



Irish **Red Cross**

A Study for Strengthening the Legal and Policy Framework for **International Disaster Response in Ireland**



Prepared on behalf of the Irish Red Cross by the Centre for Humanitarian Action, University College Dublin.

The views expressed in this report are those of the authors and do not necessarily reflect the views of the Irish Red Cross.

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GLOSSARY

An Bord Altranais	Nursing Board
An Garda Síochána	Police Service
An Taoiseach	Prime Minister
Assisting Actor	A State or non-governmental organisation or a person from outside the Host Nation that provides support during a disaster relief effort
Córas Iompair Éireann	Public Transport Company of Ireland
Dáil Éireann	Lower House of the Oireachtas
Host Nation	The Participating State in Host Nation Support which, by agreement, receives international intervention modules/teams deployed by other Participating States or other nations to cope with the consequences of a disaster or receives in-kind assistance and/or other equipment/material to cope with the consequences of a disaster
Met Éireann	Irish National Meteorological Service
Oireachtas	Parliament
Participating State	A State participating in the EU Civil Protection Mechanism

ABBREVIATIONS

ATCA	Aid to the Civil Authority
CAWT	Cooperation and Working Together
CCDBI	Commissioners of Charitable Donations and Bequests for Ireland
CECIS	Common Emergency Communication and Information Service
CRO	Companies Registration Office
CTA	Common Travel Area
EADRCC	Euro-Atlantic Disaster Response Coordination Centre
EEA	European Economic Area
EFTA	European Free Trade Association
ERCC	Emergency Response Coordination Centre
EU	European Union
EWRS	Early Warning Response System
HPSC	Health Protection Surveillance Centre
HSA	Health and Safety Authority
HSE	Health Service Executive
HNS	Host Nation Support
IAA	Irish Aviation Authority
IAEA	International Atomic Energy Agency
IDRL	International Disaster Response Laws, Rules and Principles
IFRC	International Federation of Red Cross and Red Crescent Societies
MIC	Monitoring and Information Centre
MoU	Memorandum of Understanding
NATO	North Atlantic Treaty Organisation
NCG	National Coordination Group
NEPNA	National Emergency Plan for Nuclear Accidents
NIFRS	Northern Ireland Fire and Rescue Service
OPCW	Organisation for the Prohibition of Chemical Weapons
OSOCC	On-Site Operations Coordination Centre
PHECC	Pre-Hospital Emergency Care Council
PSNI	Police Service of Northern Ireland
RAS BICHAT	Rapid Alert System for Biological or Chemical Attacks
RASFF	Rapid Alert System for Food and Feed
RPPI	Radiological Protection Institute of Ireland
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNDAC	United Nations Disaster Assessment and Coordination
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
VAT	Value added tax
WHO	World Health Organisation

EXECUTIVE SUMMARY

Legal issues are often overlooked as part of preparedness planning for disasters. This is particularly so for situations where international assistance may be needed. Sadly, vital international assistance can be hampered during large-scale disaster operations by legal and regulatory issues such as: a lack of legal recognition for foreign relief providers and their organisations; customs delays and tax requirements for medication, relief goods and equipment; complications with visas for relief personnel; and a lack of recognition of foreign professional qualifications in emergency situations.

While it may always be hoped that international disaster relief will never be required in Ireland or in any other country for that matter, it is essential to be prepared. The report investigates the extent to which Ireland's existing legal and policy framework prevents or mitigates such legal and regulatory issues from arising and provides recommendations concerning how Ireland can strengthen its legal preparedness in accordance with international guidelines.

While most aspects of Ireland's existing legal and policy framework concerning incoming international assistance comply with international guidelines, a number of areas of concern can be identified. The report contains recommendations relating to the wide range of legal and policy domains examined as part of the research study. One recommendation provides that dogs trained in urban search and rescue techniques ought to be given the same status as guide dogs so as to facilitate their arrival in the State in the event of a disaster such as a building collapse. Another recommendation provides that a factsheet containing crucial information concerning Ireland's disaster management system, geography ought to be prepared in advance in order to help brief incoming relief actors. It is also recommended that government review the impact of recently legislated for vetting requirements on the ability of incoming relief actors to treat children and vulnerable persons.

INTRODUCTION

During large-scale disaster relief operations, vital international support can be hampered by a range of legal and regulatory issues. These can include delays in processing visas for relief providers; customs delays and tax requirements for medications, relief goods and equipment; and delays in recognising foreign professional qualifications.

The European Union has therefore been exploring the manner in which its Member States receive external disaster assistance over the past few years, both from within and outside the EU. The EU Civil Protection Committee approved a version of the EU Host Nation Support Guidelines on 18th January 2012. The Council of the European Union subsequently received a Commission Staff Working Document on the 5th May 2012 concerning the Host Nation Support Guidelines (HNS Guidelines).¹ While this document does not represent an official position of the Commission on this issue, it shall be referred to in each of the relevant sections of the report. The HNS Guidelines reflect and complement the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines). The IDRL Guidelines were unanimously adopted in 2007 by States, including Ireland, and Red Cross and Red Crescent actors at the 30th International Conference of the Red Cross and Red Crescent.²

The Centre for Humanitarian Action at University College Dublin was commissioned by Irish Red Cross in April 2013 to undertake a study with the objective of outlining Ireland's legal and policy framework for facilitating an international disaster response and determining how it can be strengthened in accordance with both the HNS and IDRL Guidelines.

METHODOLOGY

The objective of the study was achieved in stages. Firstly, a study framework was developed by means of desk-based research involving analysis of the IDRL and HNS Guidelines. The framework constituted a checklist of questions based on the IDRL and HNS Guidelines relating to the range of legal and policy domains of relevance to the study. It was validated through interviews with senior personnel in the Office of Emergency Planning, the International Federation of Red Cross and Red Crescent Societies and disaster law experts in the German Red Cross.

The completed study framework served to orientate the legal and policy research conducted in analysing Ireland's existing legal and policy framework for international disaster response. The results of this research, together with tentative recommendations, were submitted to relevant stakeholders for validation by means of focus group discussions and interviews. This aided in the evaluation of the current legal and policy framework and the development of recommendations as foreseen in the third and fourth objectives respectively.

The selection of relevant stakeholders for the purpose of the focus group discussions benefitted from suggestions by the members of the research study's Steering Group. Invitations to stakeholders were issued by Irish Red Cross and reminders were provided by the Office of Emergency Planning. Four focus groups were held on the week beginning the 24th June 2013 in relation to the following key themes: Personnel; Goods and equipment; Transport; Requests for, offers of, initiation, termination and coordination of relief. These issues were chosen on the basis that there was a wide variety of stakeholders that could contribute on each of the issues. Consultations with stakeholders concerning the remaining issues were conducted by means of semi-structured interviews. These were conducted either in person or by telephone. Members of the Steering Group provided further comments on initial drafts of the report to further validate the process.

CONTEXT

1. Country profile overview



The Republic of Ireland has a total area of 70,273 sq km and a coastline of 1,448 km.³ It has a temperate maritime climate, which is modified by the North Atlantic Current, and generally enjoys mild winters and cool summers. It is situated in the northwest of Europe in a strategic location on major air and sea routes between North America and Northern Europe.⁴

Ireland has a population of approximately 4.5 million and, at 67 persons per sq km, has a low population density relative to other EU Members.⁵ Over the last twenty years Ireland's population has increased by over one million persons, or 30.1%. The age dependency ratio in European terms is quite favourable. However, the ratio is increasing year on year.⁶

While the first official language of Ireland is Irish,⁷ the vast majority of the population speaks English on a daily basis. In terms of religious composition, over 84% of respondents to the 2011 Census declared themselves Roman Catholic. Other religions by size of population include Anglicanism, Islam, Presbyterianism, Orthodox Christianity, and Apostolic/Pentecostal Christianity.⁸

Despite ongoing economic challenges, Ireland's commitment to overseas humanitarian aid is well established⁹ and the country is ranked highly on the Human Development Index¹⁰ as well as being considered one of the most globalised countries in the world.¹¹

1.1 Administration and Territorial Structure

Ireland seceded from the United Kingdom in the form of the Irish Free State in 1922 under the Constitution of the Irish Free State (Saorstát Éireann) Act 1922. On independence the new state inherited many features of the British system of government. In 1937 a new constitution was approved by referendum.¹²

Ireland has a bicameral parliamentary system. The President is Head of State. He/she is responsible for appointing the Taoiseach (Prime Minister) who is nominated by Dáil Éireann (the Lower House of Parliament).

