; full citation: 'Gesetz zur Umsetzung der RL 2005/36/EG des Europäischen Parlaments und des Rates über die Anerkennung der Berufsqualifikationen der Heilberufe vom 02. Dezember 2007, BGBl. I S. 2686'
- Freedom of Movement Act; full citation: 'Freizügigkeitsgesetz / EU vom 30. Juli 2004 (BGBl. I S. 1950, 1986), das zuletzt durch Artikel 7 des Gesetzes vom 26. Februar 2008 (BGBl. I S. 215) geändert worden ist'
- Inland Navigation Investigation Decree, (Binnenschiffsuntersuchungsordnung, BinSchUO); full citation: 'Binnenschiffsuntersuchungsordnung vom 6. Dezember 2008 (BGBl. I S. 2450) in Kraft gem. Art. 1 V vom 19.12.2008 I 2868 mit Wirkung vom 1.1.2009'
- Narcotics Act (Betäubungsmittelgesetz, BtMG); full citation: 'Betäubungsmittelgesetz in der Fassung der Bekanntmachung vom 1. März 1994 (BGBl. I S.358), das zuletzt durch die Verordnung vom 19. Januar 2009 (BGBl. I S. 49) geändert worden ist'
- Assistance Act (Bundesleistungsgesetz) full citation: 'Bundesleistungsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 54 – 1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 15 Abs. 3 des Gesetzes vom 31. Juli 2008 (BGBl. I S. 1629.)'
- German Red Cross Act (DRK-Gesetz – DRKG); full citation: 'DRK-Gesetz vom 5. Dezember 2008 (BGBl. I S. 2346)", s. a. Statute of the German Red Cross of 13th November 2009 (recast)'
- Import Purchase Tax Release Act (Einfuhrverbrauchsteuerbefreiungsverordnung, EVerbrStBV); full citation: 'Einfuhr-Verbrauchsteuerbefreiungsverordnung vom 8. Juni 1999 (BGBl. I S. 1414), zuletzt geändert durch Artikel 6 der Verordnung vom 22. Dezember 2003 (BGBl. 2004 I S. 21)'
- Income Tax Act (Einkommensteuergesetz, EStG); full citation: 'Einkommensteuergesetz in der Fassung der Bekanntmachung vom 19. Oktober 2002 (BGBl. I S. 4210; 2003 I S. 179), das zuletzt durch Artikel 3 des Gesetzes vom 25. Mai 2009 (BGBl. I S. 1102) geändert worden ist'
- Estates Duty and Donation Tax Act (Erbschaftsteuer- und Schenkungsteuergesetz, ErbStG); full citation: 'Erbschaftsteuer- und Schenkungsteuergesetz in der Fassung der Bekanntmachung vom 27. Februar 1997 (BGBl. I S. 378), das zuletzt durch Artikel 1 des Gesetzes vom 24. Dezember 2008 (BGBl. I S. 3018) geändert worden ist'
- Vehicle Registration Decree (Fahrzeug-Zulassungsverordnung, FZVO); full citation: 'Fahrzeug-Zulassungsverordnung vom 25. April 2006 (BGBl. I S. 988), zuletzt geändert durch Artikel 3b der Verordnung vom 26. März 2009 (BGBl. I S. 734)'
- Hazardous Materials Transportation Decree (Gefahrgutverordnung Straße und Eisenbahn, GGVSE); full citation: 'Gefahrgutverordnung Straße und

Eisenbahn in der Fassung der Bekanntmachung vom 24. November 2006 (BGBl. I S. 2683)'