There are currently three tiers of sub-national government in Ireland. Eight regional authorities review the overall needs and development requirements of the regions and monitor the use of European Union structural funds. The 34 local authorities at county and city level, which have an equal standing, are the mainline providers of services within the local government architecture. 80 town councils carry out a representational role and have a varying range of local government functions.¹³ Local government in Ireland is currently subject to reforms to be completed by 2014. Amongst the reforms to be introduced are the replacement of the town authorities by municipal districts with the view to reducing overlap and duplication of responsibilities and the reduction of the number of regional authorities from ten to three.¹⁴

1.2 Possible Disaster Scenarios

For the purposes of the study a disaster is defined as a serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses. The study is limited to disasters resulting from natural and human-made hazards. The definition excludes situations of armed conflict but includes circumstances arising from acts of violence that do not meet the criteria of armed conflict under international law. The prime focus is on such disasters which exceed national coping capacities.

Paragraph 9.1 of the Host Nation Support Guidelines recommends that participating States prepare an analysis of national risks and possible capacity gaps of national resources. It is envisaged in the same section of the Guidelines that such an analysis would help define the moment when a country may activate the EU Civil Protection Mechanism. A national Risk Register detailing a wide range of risks has been recently published.¹⁵ Figure 2 displays the current assessment of relative risk for the key hazards in Ireland.



Figure 2: National Risk Matrix¹⁶

The 2013 “*Green Paper on Defence*” states that the main international threats to domestic security in Ireland are terrorist acts or major emergency incidents, both of which come within the definition of disaster applied in this report.¹⁷

The Green Paper also recognises that the nature of these security threats is such that cooperation between countries is necessary both in defining them and responding to them.¹⁸

Consultations with government officials indicated that many of the risks Ireland face fall into the medium-probability, high-impact category and are generally similar to those faced by other EU Member States.

One major trend resulting in increased vulnerability to disaster risk worldwide is climate change. Figure 3 details the actual and projected impact of climate change in Ireland as detailed in the “*National Climate Change Adaptation Framework*”.¹⁹

	Observed Impacts	Projected Impacts
Temperature	Temperature have increased by 0.8°C since 1990; and average of 0.075°C per decade	Average temperatures will rise by between 1°C and 3°C by 2100 compared to the 1961-2000 average
Precipitation	An increase in average annual rainfall, especially in the West with regional seasonal differences	Wetter winters in the west, drier summers in the south-east with between 5-25% less rainfall in 2021 to 2060
Extreme Events	A decrease in storm frequency but increased storm intensity	Slightly fewer storms but more intense with a northward shift in storm tracks
Sea Levels	During satellite era a sea level rise of 3.5cm per decade	A rise of 60cm to 2100; however, considerable melting of land ice could intensify this impact

Figure 3: Projected Impacts of Climate Change on Ireland, National Climate Change Adaptation Framework, 2012

The projected changes will result in more frequent and greater extremes of temperature and more frequent intense storms together with an increased risk of drought. Increases of precipitation are likely to exacerbate the risk of flooding. Met Éireann has indicated that the projected average temperature change of 1-3 degrees would depend on future levels of greenhouse gas emissions. Met Éireann also expects there to be an increase in the frequency of extreme rainfall events with changes in overall precipitation levels of between 10 and 15% by the middle of the 21st century. Sea levels are expected to rise by 30-75 cm, and perhaps up to 100cm under the highest greenhouse gas emission scenario, towards the end of the century compared to current levels.²⁰

Some plausible scenarios that would require international assistance are outlined below.

- **Major flooding** - Based on previous occurrences, flooding is perhaps the most likely emergency scenario where Civil Protection assistance might be required. In such instances high capacity pumping, water purification, flood containment, flood rescue using boats modules could be requested under the Civil Protection Mechanism. The “*National Preliminary Flood Risk Assessment*”, conducted in 2011, determined that areas subject to serious flooding in the past and were subject to flood relief schemes built by the Office of Public Works or Local Authorities be designated as areas for further risk assessment.²¹
- **Major cyber-incident** - While technological developments have led to the reduction of the risk of disaster in many fields, they can also create new risks. Internationally, cyber attacks on businesses, State institutions and critical infrastructure have been undertaken in recent years.²² A cyber attack could carry with it unpredictable cascading effects.

- **Major terrorist incident** - While the peace process has reduced the threat of domestic terrorism on the island of Ireland considerably, so-called 'dissident republican' groups remain intent on using violence to achieve their aims. Furthermore, civil conflict in the Middle East and North Africa is considered significant for the terrorist threat in the EU.²³ Despite this, the threat to Ireland as a target of international terrorism is currently assessed as low.²⁴
- **Disruption of energy supply** – Ireland currently imports most of its gas needs and all of its oil needs. Over 60% of its electricity is generated by imported oil and gas. While there is a reserve oil supply of 90 days Ireland is nonetheless highly vulnerable to a disruption of energy supplies that could overwhelm national coping capacity.²⁵
- **Major transportation incident** –A significant amount of transatlantic air traffic passes through Irish airspace. Ireland is also highly dependent on maritime transport. Incidents such as an air-crash of a large passenger aircraft,²⁶ or a passenger ferry crash would place considerable strain on Ireland's disaster response capacities.²⁷
- **Pandemic disease** - The possibility of a pandemic is identified as a threat to the national security of Ireland.²⁸ In relation to pandemic influenza, a national plan has been developed, which is currently being revised.²⁹ Despite increased international travel to and from Ireland, the physical isolation of the country combined with its relatively low population density lowers the risk to Ireland of a pandemic in comparative terms. The World Health Organisation issues a monthly risk assessment summary for influenza capable of spreading from animals to humans.³⁰
- **Major structural collapse** – Despite Ireland's membership of the International Search and Rescue Advisory Group (INSARAG) there is no specialised urban search and rescue team in Ireland. As such, the collapse of buildings resulting from structural weakness or other causes might necessitate the mobilisation of assistance from outside the jurisdiction, including Heavy and Medium Urban Search and Rescue civil protection teams under the EU's Civil Protection Mechanism.
- **Nuclear or radiological emergency** - Three categories of incident have been identified by the Radiological Protection Institute of Ireland (RPRI) that might lead to a nuclear or radiological emergency. These categories relate to an accident involving a radiation source regulated under licence by the RPRI, a deliberate criminal or terrorist attack, or a major incident threat with radiological consequences. New nuclear power plants may be built at up to eight sites in the UK before 2025. The only scenario having any observable health effects would have a 1 in 33 million per year chance of occurrence. In such an unlikely scenario there would be a long term risk of an increase in cancer rates if agricultural and food precautions are not taken.³¹ The National Emergency Plan for Nuclear Accidents (NEPNA) is geared toward a major emergency at a nuclear installation abroad which could result in radioactive contamination reaching Ireland.³²
- **Tsunami** – The "*National Preliminary Flood Risk Assessment*" found that the probability of a tsunami affecting Ireland is very low and that the threat posed by tsunami likely to affect the coast would be less than conventional surge-related coastal hazards.³³ Nonetheless, there is some scientific evidence that should the side of the Cumbre Vieja volcano in the Canary Islands collapse into the Atlantic Ocean, a tsunami may be triggered that would rapidly travel north.³⁴ There is also historical evidence that the Great Lisbon Earthquake of 1755 caused waves of up to ten metres on the southern coast of Ireland.³⁵ Tsunami waves that would result from the collapse of the Cumbre Vieja volcano or an earthquake of a similar magnitude to the Great Lisbon Earthquake could devastate the southern and western coasts and potentially overwhelm national coping capacities.

Ireland's exposure to disaster risk is comparatively low. Due to the location of Ireland about

2,500 km to the east of the nearest tectonic plate boundary, Ireland is highly unlikely to directly incur casualties from major earthquakes or volcanoes. The volumes of hazardous materials in transit or storage are also low relative to other EU Member States.³⁶ It is unlikely that forest fires would reach a scale requiring international assistance due to the fragmented nature of forest cover in Ireland and the ocean maritime climate.

It is difficult to conceive of disasters that are highly diverse, extremely rare (or may never have yet occurred in Ireland) and abstract and indeterminate. While the probability of a disaster overwhelming Ireland's disaster management capabilities is low, research suggests that low probability, high impact risks are worth the careful consideration of policymakers despite various psychological and political obstacles to such consideration.³⁷

Disasters of the scale envisaged in this report would most likely need a coordinated response from a wide range of actors. In support of the emergency services in Ireland, there are a number of options in obtaining external assistance. There is a long tradition of mutual assistance between response agencies on either side of the border with Northern Ireland. In addition, the EU's Civil Protection Mechanism may also be used in drawing support from other EU Member States. Ireland would also have the option of drawing on support through NATO's Euro-Atlantic Disaster Response Council. *In extremis*, the humanitarian apparatus of the wider international community, including that of the United Nations, could be utilised.

2. Brief analysis of pertinent legal framework

2.1 International and Regional Legal Bases for Action

There has been a general reluctance on the part of the international community to create an explicit legal obligation to either provide or receive international disaster assistance. Rather, international instruments relating to disaster management, where they exist, focus primarily on a single kind of disaster (e.g. nuclear accidents) or a particular kind of response activity (e.g. telecommunications assistance).

2.1.1 United Nations

In 2012 two United Nations General Assembly Resolutions encouraged Member States and regional organisations to take further steps to review and strengthen their legal frameworks for international disaster relief.³⁸ Similarly, UNESCO Resolution 2011/8 of 2011 also encouraged Member States and regional organisations to take further steps to strengthen operational and legal frameworks for international disaster relief.³⁹ Both sets of resolutions reaffirm previous resolutions.⁴⁰

A Special Rapporteur of the International Law Commission is in the process of drafting articles concerning disasters, which relate to the obligations of affected States and incoming providers of international assistance.⁴¹

2.1.3 European Union Civil Protection Mechanism

Civil protection first appeared on the agenda of the European Union in 1985 at a Council meeting in Rome. Several resolutions aimed at enhancing cross-border civil protection in the EU followed.⁴² In 2001 the Community Mechanism for Civil Protection was established.⁴³ The Mechanism involves the training of civil protection teams in the Member States and the management of an Emergency Response Coordination Centre⁴⁴ (ERCC) for expedited liaison amongst civil protection authorities in the EU and the Member States. The Common Emergency Communication and Information System (CECIS) is managed by the ERCC and is linked to all Member States as the ICT tool for coordinating and deploying assistance in the event of a request for assistance.

Article 196 of the Treaty on the Functioning of the European Union provides a treaty basis to civil protection cooperation within the European Union and provides that the EU will promote 'swift, effective operational cooperation' between national civil protection services.⁴⁵ The

Solidarity Clause contained in the same treaty imposes an obligation on Member States to ‘act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster.’⁴⁶ The Union is under an obligation to mobilise all the instruments at its disposal, including the military resources made available by the Member States. Any assistance provided is subject to the prior approval of the affected Member State.

2.1.4 NATO/Partnership for Peace

NATO has been involved in civil protection to varying degrees since the 1950s. This involvement has expanded since the adoption of its 1999 “*Strategic Concept*”, which explicitly recognised that major civil emergencies can pose a threat to security and stability.⁴⁷

While not a full member, Ireland’s relations with NATO have been conducted through the Partnership for Peace framework since 1999. Ireland’s partnership relates to planning for peacekeeping and peace support, communications, command and control, operational procedures and logistics.⁴⁸

NATO has developed a “*Memorandum of Understanding on the Facilitation of Vital Cross Border Transport*” that has been signed by 30 countries but not Ireland.⁴⁹ Furthermore, a checklist and guidelines for requesting, providing and receiving international assistance has also been developed.⁵⁰

Ireland has representation on NATO’s Civil Emergency Planning Committee. Meetings of this Committee are held twice-yearly in plenary, encompassing all NATO and Partner countries. Permanent meetings with Partners are held approximately once per month.⁵¹

The Euro-Atlantic Disaster Response Coordination Centre (EADRCC) acts as a liaison point between a country requesting assistance and NATO member countries and Partner countries. The EADRCC recognises that the UN retains the primary role in the coordination of international emergency aid.

3. Bilateral Treaties and Agreements

Ireland has no general treaty mechanism in place with its nearest neighbour, the United Kingdom, for mutual assistance in the event of an emergency. This is unusual perhaps given the many bilateral mutual assistance treaties entered into by and between other EU Member States. Political sensitivities historically between the two jurisdictions together with the island geography of the two jurisdictions may have militated against the desire and the need to enter into such a binding international agreement. Despite the absence of a bilateral mutual assistance treaty, an agreement was entered into by the two countries in 2004 that provides for early notification to the other party in the case of a nuclear or radiological incident.⁵²

Mutual assistance arrangements between the two jurisdictions have traditionally been characterised by pragmatic ad-hoc cooperation. At the strategic level there is a strong set of formal⁵³ and informal relationships between Government Departments and offices in Ireland responsible for emergency planning and their counterparts at Westminster in London and at Stormont in Northern Ireland. At the operational level there is frequent contact and cooperation in responding to emergencies. The *“Framework for Major Emergency Management”*, which provides guidance to the emergency services in co-ordinating their response to major emergencies, details that where the equivalent of the principal response agencies in Northern Ireland are involved in emergency response in Ireland, they ought to be invited to participate in Local and Regional Major Emergency Co-ordination Groups as appropriate.⁵⁴

Northern Ireland

Mutual assistance between the emergency services in Northern Ireland and in the border counties of the Republic of Ireland has a long tradition. The North-South Ministerial Council has considered cross-border emergency planning on its agenda and Northern Ireland's Civil Contingencies Framework also makes reference to cooperation with the Republic of Ireland.⁵⁵ The *“Framework for Major Emergency Management”* provides for cross-border cooperation with emergency services in Northern Ireland.⁵⁶ Additionally, the major emergency plans of several local authorities in the Republic of Ireland make provision for cross-border assistance.⁵⁷

Health Service Cooperation

Cooperation between the statutory health services north and south of the border is facilitated by the organisation, Cooperation and Working Together (CAWT).⁵⁸ Elements of CAWT's activities relate to emergency planning, which include joint exercises⁵⁹ and developing cooperative approaches to dealing with circumstances where there are extended waiting times for surgery in acute hospitals.⁶⁰ Emergency planning is one of CAWT's priority areas for cross-border co-operation.⁶¹

Ongoing cooperation between the National Ambulance Service and the Northern Ireland Ambulance Service has been placed on a more formal basis through the development of a memorandum of understanding. It provides for cross-border cooperation and resource sharing in the event of emergencies and has been welcomed by the North-South Ministerial Council in 2011.⁶² In 2012 the Northern Ireland Ambulance Service responded to 22 emergencies in the Republic of Ireland. Work on cross-border coordination in relation to pandemic influenza is ongoing.⁶³

Fire Service Cooperation

The fire services on both sides of the border regularly participate in familiarisation visits and joint exercises, as well as in the sharing of best practices. Chief Fire Officers in the border regions meet on a biannual basis. Donegal County Fire and Rescue Service has a long-standing Service Level Agreement with Northern Ireland Fire and Rescue Service (NIFRS) by which NIFRS may provide the first response to calls in Donegal in the border areas of Derry/Londonderry, Strabane & Belleek. Louth County Council Fire has a similar agreement for the response to road traffic collisions, which will soon be extended to other local authority fire services along the border.