- Guidelines on defence (Rahmenrichtlinien für die Gesamtverteidigung, RRGV)
- Federal Constitution (Grundgesetz, GG); full citation: 'Grundgesetz für die Bundesrepublik Deutschland in der im Bundesgesetzblatt Teil III, Gliederungsnummer 100-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 1 des Gesetzes vom 19. März 2009(BGBl. I S. 606)'
- Real Estate Tax Act (Grundsteuergesetz, GrStG); full citation: 'Grundsteuergesetz vom 7. August 1973 (BGBl. I S. 965), das zuletzt durch Artikel 38 des Gesetzes vom 19. Dezember 2008 (BGBl. I S. 2794) geändert worden ist'
- Armed Forces Assistance Act, full citation: 'Hilfeleistungen der Bundeswehr bei Naturkatastrophen oder besonders schweren Unglücksfällen und im Rahmen der dringenden Nothilfe'
- Dogs Movement and Import Act (Hundeverbringungs- und -einfuhrbeschränkungsgesetz, HundVerbrEinfG); full citation: 'Hundeverbringungs- und -einfuhrbeschränkungsgesetz vom 12. April 2001 (BGBl. I S. 530)'
- Dogs Movement and Import Decree (Hundeverbringungs- und -einfuhrverordnung, HundVerbrEinfVO); full citation: 'Hundeverbringungs- und -einfuhrverordnung vom 3. April 2002 (BGBl. I S. 1248), geändert durch Artikel 86 des Gesetzes vom 21. Juni 2005 (BGBl. I S. 1818)'
- Infection Prevention and Patient Protection Act (Infektionsschutzgesetz, IfSG); Vollzitat: "Infektionsschutzgesetz vom 20. Juli 2000 (BGBl. I S. 1045), zuletzt geändert durch Artikel 16 des Gesetzes vom 17. Dezember 2008 (BGBl. I S. 2586)"
- Motor Vehicle Tax Act (Kraftfahrzeugsteuergesetz; KFZ-Gesetz) full citation: 'Kraftfahrzeugsteuergesetz in der Fassung der Bekanntmachung vom 26. September 2002 (BGBl. I S. 3818), zuletzt geändert durch Artikel 2 des Gesetzes vom 21. Dezember 2008(BGBl. I S. 2896)'
- Consular Act (Gesetz über die Konsularbeamten, ihre Aufgaben und Befugnisse, Konsulargesetz), full citation: 'Konsulargesetz vom 11. September 1974 (BGBl. I S. 2317), das zuletzt durch Artikel 20 des Gesetzes vom 17. Dezember 2008 (BGBl. I S. 2586) geändert worden ist'
- Corporate Tax Act (Körperschaftsteuergesetz, KStG); full citation: 'Körperschaftsteuergesetz in der Fassung der Bekanntmachung vom 15. Oktober 2002 (BGBl. I S. 4144), das zuletzt durch Artikel 2 des Gesetzes vom 20. April 2009 (BGBl. I S. 774) geändert worden ist'
- Food Act (Lebensmittel- und Futtermittelgesetzbuch, LFGB); full citation: 'Lebensmittel- und Futtermittelgesetzbuch in der Fassung der Bekanntmachung vom 26. April 2006(BGBl. I S. 945), zuletzt geändert durch Artikel 12 des Gesetzes vom 26. Februar 2008 (BGBl. I S. 215)'

- Air Vehicles Registration Decree (Luftverkehrs-Zulassungs-Ordnung vom 19. Juni 1964, full citation: 'Luftverkehrs-Zulassungs-Ordnung in der Fassung der Bekanntmachung vom 10. Juli 2008 (BGBl. I S. 1229), die durch Artikel 12 des Gesetzes vom 29. Juli 2009 (BGBl. I S. 2424) geändert worden ist')
- Milk and Margarine Act (Milch- und Margarinegesetz, MilchMargG) full citation: 'Milch- und Margarinegesetz vom 25. Juli 1990 (BGBl. I S. 1471), zuletzt geändert durch Artikel 13 des Gesetzes vom 17. März 2009 (BGBl. I S. 550)'
- Milk and Margarine Decree (Margarine- und Mischfettverordnung, MargMFV), full citation: 'Margarine- und Mischfettverordnung vom 31. August 1990 (BGBl. I S. 1989, 2259), die zuletzt durch Artikel 3 der Verordnung vom 8. Mai 2008 (BGBl. I S. 797) geändert worden ist'
- Passport Decree (Passverordnung, PassV); full citation: 'Passverordnung vom 19. Oktober 2007 (BGBl. I S. 2386), geändert durch Artikel 1 der Verordnung vom 13. November 2008 (BGBl. I S. 2201)'
- Post and Telecommunications Act (Post- und Telekommunikationssicherstellungsgesetz, PTSG); full citation: 'Post- und Telekommunikationssicherstellungsgesetz vom 14. September 1994 (BGBl. I S. 2325, 2378), zuletzt geändert durch Artikel 2 Nr. 3 des Gesetzes vom 2. April 2009 (BGBl. I S. 693)'
- Guidelines for Civil Protection in the surroundings of nuclear plants (Rahmenempfehlungen für den Katastrophenschutz in der Umgebung kerntechnischer Anlagen)
- Radiation Protection Act (Strahlenschutzvorsorgegesetz, StrVG), full citation: 'Strahlenschutzvorsorgegesetz vom 19. Dezember 1986 (BGBl. I S. 2610), das zuletzt durch Artikel 1 des Gesetzes vom 8. April 2008 (BGBl. I S. 686) geändert worden ist'
- Radiation Protection Decree (Strahlenschutzverordnung – StrlSchV); full citation: 'Strahlenschutzverordnung vom 20. Juli 2001 (BGBl. I S. 1714, (2002, 1459)), zuletzt geändert durch Artikel 2 des Gesetzes vom 29. August 2008 (BGBl. I S. 1793)'
- Highway Code (Straßenverkehrs-Ordnung, StVO); full citation: 'Straßenverkehrs-Ordnung vom 16. November 1970 (BGBl. I S. 1565), zuletzt geändert durch Artikel 1 der Verordnung vom 26. März 2009 (BGBl. I S. 734)'
- Highway Registration Code (Straßenverkehrs-Zulassungs-Ordnung, StVZO); full citation: 'Straßenverkehrs Zulassungs-Ordnung in der Fassung der Bekanntmachung vom 28. September 1988 (BGBl. I S. 1793), zuletzt geändert durch Artikel 1 der Verordnung vom 25. September 2008 (BGBl. I S. 1878)'
- Tracing Services Data Protection Act, (Suchdienstedatenschutzgesetz, SDDS); full citation: 'Suchdienstedatenschutzgesetz vom 2. April 2009 (BGBl. I S. 690)'
- Federal Agency for Technical Relief Act (THW-Helferrechtsgesetz, THWHelfRG); full citation: 'THW-Helferrechtsgesetz vom 22. Januar 1990 (BGBl. I S. 118), zuletzt geändert durch Artikel 15 Abs. 58 des Gesetzes vom 5. Februar 2009 (BGBl. I S. 160)'
- Value Added Tax Act (Umsatzsteuergesetz, UStG); full citation: 'Umsatzsteuergesetz in der Fassung der Bekanntmachung vom 21. Februar