Police Cooperation

In 1999 the report of the Independent Commission on Policing for Northern Ireland found that the relationship between the Royal Ulster Constabulary (as the police service in Northern Ireland was then known) and An Garda Síochána was regarded by both police services as very good.⁶⁴ The same report recommended the police services in both jurisdictions develop joint disaster planning and that the plans developed be tested by regular joint exercises.⁶⁵

In 2002 an agreement was reached between Ireland and the United Kingdom concerning police co-operation.⁶⁶ This agreement was incorporated into Irish law by the Garda Síochána (Police Co-Operation) Act 2003. Article 8 of the Agreement concerning disaster planning provides that the Police Service of Northern Ireland (PSNI) and the Garda Síochána shall, in consultation with other authorities responsible for the emergency services in both jurisdictions, work together in promoting improved joint planning.⁶⁷

The Garda Commissioner is empowered to enter into agreement with the PSNI (and other police forces outside of the Irish jurisdiction) concerning the exchange of information or other matters.⁶⁸ A “*Joint-Disaster Planning Protocol*” has been developed and the “*Cross-Border Policing Strategy*” has committed to implementing it.⁶⁹

Coast Guard Cooperation

A Memorandum of Understanding exists between the Irish Coast Guard and Her Majesty's Coast Guard (UK).⁷⁰ It details the coordination arrangements for maritime search and rescue operations provided for under its remit and provides for joint exercises of both organisations.

Red Cross Cooperation

Senior management within Irish Red Cross and their counterparts within British Red Cross based in Northern Ireland meet biannually. Branch members in border counties have a high degree of familiarity with one another. Joint exercises have yet to be conducted by the two Societies. No agreement on mutual assistance has been concluded.

4. National legal system

4.1 Internal Normative Acts on Disaster Relief

The Irish legal system belongs to the common law family of legal systems.⁷¹ In the Irish legal system four principal sources of law can be identified. These are the Constitution, legislation, the common law itself (the accumulation of court decisions over time to build a coherent body of law), and European Union law.⁷² Like other common law systems, the Irish legal system is a dualist one with respect to international law. This means that the terms of an international agreement do not become part of the domestic law of the State unless expressly incorporated by or under an Act of the Oireachtas.⁷³

Article 28.3.3° of the Constitution permits the Oireachtas to enact laws that would otherwise be unconstitutional for the purpose of securing public safety and security ‘in time of war or armed rebellion.’⁷⁴ Unlike in some other jurisdictions, the Constitution does not permit the exercise of emergency powers that would involve a breach of the Constitution in the instance of a natural disaster or human man-made disaster that does not involve armed conflict or rebellion.

Ireland is also unusual in having comparatively little specific emergency planning legislation. In so far as legislation concerning disaster management does exist, it is fragmented across a wide range of legislative domains. Insofar as these provisions relate to incoming assistance they are addressed in the Main Research Findings section below.

Instead of a legally binding policy concerning disaster management, disaster management guidance is provided through a number of policy documents. The “*Framework for Major Emergency Management*” provides general guidance for the principal response agencies, mainly at the operational and tactical level. On the basis of this Framework each of the 34 Local Authorities maintains a major emergency plan. A document entitled “*Strategic Emergency Planning Guidance*” was issued in 2004, which addresses all stages of the disaster management cycle at the strategic level and is mainly addressed to Government Departments.⁷⁵ In addition to national emergency plans for specific contingencies such as a pandemic influenza or a nuclear accident, a document entitled “*Guidelines for Coordinating a National Level Emergency/Crisis response*” provides generic guidance to Government Ministers and Government Departments responsible for responding to emergencies at the national level.⁷⁶

4.2. Organs and their competences: focal points, coordination of relief and information exchange

Responsibility for emergency planning is assigned to a range of Government Departments depending on the type of disaster.⁷⁷ A coordination and oversight role is assigned to the Office of Emergency Planning within the Department of Defence. If a major emergency occurs, the Lead Government Department for the particular emergency type is responsible for initiating, coordinating and leading the State's response and to link with the local and regional response where appropriate.⁷⁸ Supporting roles for particular types of disaster are also assigned to certain Government Departments and agencies.

A Government Taskforce on Emergency Planning is chaired by the Minister for Defence and is composed of the Government Ministers and/or senior officials of all Government Departments and certain public authorities. During major emergencies, a National Coordination Group may be formed composed of the relevant Government Ministers and/or senior officials. The National Emergency Coordination Centre (NECC) is a venue dedicated to such meetings.

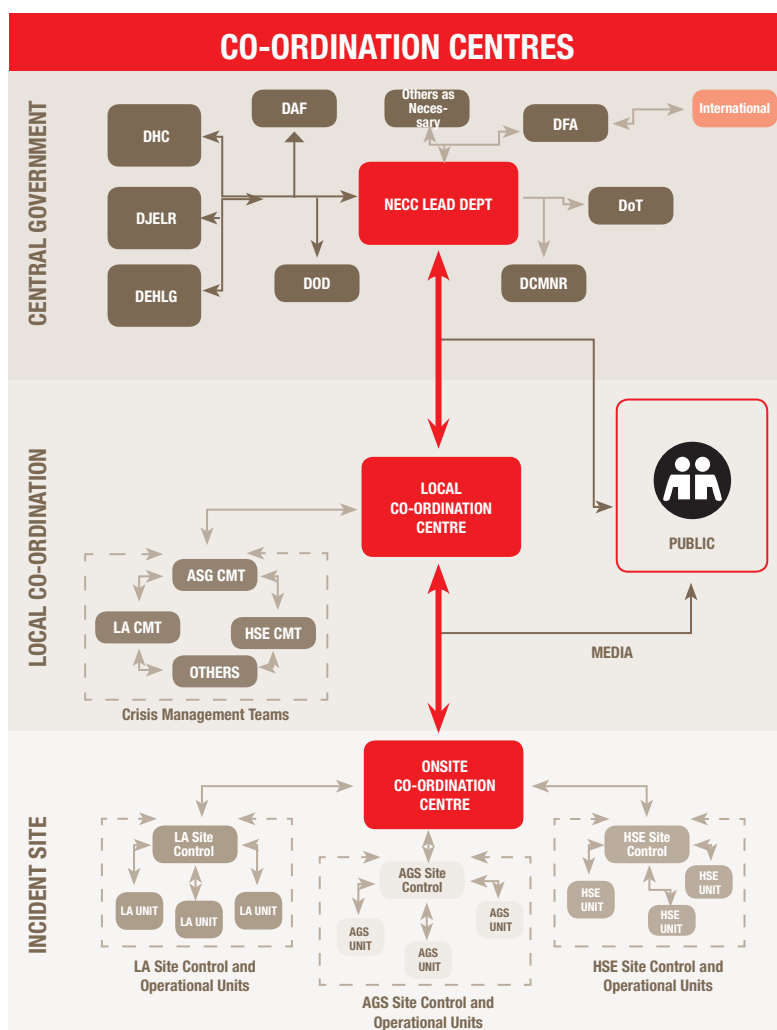
The agencies primarily responsible for operational emergency response are known as the principal response agencies. They are the Health Service Executive (HSE), An Garda Síochána (AGS), and the Fire Service.⁷⁹ Coordination of the Principal Response Agencies in response to a major emergency is provided for in the *"Framework for Major Emergency"*.⁸⁰

A major emergency is defined as:

‘any event which, usually with little or no warning, causes or threatens death or injury, serious disruption of essential services or damage to property, the environment or infrastructure beyond the normal capabilities of the principal emergency services in the area in which the event occurs, and requires the activation of specific additional procedures and the mobilisation of additional resources to ensure an effective, co-ordinated response’⁸¹

Each principal response agency is responsible for ensuring that the process used to determine a major emergency is specified in its major emergency plan. Where a major emergency is declared, each principal response agency is responsible for informing its parent Government Department of the declaration.⁸²

Figure 4: Schematic Diagram Illustrating Command, Control & Co-ordination Levels & Information Flows within Ireland's Emergency Management System⁸³



5. Operational Regulation in Major Emergency Settings

5.1 Requests for, Offers, Initiation, and Termination of Assistance

Disasters should be addressed, insofar as possible, by domestic actors and in a manner consistent with the sovereignty of the Host Nation.⁸⁴ Section 3 of the IDRL Guidelines recognises that the Host Nation has the primary responsibility to ensure disaster risk reduction, relief and recovery assistance in its territory. However, it also provides that should the Host Nation determine that a disaster situation exceeds national coping capacities, international and/or regional assistance should be sought to address the needs of affected persons.

Requests for assistance

In Ireland, the responsibility for requesting international assistance depends on the scale of the emergency and the type and source of international assistance required. The decision to request international assistance rests with the Lead Government Department for the emergency scenario in consultation with the National Coordination Group convened for the management of the national level emergency. In the case of a regional or local emergency, the first resort for outside assistance is at national level, i.e. to bring national resources and assets to bear. The decision to request international assistance can only be taken at national level by the Lead Government Department for the emergency scenario and not independently at regional or local level.

An exception to the general rule that requests for international assistance can only be made at the national level relates to assistance from Northern Ireland. The *“Framework for Major Emergency Management”* details that Regional Co-ordination Groups, which would be composed of senior members of the principal response agencies, established in regions adjacent to the Border may make requests for assistance from Northern Ireland directly.⁸⁵ Requests for assistance from and offers of assistance from emergency services in Northern Ireland are governed by memoranda of understanding and the principle of mutual assistance.⁸⁶

Requests for assistance under the EU Civil Protection Mechanism may only be made by the nominated national authority. In Ireland this is the National Directorate for Fire and Emergency Management. As above, this will be done upon request from the Lead Government Department for the emergency scenario. If the emergency at hand is at a regional or local level, the National Directorate, the Lead Government Department and the On-Site Coordinator at regional or local level will liaise to ensure the incoming resources under the request for assistance are effectively deployed as quickly as possible. An Garda Síochána would ultimately process any requests for assistance *via* the Common Emergency Communication and Information System (CECIS), which links with the EU’s Emergency Response Coordination Centre (ERCC) in Brussels.

While Ireland, as a participant in NATO’s Partnership for Peace, has the option of utilising the Euro-Atlantic Disaster Response Coordination Centre, requests for assistance would primarily be made using CECIS to inform the EU’s ERCC in order to avoid the duplication of requests. This is in accordance with Paragraph 9.2 of the HNS Guidelines, which details that CECIS should be the primary tool used.

At the time of writing Ireland has not yet made a request under the EU Civil Protection Mechanism. Annex 4 to the HNS Guidelines contains a template for requesting international assistance, which details the Host Nation requesting authority and contact details, a general description of the requested assistance, as well as the name and location of delivery points, if already identified. This template may be useful in the making of requests from Ireland.

Should assistance from the United Nations and the general humanitarian community be required, the Lead Government Department within the National Coordination Group would again be responsible. This may be achieved with the support of the Department of Foreign Affairs in its supporting role.

The general procedure concerning requests for foreign assistance in an emergency situation in Ireland would be that the Minister of the Lead Government Department with responsibility for the emergency scenario would bring a proposal for such a request to Government for approval. This would involve close consultation with An Taoiseach and the Minister for Foreign Affairs and Trade. Unlike in other jurisdictions, there is no legal requirement for a prior official declaration of emergency or disaster to be made before an official request for international assistance can be issued. Equally, there is no rule prohibiting national authorities from seeking foreign assistance for their relief efforts in the absence of a declared emergency.

Requests from Specialist Agencies

- *United Nations Disaster Assessment and Coordination*⁸⁷ (UNDAC)

There are no formal criteria in place for requesting the deployment to Ireland of an UNDAC team.

- *International Atomic Energy Agency* (IAEA)

A special committee of Government Ministers is ultimately responsible for giving policy direction concerning countermeasures in the event of a nuclear or radiological emergency under the “*National Emergency Plan for Nuclear Accidents*”. This responsibility would presumably include a responsibility for deciding whether to request external assistance. The Department of Foreign Affairs is responsible for assisting the Radiological Protection Institute of Ireland in their duties under the IAEA Mutual Assistance Convention.^{88 89} Requests for assistance may be made directly to the IAEA or other States Parties to the Convention or through the IAEA to other States Parties.⁹⁰ The scope and type of assistance ought to be specified in any request made. The Department of Foreign Affairs is also responsible for consulting and co-ordinating ‘with other States, especially other EU Member States, in determining appropriate action at international level following a nuclear accident.’⁹¹

- *Organisation for the Prohibition of Chemical Weapons* (OPCW)

The Chemical Weapons Act 1997 transposed the provisions of the Chemical Weapons Convention into Irish law. The Health and Safety Authority (HSA) is the national focal point for

liaison with the OPCW.⁹² OPCW inspectors⁹³ as well as HSA inspectors⁹⁴ are empowered to conduct a wide range of activities in relation to chemical releases under the 1997 Act.⁹⁵

- *World Health Organisation (WHO)*

Article 13 (3) of the 2005 International Health Regulations provides that States Parties to the Regulations may obtain assistance when necessary from international teams of experts for on-site assistance. The national WHO focal point is the Health Protection Surveillance Centre (HPSC) of the Health Service Executive.⁹⁶

- *International Federation of Red Cross and Red Crescent Societies (IFRC)*

Requests for assistance from IFRC are to be made by Irish Red Cross in accordance with the “*Principles and Rules for Red Cross Red Crescent Disaster Relief*.”⁹⁷

Offers of assistance:

Recent large-scale disasters have seen a proliferation in the numbers of assisting actors. It is important for government authorities to develop mechanisms to handle and manage international offers of assistance.

As with requests for international assistance, the responsibility for handling international offers of assistance depends on the nature of the disaster and the origin of the assistance offered. All offers under the EU Civil Protection mechanism are channelled through the ERCC to be addressed to the National Directorate for Fire and Emergency Management. The Lead Government Department for the emergency type would then be responsible for accepting or declining such offers.

With the exception of offers from IFRC,⁹⁸ all other offers of assistance would also be channelled to the Lead Government Department under current arrangements, either through the Department of Foreign Affairs or other channels. It is the responsibility of each Government Department to be prepared to process offers as part of its role as Lead Government Department. There are considerable differences between how offers of international assistance would be managed, which depend on the nature of the disaster and the formal measures in place in the relevant Government Departments to handle such offers. There is no formal guidance concerning the procedures for acceptance or otherwise of offers from other States or foreign non-governmental actors. It is also not explicitly provided for that offers need to be formally accepted before assistance may be delivered.

Informing international stakeholders:

Section 7 (1) of the IDRL Guidelines provide that the Host Nation ‘should have procedures in place to facilitate the expeditious sharing of information about disasters, including emerging hazards that are likely to cause disasters, with other States and assisting humanitarian organisations as appropriate, including the United Nations’ Emergency Relief Coordinator.’