2005 (BGBl. I S.386), das zuletzt durch Artikel 8 des Gesetzes vom 20. Dezember 2008 (BGBl. I S. 2850) geändert worden ist'

- Value Added Tax Execution Decree, (Durchführungsverordnung (UStDV); full citation: 'Umsatzsteuer-Durchführungsverordnung in der Fassung der Bekanntmachung vom 21. Februar 2005 (BGBl. I S. 434), die zuletzt durch Artikel 7 des Gesetzes vom 17. März 2009 (BGBl. I S. 550) geändert worden ist'
- Traffic Service Act, Gesetz (Verkehrsleistungsgesetz, VerkLG); full citation: 'Verkehrsleistungsgesetz vom 23. Juli 2004 (BGBl. I S. 1865), geändert durch Artikel 304 der Verordnung vom 31. Oktober 2006 (BGBl. I S. 2407)'
- Traffic Safeguarding Act (Verkehrssicherstellungsgesetz); full citation: 'Verkehrssicherstellungsgesetz in der Fassung der Bekanntmachung vom 8. Oktober 1968 (BGBl. I S. 1082), zuletzt geändert durch Artikel 2 Nr. 2 des Gesetzes vom 2. April 2009 (BGBl. I S. 693)'
- Civil Protection Law, Recast (Zivilschutzgesetzänderungsgesetz, ZSGÄndG)
- Federal Civil Protection Law (Zivilschutz und Katastrophenhilfegesetz, ZSKG); full citation: 'Zivilschutz- und Katastrophenhilfegesetz vom 25. März 1997 (BGBl. I S. 726), das zuletzt durch Artikel 1 des Gesetzes vom 2. April 2009 (BGBl. I S. 693) geändert worden ist'
- Civil Protection Law, recast, (Zivilschutzgesetzänderungsgesetz, ZSGÄndG)
- Proceedings for the nomination of assisting personnel, Verfahren zur Benennung der Einsatzkräfte und Experten für Einsätze im Rahmen des Gemeinschaftsverfahrens der Europäischen Union und Entsendung von deutschen Vertretern zu Workshops, Ausbildungsveranstaltungen, Übungen etc. auf internationaler Ebene sowie die Evaluierung und Steuerung der Ergebnisse (AFKzV Verfahren; Stand: 02/2009)

## **Bilateral Agreements**

- Agreement between the Federal Republic of Germany and the Republic of France on mutual assistance in case of disasters of 3<sup>rd</sup> February 1977
  - Federal Law to the Agreement between the Federal Republic of Germany and the Republic of France on mutual assistance in the case of disasters, BGBl. 1978 II p. 33 ff.
- Agreement between the Federal Republic of Germany and the Grand Duchy of Luxembourg on mutual assistance in cases of disasters of 2<sup>nd</sup> March 1978
  - Federal Law to the Agreement between the Federal Republic of Germany and the Grand Duchy of Luxembourg on mutual assistance in case of disasters, BGBl. 1981 II p. 445 ff.
- Agreement between the Federal Republic of Germany and the Kingdom of Belgium on mutual assistance in cases of disasters of 6<sup>th</sup> November 1980
  - Federal Law to the Agreement between the Federal Republic of Germany and the Kingdom of Belgium on the mutual assistance in the case of disasters, BGBl. 1982 II p. 1006 ff.

- Agreement between the Federal Republic of Germany and the Swiss Federation on mutual assistance in cases of disasters of 28<sup>th</sup> November 1984
  - Federal Law to the Agreement between the Federal Republic of Germany and the Swiss Federation on mutual assistance in cases of disasters, BGBl. 1987 II p. 77 ff.
- Agreement between the Federal Republic of Germany and the Kingdom of Denmark on mutual assistance in cases of disasters of 16<sup>th</sup> May 1985
  - Federal Law to the Agreement between the Federal Republic of Germany and the Kingdom of Denmark on mutual assistance in cases of disasters, BGBl. 1988 II p. 286 ff.
- Agreement between the Federal Republic of Germany and the Republic of Austria on mutual assistance in cases of disasters of 23<sup>rd</sup> December 1988
  - Federal Law to the Agreement between the Federal Republic of Germany and the Republic of Austria on mutual assistance in cases of disasters, BGBl. 1992 II S. 206 ff.
- Agreement between the Federal Republic of Germany and the Kingdom of the Netherlands on mutual assistance in the case of disasters of 7<sup>th</sup> June 1988
  - Federal Law to the Agreement between the Federal Republic of Germany and the Kingdom of the Netherlands on mutual assistance in the case of disasters, BGBl. 1992 II p. 198 ff.
- Agreement between the Federal Republic of Germany and the Russian Federation on mutual assistance in cases of disasters of 16<sup>th</sup> December 1992
  - Federal Law to the Agreement between the Federal Republic of Germany and the Russian Federation on mutual assistance in cases of disasters, BGBl. 1994 II p. 3542 ff.
- Agreement between the Federal Republic of Germany and the Republic of Lithuania on mutual assistance in cases of disasters of 15<sup>th</sup> March 1994
  - Federal Law to the Agreement between the Federal Republic of Germany and the Republic of Lithuania on mutual assistance in cases of disasters, BGBl. 1996 II p. 27 ff.
- Agreement between the Federal Republic of Germany and the United Nations on the Seat of the United Nations Volunteers Program of 10<sup>th</sup> November 1995, cf. Federal Law of 12<sup>th</sup> June 1996, BGBl. II p. 903 ff.
- Agreement between the Federal Republic of Germany and the Republic of Poland on mutual assistance in cases of disasters of 10<sup>th</sup> April 1997
  - Federal Law to the Agreement between the Federal Republic of Germany and the Republic of Poland on mutual assistance in cases of disasters, BGBl. 1998 II p. 1178 ff.
- Agreement between the Federal Republic of Germany and the Republic of Hungary on mutual assistance in cases of disasters of 9<sup>th</sup> June 1997
  - Federal Law to the Agreement between the Federal Republic of Germany and the Republic of Hungary on mutual assistance in cases of disasters, BGBl. 1998 II p. 1189 ff.

- Agreement between the Federal Republic of Germany and the Czech Republic on mutual assistance in cases of disasters of 19<sup>th</sup> September 2000
- Federal Law to the Agreement between the Federal Republic of Germany and the Czech Republic on mutual assistance in cases of disasters, BGBl. 2002 II p. 1874 ff.
- Agreement between the Federal Republic of Germany and the United Nations High Commissioner on Refugees on the Office of the High Commissioner in Germany of 1<sup>st</sup> July 2005, cf. decree of the Federal Government of 30<sup>th</sup> November 2006, Drucksache 875/06

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## **LÄNDER**

### **Legislation/Regulations**

- Baden-Württemberg Civil Protection Act (Landeskatastrophenschutzgesetz. LKatSG, vom 22. November 1999, GBl. S. 625, zuletzt geändert durch Artikel 3 des Gesetzes vom 7. März 2006, GBl. S. 60)
- Baden-Württemberg Vocational School Decree (Verordnung des Kultuministeriums zur Änderung der Verordnung über die Ausbildung und Prüfung in der Oberstufe der Berufsoberschulen im Baden-Württemberg)
- Bavarian Civil Protection Act, (Bayerisches Katastrophenschutzgesetz, BayKSG, vom 24. Juli 1996, GVBl 1996, S. 282; zuletzt geändert durch Gesetz vom 6.05.2008, GVBl. 2008, S. 160)
- Berlin Civil Protection Act (Katastrophenschutzgesetz, KatSGm, vom 11. Februar 1999, GVBl. S. 78; zuletzt geändert durch Gesetz vom 26. Januar 2004, GVBl. 2004, Nr. 4, S. 25)
- Berlin Civil Protection Decree (Verordnung über den Katastrophenschutzdienst Berlin, KatSD-VO Berlin, vom 20. Dezember 2001; zuletzt geändert durch die Erste Verordnung zur Änderung der Verordnung über den Katastrophenschutzdienst Vom 1. September 2005)
- Brandenburg Civil Protection Act (Gesetz zur Neuordnung des Brand- und Katastrophenschutzrechts im Land Brandenburg, vom 24. Mai 2004, GVBl. I Nr. 9, S. 197)
- Brandenburg internal instruction on civil protection (Verwaltungsvorschrift des Ministeriums des Innern zum Brandenburgischen Brand- und Katastrophenschutzgesetz)
- Bremen Civil Protection Law (Bekanntmachung der Neufassung des Bremischen Hilfeleistungsgesetzes vom 19. März 2009, Brem.GBl. Nr. 20 vom 8. April 2009, S. 105)
- Hamburg Civil Protection Act (Hamburger Katastrophenschutzgesetz, HmbKatSG, vom 16. Januar 1978, HmbGVBl. S. 31, zuletzt geändert durch Gesetz vom 18. Juli 2001, HmbGVBl. S. 254)
- Hesse Civil Protection Act (Hessisches Gesetz über den Brandschutz, die Allgemeine Hilfe und den Katastrophenschutz. HBKG, vom 17. Dezember 1998, GVBl. I S. 530)