Irish emergency management policy does not specify a general procedure for informing other governments, the EU or the UN about disasters or emerging hazards likely to cause disasters. Rather than having a general procedure concerning what would trigger a communication and how and when it would be made, there are various hazard-specific procedures for early warning.⁹⁹

In relation to risks to public health, Article 4 (2) of the International Health Regulations obliges the Health Protection Surveillance Centre (HPSC) to be accessible at all times for communications with the WHO. Article 6 provides for the notification to the World Health Organisation (WHO) by the HPSC of cases of certain diseases¹⁰⁰ laid out in Annex 2 of the Regulations as well as any serious event of potential international public health concern, which is unusual or unexpected, has a significant risk of international spread and has a significant risk of international travel or trade restrictions, that is detected.

HPSC is also the national competent authority for notifying the European Commission and other EU Member States through the EU’s Early Warning and Response System of the occurrence of threats of communicable diseases and related health issues.¹⁰¹ HPSC is also obliged to notify an alert in the Early Warning and Response System where the emergence or development of a serious cross-border threat to health exists.¹⁰² Serious cross-border threats to public health are considered to include the following categories: threats of biological origin, including communicable diseases; threats of chemical origin; threats of environmental origin; threats of unknown origin; and events which may constitute public health emergencies of international concern under the International Health Regulations.¹⁰³ In practice, the HPSC has a procedure whereby WHO and EWRS are notified of certain cross-border risks to public health simultaneously.

The relevant Government Departments and agencies also participate in the EU’s Rapid Alert System that is used for exchanging information on health threats due to the deliberate release of chemical, biological and radio-nuclear agents¹⁰⁴ and the emergence of any serious health risk arising from food or animal feed.¹⁰⁵

The 2012 Seveso III Directive requires Ireland to make provisions in Irish law for the notification to the Commission of major chemical accidents.¹⁰⁶ Ireland also participates in a range of mechanisms for notifying the European Commission, other EU Member States and the international community in the case of a nuclear or radiological emergency.¹⁰⁷

EU directives provide for notification to other EU member states of outbreaks of animal diseases such as Foot and Mouth Disease¹⁰⁸ or Classical Swine Fever.¹⁰⁹ Ireland is also obliged to notify the occurrence of certain animal diseases to the World Animal Health Organisation.

Unlike many other European countries and the EU itself, Ireland is not a party to the Convention on the Transboundary Effects of Industrial Accidents. The convention obliges States Parties to establish a system of notification whereby a national contact point would notify the other States Parties in the event of an industrial accident.

The Irish Red Cross Society is also obliged to notify IFRC of any major disaster occurring within Ireland.¹¹⁰

While there is no general definition of disaster in Irish law, the *“Framework for Major Emergency Management”* does define a major emergency.¹¹¹ This definition is not sufficiently broad *per se* to support early warning across a broad range of events. However, the Framework is constructed around the five-stage systematic frame for emergency management (cf. Section 1.6), which integrates hazard analysis/risk assessment, mitigation/risk management, planning and preparedness, co-ordinated response, and recovery. This approach to disaster management ensures that early warning is a clear objective within disaster management policy in Ireland generally.

Recommendations:

- Lead Government Departments should consider simulating the decision-making process whereby international assistance from various sources would be required. Such simulations would involve both requests for and offers of international assistance. Criteria for the acceptance of offers of assistance from outside the jurisdiction could be identified based on minimum standards for humanitarian assistance.¹¹²
- Consideration should be given to further formalising arrangements, where appropriate, for issuing requests to and accepting offers from the counterparts of Government Departments and response agencies in Northern Ireland and the rest of the United Kingdom.

- Consideration should be given to including in future revisions of relevant policy documents the proviso that assistance from outside Ireland may not be initiated (with the exception of cross-border assistance from Northern Ireland) prior to approval by the Lead Government Department for the emergency type.
- Consideration should be given by Government to signing the Convention on the Transboundary Effects of Industrial Accidents.

5.2 Coordination

5.2.1 National focal point

Section 8 (2) of the IDRL Guidelines provides that the Host Nation should consider establishing a national focal point to liaise between international and government actors at all levels. Paragraph 9 (1) of the HNS Guidelines provides that the Host Nation should identify and train liaison officers to join incoming Host Nation Support teams.

Currently, no officers for liaising with incoming Host Nation Support teams have been identified or trained. However, Irish disaster management policy details several modes by which liaison between international and government actors at all levels may be facilitated.

At the central government level the responsibility of the Lead Government Department would arguably extend to liaising with international assisting actors with the potential support of the Department of Foreign Affairs.¹¹³ The *“Guidelines for Coordinating a National Level Emergency/Crisis Response”* detail that the information flow should be considered between government departments on the one hand and other organisations involved in the response and with the wider international community on the other.¹¹⁴ However, there is no explicit procedure whereby the Lead Government Departments would designate focal points between themselves and assisting actors. It is assumed that this role would be defined and allocated within the concerned Lead Government Department to coincide with the decision to request international assistance.

At the regional and local levels, the On-site Coordinator is assigned responsibility for exercising an over-viewing role for mobilising international resources to the site of the major emergency and the deployment of additional resources. The On-site Coordinator may thus play a role akin to a focal point between international and national response actors. The *“Framework for Major Emergency Management”* foresees that Regional and Local Coordination Groups may permit the inclusion of agencies other than the principal response agencies in their meetings. These Groups could potentially provide a forum whereby liaison between international assisting actors and statutory agencies in Ireland could be facilitated.

5.2.2 Coordination of relief and information exchange

The coordination of organisations with different mandates is always challenging. This is especially so during international relief operations. Section 3 (3) of the IDRL Guidelines recognises that the Host Nation has the sovereign right to coordinate, regulate and monitor disaster relief and recovery assistance provided by assisting actors on their territory, consistent with international law.

Recent Host Nation Support training exercises under the EU Civil Protection Mechanism have highlighted the need to ensure the coordination of efforts by civil protection teams from different participating States. An absence of liaison officers between civil protection teams and a lack of clarity concerning command and control were deemed to be factors in hampering the quality of coordination within the training exercises.

As identified in Section 5.2.1 above, there is no procedure whereby a single focal point in Ireland is charged with coordination of international and domestic relief. Presumably, the focal point would be identified by the Lead Government Department on an *ad hoc* basis.

While coordination efforts may vary according to the nature of the emergency¹¹⁵ and the expertise of the assisting actors, at the operational level there is a general framework for the coordination of relief by the principal response agencies. Section 5 of the *“Framework for Major Emergency Management”* provides that an On-Site Coordinating Officer is responsible for ensuring adequate coordination of the efforts of the principal response agencies and is tasked with co-ordinating all external support and assistance into the overall emergency response.¹¹⁶ This responsibility would presumably extend to the coordination of international support and assistance. The Controller of Operations of the agency which requested international assistance is responsible for coordinating and integrating such assistance in pursuance of the tasks identified in the response.¹¹⁷ The *“Guidelines for Working with Voluntary Emergency Services”* developed under the Framework may also be useful in providing further guidance for co-operation between the principal response agencies and voluntary assisting actors.¹¹⁸

A list of factors contributing to the successful integration of external assistance into the response activities of the principal response agencies are also outlined in the *“Framework for Major Emergency Management”*.¹¹⁹ It is recommended in the Framework that it should be ensured, if possible, that external assisting actors (to include, presumably, international assisting actors) are assigned to tasks in a manner whereby the pooling or sharing of equipment is avoided. It is further recommended that special attention be paid to the welfare and safety needs of such actors.