- Hesse Advisor Board Decree, (Verordnung über den Landesbeirat für Brandschutz, Allgemeine Hilfe und Katastrophenschutz, LBKVO, Hessen vom 11. Oktober 2004, aufgrund des § 69 Nr. 5 des Hessischen Gesetzes über den Brandschutz, die Allgemeine Hilfe und den Katastrophenschutz vom 17. Dezember 1998, GVB1.1 S. 530 wird verordnet
- Mecklenburg-Western Pomeranian Civil Protection Act, (Gesetz über den Katastrophenschutz in Mecklenburg-Vorpommern, Landeskatastrophenschutzgesetz, LKatSG M-V, vom 24. Oktober 2001, GVOBl. M-V S. 393, in Kraft getreten am 30. Oktober 2001, GS Mecklenburg-Vorpommern Gl. Nr. 215 – 3; zuletzt geändert durch Gesetz zur Reform der Landesverwaltung im Innenressort vom 19. Dezember 2005, GVBl. 2005, Nr. 19, S. 643)
- Lower-Saxon Civil Protection Act (Niedersächsisches Katastrophenschutzgesetz, NKatSG, in der Fassung der Bekanntmachung vom 14. Februar 2002, Nds. GVBl. S. 73; geändert durch Artikel 13 des Gesetzes vom 25. März 2009, Nds. GVBl. S. 107)
- Lower-Saxon Sponsorship Guideline for private actors (Richtlinie über die Gewährung von Zuwendungen für Ausstattung und Ausbildung von Katastrophenschutzseinheiten privater Träger im Niedersachsen)
- North Rhine-Westphalia Civil Protection Act (Gesetz über den Feuerschutz und die Hilfeleistung, FSHG, Nordrhein-Westfalen, vom 10. Februar 1998, GV. NRW. 1998 S. 122, zuletzt geändert durch Artikel 13 des Gesetzes zur Kommunalisierung von Aufgaben des Umweltrechts, GV. NRW 2007, Nr. 33, S. 668)
- North Rhine-Westphalia Sponsorship Guideline for private actors (Förderrichtlinie Mitwirkung privater Hilfsorganisationen im Katastrophenschutz Nordrhein-Westfalen)
- North Rhine-Westphalia Reporting Decree (Meldungen an die Aufsichts- und Ordnungsbehörden über außergewöhnliche Ereignisse im Bereich der nicht-polizeilichen Gefahrenabwehr sowie Warnung und Information der Bevölkerung im Nordrhein-Westfalen)
- Rhineland-Palatinate Civil Protection Act (Landesgesetz über den Brandschutz, die allgemeine Hilfe und den Katastrophenschutz, Brand- und Katastrophenschutzgesetz, LBKG, Rheinland-Pfalz vom 2. November 1981, GVBl. S. 247; zuletzt geändert durch Gesetz vom 17. Juni 2008, GVBl. 2008, S. 99)
- Saarland Civil Protection Act (Gesetz über den Brandschutz, die Technische Hilfe und den Katastrophenschutz im Saarland, SBKG, vom 29. November 2006, Amtsbl. des Saarlandes S. 2207, zuletzt geändert durch Artikel 5 des Gesetzes Nr. 1632 vom 21. November 2007, Amtsbl. des Saarlandes S. 2405)
- Saarland Infection Prevention Decree (Verordnung zum Schutz vor Infektionskrankheiten, InfektVO, Saarland)
- Saxon Civil Protection Act (Sächsisches Gesetz über den Brandschutz, Rettungsdienst und Katastrophenschutz, SächsBRKG, vom 24. Juni 2004, GVBl. S. 245, ber. S. 647; zuletzt geändert durch Gesetz vom 29. Januar 2008 GVBl. S. 133)

- Saxon Civil Protection Decree (Verordnung des Sächsischen Staatsministeriums des Innern über den Katastrophenschutz im Freistaat Sachsen, Sächsische Katastrophenschutzverordnung, SächsKatSVO)
- Saxon internal Instructions for the cooperation with private actors (Verwaltungsvorschrift des Sächsischen Staatsministeriums des Innern über die Mitwirkung privater Hilfsorganisationen im Katastrophenschutz, KatSMitwirkungsVwV, vom 26. Juni 1995)
- Saxon internal instructions for high-water-reporting (Verwaltungsvorschrift des Sächsischen Staatsministeriums für Umwelt und Landwirtschaft zum Hochwassernachrichten- und Alarmdienst im Freistaat Sachsen, Hochwassermeldeordnung, VwV HWMO)
- Saxony-Anhalt Civil Protection Act (Katastrophenschutzgesetz des Landes Sachsen-Anhalt, KatSG-LSA, in der Fassung der Bekanntmachung vom 5. August 2002, GVBl. 2002, S. 339, zuletzt geändert durch Gesetz vom 28. 6. 2005, GVBl. 2005, S. 320)
- Schleswig-Holstein Civil Protection Act, (Gesetz über den Katastrophenschutz in Schleswig-Holstein, Landeskatastrophenschutzgesetz, LKatSG, in der Fassung vom 10. Dezember 2000, GVBl. Schl.-H. 2000 S. 665, geändert durch Artikel 2 des Gesetzes zur Änderung des Brandschutzgesetzes und des Landeskatastrophenschutzgesetzes vom 7. Januar 2008, GVBl. Schl.-H. 2008 S. 16)
- Schleswig-Holstein Guidance for the advancement of measures in cases of disasters, (Richtlinie zur Förderung von Maßnahmen auf dem Gebiet des Katastrophenschutzes im Schleswig Holstein)
- Thuringian Civil Protection Act, Gesetz über den Brandschutz, die Allgemeine Hilfe und den Katastrophenschutz, Thüringer Brand- und Katastrophenschutzgesetz, ThürBKG, in der Fassung der Neubekanntmachung vom 5. Februar 2008, GVBl. S. 22, geändert durch Artikel 4 des Gesetzes zur Änderung des Thüringer Beamtenrechts vom 20. März 2009, GVBl. S. 266)

## **International Agreements**

- Agreement between Brandenburg and Poland on assistance in cases of disasters (Vereinbarung zwischen dem Ministerium des Innern des Landes Brandenburg und dem Minister für Innere Angelegenheiten und Öffentliche Verwaltung der Republik Polen über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen)
- Agreement on biologic weapons between Germany, the Netherlands, North Rhine-Westphalia and Lower Saxony (Bekanntmachung über den Geltungsbereich des Übereinkommens über das Verbot der Entwicklung, Herstellung und Lagerung bakteriologischer (biologischer) Waffen und von Toxinwaffen sowie über die Vernichtung solcher Waffen, Bundesrepublik Deutschland, Niederlande, Nordrhein-Westfalen, Niedersachsen)
- Agreement on the execution of the German-French treaty on mutual assistance in cases of disasters between Lothringen, Moselle and Saarland (Absprache zwischen dem Präfekten der Region Lothringen, Präfekten des

Departements Moselle und der Ministerin für Inneres und Sport des Saarlandes über die Durchführung des Abkommens vom 3. Februar 1977 zwischen der Bundesrepublik Deutschland und der Französischen Republik über die gegenseitige Hilfeleistung bei Katastrophen oder schweren Unglücksfällen)

- Damage Reporting Agreement between Lothringen, Moselle and Saarland (Absprache zwischen dem Präfekten der Region Lothringen, Präfekten des Departements Moselle und der Ministerin für Inneres und Sport des Saarlandes über die gegenseitige Information bei Gefahren und Schäden, die sich auf das Hoheitsgebiet des Nachbarstaates auswirken können)
- Euregio Maas-Rhine acts and agreements on cross-boarder emergencies medical services (Gesetze und Regelungen, Abkommen und Vereinbarungen zum grenzüberschreitenden Einsatz von medizinischen Rettungsdiensten und Feuerwehren in der Euregio Maas-Rhein)
- Dutch-North Rhine-Westphalia declaration on mutual assistance in cases of disasters (Gemeinsame Erklärung des Ministers und des Staatssekretärs für Inneres und Königsbeziehungen der Niederlande und des Innenministers des Landes Nordrhein-Westfalen bezüglich grenzüberschreitender Zusammenarbeit)
- Saxon internal instructions on cross-boarder assistance in cases of disasters (Verwaltungsvorschrift des Sächsischen Staatsministeriums des Innern zur Förderung von Maßnahmen der grenzüberschreitenden Zusammenarbeit mit der Tschechischen Republik und der Woiwodschaft Niederschlesien in den Bereichen Brandschutz, Rettungsdienst und Katastrophenschutz für den Geltungsbereich der entsprechenden Gemeinschaftsinitiativprogramme INTERREG III A, Verwaltungsvorschrift zur Förderung Brandschutz, Rettungsdienst, Katastrophenschutz INTERREG III A – VwV BRK-INTERREG Förderung)
- Agreement between Mecklenburg-Western Pomerania and Poland on mutual assistance in cases of disasters (Vereinbarung zwischen dem Minister für Innere Angelegenheiten und Öffentliche Verwaltung der Republik Polen und dem Innenministerium des Landes Mecklenburg-Vorpommern über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen)

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## **MUNICIPALITIES**

### **International Agreements**

- Agreement between the City of Aachen and the City of Heerlen on mutual assistance in cases of disasters (Vereinbarung zwischen der Stadt Aachen und der Gemeinde Heerlen über gegenseitige Hilfeleistung bei Brandbekämpfung und Unglücksfällen)
- Agreement between the City of Aachen and the City of Kelmis on mutual assistance in cases of disasters (Vereinbarung zwischen der Stadt Aachen und der Gemeinde Kelmis über gegenseitige Hilfeleistung bei der Brandbekämpfung und beim Rettungsdienst)