Key to ensuring the successful coordination of Host Nation Support civil protection modules with emergency management actors in Ireland is ensuring that all levels of emergency management are aware of their responsibilities in the different phases of Host Nation Support under the EU Civil Protection Mechanism. The *“Framework for Major Emergency Management”* does highlight the EU Civil Protection Mechanism and provides for engagement with the Mechanism at all levels.

Paragraph 9.1 of the EU Host Nation Support Guidelines recommends that incoming Host Nation Support teams be provided with key, relevant information concerning the emergency in the form of a briefing or factsheet provided by the Host Nation. There is currently no provision in place to make a country briefing or factsheet available. By the same token, there are currently no rules or other guidance concerning the types of information international assisting actors ought to provide for the duration of their participation in the response effort.

Responsibility for ensuring information flow and consolidated approaches to situation reports and needs assessments would be the responsibility of the Lead Government Department. The *“Guidelines for Coordinating a National Level Emergency/Crisis Response”* recommend that each Lead Government Department should establish an information management system and if deemed necessary appoint an Information Management Officer.¹²⁰ One of the streams of information flow that should be examined by each Lead Government Department is the international dimension.¹²¹ It is also provided that the National Coordination Group will consider arrangements for liaison and information-sharing with ‘other jurisdictions, international organisations and with other (non-government) stakeholders.’¹²² National plans relating to certain specific contingencies also contain guidance concerning information management strategies.¹²³

There is a clear assignment of responsibility to the National Liaison Point for utilising the Common Emergency Communication and Information System in order to engage with the Emergency Response Coordination Centre. However, it is unclear how prepared Lead Government Departments and the principal response agencies would be to engage with other disaster management information-sharing platforms such as the Virtual OSCOCC. Virtual OSOCC is provided by the Global Disaster Alert and Coordination System, which has been established by the UN Office for the Coordination of Humanitarian Affairs.

Finally, the only data protection measure identified in relation to emergency planning in Ireland was in relation to anonymity in the process of notification of infectious diseases to WHO and EWRS. There are no specific arrangements in place to ensure that international assisting actors ensure the protection of data obtained by them through their engagement in assistance activities.

Recommendations:

- Consideration should be given to identifying and briefing senior personnel within the principal response agencies who could act as liaison officers for incoming Host Nation Support teams should the Civil Protection Mechanism be activated. It would be desirable that in the case of Host Nation Support being required, there would be liaison officers between incoming HNS modules and the principal response agencies both on-site and off-site.
- Consideration should be given by Lead Government Departments and/or the Office of Emergency Planning to developing a procedure for designating a focal point between the National Coordination Groups (NCGs) and international assisting actors in Ireland. The focal point should be empowered by the NCG/Lead Government Department to establish rules or procedures related to international assistance and to report back to the National Coordination Group concerning issues raised by international assisting actors. The focal point should also be tasked with addressing issues raised by international assisting actors (e.g. through intervening with professional registration bodies).
- The type of information to be provided by incoming assisting actors to the government focal point should be prepared in advance. Such information might include, for example, the funding arrangements of assisting actors, the quality standards to which they adhere.
- Arrangements should be made for a briefing or factsheet to be provided to incoming assisting actors. Some of the elements of the briefing or factsheet would naturally be specific to the incident. However, some elements contained in the template such as those concerning the national disaster management system (e.g. the structure, communications, and the coordination system of international assistance) and relevant web resources could be prepared in advance. Annex 8 to the Host Nation Support Guidelines contains a template for such a country briefing. Provision should be made for speedily including summary versions of the relevant Local Authority Major Emergency Plan(s) that are directed towards international assisting actors. Other details that could be included in such a briefing or factsheet:
 - The population profile of Ireland and location of major population centres
 - The contact details of key disaster management personnel at different levels
 - Details concerning provisions for communications, including the radio frequencies used in the emergency response
 - The location(s) of relevant pre-nominated Local and Regional Co-ordination Centres and Bases of Operations
 - Information concerning Garda vetting requirements
 - The electric socket type used in Ireland
 - A clear indication that Ireland has left-hand traffic¹²⁴
- It should be ensured that officials responsible for emergency management and planning at central Government level and senior members of the principal response agencies are familiar with Virtual OSOCC.
- Consideration should be given to promoting greater awareness of the HNS and IDRL Guidelines among emergency management authorities across Government Departments and among the principal response agencies.

5.3 Personnel

5.3.1 Entry: Visas and work permits

Paragraph 9.4.2 of the HNS Guidelines provide that the Host Nation should, when necessary and possible, exempt relief personnel from visa regulations and immigration inspection. Where visa regulations and immigration inspection cannot be waived, the Host Nation should expedite the necessary formalities at the appropriate point of entry. Section 16.1 of the IDRL Guidelines state that the Host Nation 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; and in disaster relief operations to waive or significantly expedite the provision of such visas and work permits. Furthermore, Paragraph 19.3 of the IDRL Guidelines provides that any applicable exit, transit and entry visas for the operating personnel of such transport vehicles should be promptly issued.

Visas

Currently, there are no specific provisions concerning visas for international disaster relief personnel, including personnel operating relief vehicles, in immigration law. The immigration arrangements of international relief personnel would be regulated by rules of general application.

The Common Travel Area (CTA) comprises Ireland, the United Kingdom, the Channel Islands and the Isle of Man.¹²⁵ Within the CTA passport controls for Irish and UK citizens travelling between the two jurisdictions are removed.¹²⁶ Since 1997, some controls are in effect on arrivals in Ireland from the UK but this does not mean that an Irish or UK passport is required for travel. However, an acceptable form of photo-identification must be carried. On arrival in the State, travellers from other jurisdictions within the CTA may be asked for valid official photo-identification that proves nationality.¹²⁷

EU citizens in possession of a valid national identity card or passport as evidence of his or her nationality and identity may not be refused permission to enter the State.¹²⁸ While Ireland participates in some of the Schengen arrangements insofar as they are compatible with the maintenance of the Common Travel Area, Ireland is not a part of the Schengen area and maintains its own immigration policy and rules.

Section 4 (3) of the Immigration Act 2004 grants immigration officers, acting on behalf of the Minister for Justice and Equality, considerable discretion to refuse permission to land to non-EU citizens. Non-EU citizens may be refused permission to land in the State if an immigration officer is satisfied that a person intends to take up employment in the State but is not in possession of a valid employment permit.¹²⁹ Furthermore, the Minister for Justice and Equality may, under Section 17 of the Act, declare by order that certain classes of non-nationals are not required to be in possession of a valid visa when landing in the State.¹³⁰

Certain categories of international relief personnel may benefit from privileges and immunities that would facilitate their entry into Ireland. The provisions of the UN Convention on the Privileges and Immunities of the UN (1946) and the Convention on the Privileges and Immunities of the Specialised Agencies (1947) granting privileges and immunities to officials of the UN and its specialised agencies have been given effect in domestic law by the Diplomatic Relations and Immunities Act 1967. Privileges and immunities have also been granted to a wide range of international organisations by order under Part VIII of the Diplomatic Relations and Immunities Acts 1967-2006.¹³¹ The privileges and immunities granted to officials of some of these organisations and agencies include exemption from immigration restrictions.^{132 133} The same exemption from immigration restrictions is enjoyed by members of diplomatic and consular missions.¹³⁴

The granting of visas is at the discretion of the immigration authorities in Ireland. The Department of Justice and Equality would be flexible in the granting of visas should international relief personnel be urgently required in Ireland to attend to a humanitarian crisis.¹³⁵

A number of existing visa types are available that might be availed of by international relief personnel.¹³⁶ There is a visa type available for both short-term and long-term employment in Ireland. Applications for these visas require a valid work permit.¹³⁷ In circumstances where international assistance is required there would be no requirement for a work permit.¹³⁸

Employment permits

The general rule concerning employment permits is that foreign nationals shall not be in employment in the State except in accordance with an employment permit.¹³⁹ This rule applies also where foreign nationals are employed by persons outside of the State.¹⁴⁰ There are considerable penalties for non-nationals not holding a work permit and their employers.¹⁴¹

However, there are a number of exemptions to the general rule.¹⁴² Importantly, EU/EEA/Swiss nationals do not require an employment permit. While Irish employment permits policy does not address relief personnel specifically, there are arrangements in place for

several professions relevant to disaster relief, including the medical and nursing professions. These arrangements, however, relate mainly to recruitment to the Irish Public Health Service, which would probably be unlikely in the context of a disaster relief operation.