- Agreement between the City of Aachen and the City of Kerkrade on mutual assistance in cases of disasters (Vereinbarung zwischen der Stadt Aachen und der Gemeinde Kerkrade über gegenseitige Hilfeleistung bei der Brandbekämpfung und Rettungsdienst)
- Agreement between the City of Aachen and the City of Vaals on mutual assistance in cases of disasters (Vereinbarung zwischen der Stadt Aachen und der Gemeinde Vaals über gegenseitige Hilfeleistung bei der Brandbekämpfung und Rettungsdienst)

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## **Jurisprudence**

- European Court of Justice, Decision of 14 September 2006, C 386/04 ('Stauffer')
- Federal Court of Finance (Bundesfinanzgerichtshof), Decision of 20 December 2006, I R 94/02, DStZ 2007, 196.
- Federal Court of Justice (Bundesgerichtshof) 53, 181
- Highest Regional Court of Bayern (Bayerisches Oberlandesgericht) 86, 61
- Higher Regional Court Saarbrücken JZ 89, 904
- Higher Regional Court Düsseldorf RIW 93, 325
- Regional Court (Landgericht) Traunstein IPRspre 98, Nr. 21

## Annex II

### Major natural disasters in Germany since 1976<sup>216</sup>

Year	Type of disaster	Country
1984	Hailstorms	Germany
<b>1993</b>	<b>Floods</b>	<b>Germany/ Western Europe</b>
1994	Hailstorm	Germany
<b>1995</b>	<b>Floods</b>	<b>Germany</b>
<b>1997</b>	<b>Floods</b>	<b>Germany</b>
<b>1999</b>	<b>Winterstorm „Lothar“</b>	<b>Germany</b>
2000	Winterstorm „Kerstin“	Germany
2000, May	Hurricane „Ginger“	Germany
2001, July	Storms	Germany
2001, August	Thunderstorm, Hail	Southern Germany
2002, January	Floods	Germany
2002, January	Winterstorm „Jennifer“	Europe: a. o. Northern Germany
2002, February	Winterstorm „Anna“	Europe: a. o. Germany
<b>2002, March</b>	<b>Floods</b>	<b>Europe: a. o. Germany (Elbeflood)</b>
2002, May	Storms	Southern Germany
2002, June	Floods	Europe: a. o. Germany
2002, July/August	Storms	Southern- und Northern Germany
2002, October	Winterstorm „Jeanette, Irina“	Europe: a. o. Germany
2002, November	Storms	Europe: a. o. Germany

<sup>216</sup> Besonders relevante Ereignisse fett markiert.

2003, January	Winterstorm (Calvann)	Europe: a. o. Germany
2003, May	Storms	Southern Germany
<b>2003, July/August</b>	<b>Heat wave, Drought, Forest Fires</b>	<b>Europe: a. o. Germany</b>
2004, January	Winterstorm „Gerda“	Germany
2004, November	Winterstorms	Europe: a. o. Germany
2005, January	Winterstorm „Erwin“	Europe: a. o. Germany
2005, August	Floods	Europe: a. o. Germany
2006, Febr./March	Winter damages/ Snowstorms	Europe: a. o. Germany
2006, March	Floods	Europe: a. o. Germany
2006, July	Heat wave	Europe: a. o. Germany
2006, October	Winterstorms	Europe: a. o. Germany
<b>2007, January</b>	<b>Winterstorm „Kyrill“</b>	<b>Europe: a. o. Germany</b>
2007, January	Winterstorm „Franz“	Europe: a. o. Germany
2007, May	Storms, Landslides	Germany
2008, January	Winterstorm „Paula“	Europe: a. o. Germany
2008, March	Winterstorm „Emma“	Europe: a. o. Germany
2008, June	Hailstorm, Storms, sudden floods	Northern Germany

## Operations/ Participation of the BBK (GMLZ) since 2006<sup>217</sup>

Jahr	Incident	Start	End
<b>2006</b>	<b>Bad Reichenhall</b>	<b>04.01.06</b>	<b>10.01.06</b>
2006	Egypt	03.02.06	03.02.06
<b>2006</b>	<b>Heavy snowfall Bavaria</b>	<b>09.02.06</b>	<b>17.02.06</b>
2006	Floods Algeria	14.02.06	24.02.06
<b>2006</b>	<b>Avian flu</b>	<b>19.02.06</b>	<b>28.04.06</b>
2006	Kirghizia	28.02.06	03.03.06
<b>2006</b>	<b>Flood Germany/ Europe</b>	<b>29.03.06</b>	<b>03.03.06</b>
<b>2006</b>	<b>World Championship 2006</b>	<b>18.05.06</b>	<b>01.06.06</b>
2006	Earthquake Indonesia	27.05.06	03.08.06
2006	Explosion Mumbay	11.07.06	11.07.06
2006	Conflict area Lebanon	16.07.06	23.08.06
2006	Forest fire Spain	09.08.06	14.08.06
2006	Forest fire Georgia	16.08.06	21.08.06
2006	Ethiopia Flood	20.08.06	04.09.06
2006	Ivory Cost	06.09.06	08.09.06
<b>2006</b>	<b>Visit of the Pope</b>	<b>09.09.06</b>	<b>14.09.06</b>
2006	Gasexplosion Lehrberg	22.09.06	23.09.06
2006	Transrapid	22.09.06	24.09.06
2006	Southern Caucasus	28.09.06	17.10.06
2006	Oil Spill Bulgaria	04.10.06	09.10.06

<sup>217</sup> Operations in Germany bold.

2006	First Aid Israel	05.10.06	12.10.06
2006	Tsunami Japan	15.11.06	20.11.06
2006	Power Failures Europe	27.11.07	28.11.07
2006	Somalia	25.11.06	27.11.06
2006	Request Serbia	21.11.06	22.11.06
2007	Storm Kyrill	18.01.07	21.01.07
2007	Floods Bolivia	24.02.07	03.04.07
2007	Assistance Afghanistan	11.05.07	
2007	G8-Summit	06.06.07	08.06.07
2007	SAR Lebanon	21.06.07	22.06.07
2007	Forest Fires Greece	27.06.07	29.06.07
2007	Forest Fires Cyprus	30.06.07	30.06.07
2007	Forest Fires Greece	05.07.07	06.07.07
2007	Forest Fires Cyprus	16.07.07	17.07.07
2007	Forest Fires Greece	19.07.07	02.08.07
2007	Forest Fires Bulgaria	21.07.07	22.07.07
2007	Forest Fires Albania	24.07.07	07.08.07
2007	Forest Fires Macedonia	25.07.07	06.08.07
2007	Forest Fires Albania	24.08.07	27.08.07
2007	Earthquake Peru	17.08.07	24.08.07
2007	Forest Fires Italy	27.08.07	28.08.07
2007	Forest Fires Greece	24.08.07	04.09.07
2007	Caribbean Request	03.09.07	05.09.07



2007	Forest Fires Paraguay	14.09.07	17.09.07
2008	Earthquake Kirghizia	03.01.08	11.01.08
2008	Floods Bolivia	25.01.08	26.02.08
2008	Crash of Satellite	27.01.08	21.02.08
2008	Floods Ecuador	21.02.08	19.03.08
2008	Hurricane Emma	29.02.08	19.03.08
2008	Albania Explosion	17.03.08	18.03.08
2008	Cyklon Myanmar	07.05.08	19.06.08
2008	Earthquake China	13.05.08	01.06.08
2008	Forest Fires Sweden	02.06.08	03.06.08
2008	European Championship	07.06.08	30.06.08
2008	Forest Fires Norway	13.06.08	16.06.08
2008	Ferry Accident Philippines Typhoon Fengshen	21.06.08	07.07.08
2008	Forest Fires Greece	24.07.08	24.07.08
2008	Floods South East Europe	29.07.08	20.08.08
2008	Olympic Games Beijing	08.08.08	24.08.08
2008	Crisis Georgia	10.08.08	04.09.08
2008	Forest Fires Montenegro	22.08.08	01.09.08
2008	Tornados Caribbean	08.09.08	24.09.08
2008	Forest Fires Bulgaria	08.09.08	11.09.08
2008	Floods Honduras	30.10.08	10.11.08
2008	Floods Yemen	31.10.08	10.11.08
2008	Flood Guatemala	04.11.08	10.11.08
2008	Attack India	26.11.08	28.11.08

2009	NATO-summit	27.03.09	04.04.09
2009	Gas Failure Moldavia	09.01.09	23.01.09
2009	Heavy Snowfalls Great Britain	06.02.09	24.02.09
<b>2009</b>	<b>Landslide Cologne</b>	<b>03.03.09</b>	<b>13.03.09</b>
2009	Namibia Floods	23.03.09	08.04.09
2009	Earthquake Italy	06.04.09	04.05.09
2009	New Flu, Influenza A-H1N1	25.04.09	
2009	Floods Tadschikistan	20.05.09	05.06.09
2009	Hurricane Session	16.06.09	
2009	Forest Fires France	08.07.09	13.07.09
2009	Floods Benin	12.07.09	20.07.09
2009	Forest Fires Spain	24.07.09	27.07.09
2009	Forest Fires France	23.07.09	27.07.09
2009	Floods Togo	23.07.09	27.07.09
2009	Forest Fires Italy	23.07.09	30.07.09
2009	Forest Fires Albania	28.07.09	29.07.09
2009	Trove of Chemicals Guinea	03.08.09	12.08.09
2009	Forest Fires Portugal	13.08.09	24.08.09
2009	Forest Fires Albania	13.08.09	14.08.09
2009	Typhoon Morakot Taiwan	13.08.09	10.09.09
2009	Forest Fires Greece	22.08.09	26.08.09
2009	Forest Fires Portugal	31.08.09	
2009	Floods Burkina Faso	03.09.09	
2009	Earthquake Georgia	10.09.09	14.09.09

## Anhang III

### International Assistance (Germany)