It is important to note that the Irish employment permits system is designed primarily for employment of a period longer than that expected during an international relief operation.¹⁴³ Furthermore, it was submitted during consultations with stakeholders that the current employment permits system is not suited to catering for incoming international relief personnel as the procedures required relating to the preparation of applications and background checks would be too burdensome where international assistance is required. The Department of Justice and Equality is the Department that would handle the immigration status of international relief personnel in Ireland. This Department may issue visas granting temporary permission to reside and work.

5.3.2 Employment Rights and Professional Qualifications

Employment Rights

The employment rights and privileges of international relief workers in Ireland would depend on their country of origin and the status of their employer.

Under EU law, EU/EEA citizens working in Ireland are entitled to be treated on an equal basis with Irish citizens.¹⁴⁴ Furthermore, employment law in Ireland treats non-nationals on an equal basis provided there is a lawful contract of employment.¹⁴⁵

Assisting personnel may benefit from health and safety obligations placed on employers and, under certain limited circumstances, the protection from liability granted to Good Samaritans in Irish law.¹⁴⁶ Furthermore, the *“Framework for Major Emergency Management”* states that special attention may be required for the welfare and safety needs of external agencies, including, presumably, international assisting actors.¹⁴⁷ The Local Authority Controller is tasked with ensuring that appropriate rest and refreshment facilities are available for such response personnel.¹⁴⁸

Members of the diplomatic corps together with officials of the UN, its specialised agencies and certain other international organisations enjoy a number of privileges and immunities under the Diplomatic Relations and Immunities Act 1967, which incorporates into Irish law the Vienna Conventions and the conventions providing for privileges and immunities of the UN and its specialised agencies. These privileges and immunities include immunity from legal process in respect of words spoken or written and all acts performed by the above-mentioned categories of persons in their official capacity.

The Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency provides that where there is a death or injury to personnel of assisting States Ireland is obliged to provide compensation, except in cases of wilful misconduct by the individuals who caused the death, injury, loss or damage.¹⁴⁹

Professional Qualifications

Paragraph 9.4.2 of the HNS Guidelines provides that the Host Nation should, whenever possible, recognise the relevant professional qualifications of relief personnel for the time necessary to carry out the disaster relief assistance. Section 16.1 of the IDRL Guidelines mirrors closely this recommendation.

Professions in Ireland are regulated in different ways. Certain professions and professional activities are regulated by law. Certain other professions and professional activities are regulated by professional bodies which are recognised in a special form by the State. The provision of professional services is often regulated through licensing and qualification requirements and procedures. Professionals entering Ireland to provide assistance may as a result be prevented from providing their services immediately or may otherwise expose themselves to certain legal risks.

In certain circumstances, a foreign professional providing disaster relief in Ireland may benefit from the system for the mutual recognition of professional regulations within the EU, which is provided for in Directive 2005/36/EC.¹⁵⁰ The Directive is given effect in Irish law by the Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations 2008. Under the Regulations professional services may be provided on a temporary or occasional basis in Ireland if the service provider is legally established in a Member State for the purpose of pursuing the same profession there.¹⁵¹ Regulation 17 (1) of the Regulations requires the service provider to inform the relevant professional governing body in a written declaration. The declaration must include details of any insurance cover for professional liability, proof of nationality, an attestation that the holder is legally established in the relevant profession in a Member State and is not prohibited from practicing, evidence of professional qualifications, any means of proof that the professional has pursued the activity concerned for at least two years during the previous ten years (if neither the profession nor the education and training leading to it is regulated in his or her home State); and, for professions in the security sector, evidence of no criminal convictions. Such a declaration must be renewed once a year and the declaration may be supplied by any means.

In the case of some regulated professions having public health or safety implications such as child psychotherapists, osteopaths, paramedics, radiographers and social workers,¹⁵² the relevant competent authority in Ireland may check the professional qualifications of the

service provider prior to the first provision of services. Such a prior check shall be possible only where the purpose of the check is to avoid serious damage to the health or safety of the service recipient due to a lack of professional qualifications of the service provider and where this does not go beyond what is necessary for that purpose.

Some professionals, including doctors with basic training, specialised doctors, and nurses responsible for general care may avail of automatic recognition of their qualifications under the harmonised training conditions set out in Articles 21 to 49 and Annexes 5 and 6 of Directive 2005/36/EC.

An amending Directive to Directive 2005/36/EC was passed on 20th November 2013.¹⁵³ Of relevance to the study is the proposed introduction of a European professional card, which could have the potential to facilitate the temporary provision of professional services in a disaster situation.

Medical Qualifications

The default rule in the Medical Practitioners Act 2007 is that an unregistered medical practitioner shall not practise medicine.¹⁵⁴ The Act provides, however, that a medical practitioner does not contravene this provision in two circumstances. Firstly, if the practitioner practises medicine in the course of rendering first aid he/she is exempt from the requirements to register. Secondly, if the practitioner is a national of an EEA State or Switzerland and is lawfully established in medical practice in one of these states he may practise medicine on a temporary and occasional basis.¹⁵⁵ Where the medical services provided are 'urgently required' the documentation to be ordinarily furnished to the Irish Medical Council before providing services may be provided no more than 15 days after the date on which the services were provided.¹⁵⁶

Nursing Qualifications

The Nurses and Midwives Act 2011 was signed into law on the 21st December, 2011. Its provisions relating to registration requirements have not yet been commenced. On commencement of the Act those who are not registered as a nurse or midwife are prohibited from practising the relevant profession.¹⁵⁷ There are only two exemptions to this general rule. Firstly is the situation where the person's practise is only in the course of rendering first aid to a person.¹⁵⁸ Secondly is the situation where a person who is qualified to practise nursing in a place outside the State and where the person is in the State for a humanitarian purpose and for a period not longer than 30 days practises nursing in accordance with the terms and conditions of a permit issued by the Nursing and Midwifery Board of Ireland.¹⁵⁹

Until the relevant sections of the 2011 Act are commenced the registration requirements contained in the Nurses Act 1985 apply. It is an offence under section 49a) of the Nurses Act 1985 to use the name or title of nurse or midwife while in Ireland unless registered with An Bord Altranais. It is also an offence under Section 49 (1) of the Act to purport to be registered whilst not duly registered. There are no specific registration exemptions contained in the 1985 Act for cases of emergency.

Regulation 11 of the Recognition of the Professional Qualifications of Nurses and Midwives (Directive 2005/36/EC) Regulations 2008 provides for the provision of services by nurses and midwives legally established in another EEA State on a temporary basis. A written declaration to such an effect must be provided to An Bord Altranais in advance of the services being provided together with proof of nationality, certification of legal establishment in another State and evidence of formal qualifications.¹⁶⁰

Qualifications of Emergency Medical Technicians, Paramedics & Advanced Paramedics

The Pre-Hospital Emergency Care Council (PHECC) maintains a register of pre-hospital emergency care practitioners.¹⁶¹ It is the competent authority for emergency medical technicians, paramedics and advanced paramedics under the Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations 2008. Despite distinct training programmes in both jurisdictions, there is considerable co-operation between PHECC and the Health and Care Professions Council in the United Kingdom.

Engineering Qualifications

Engineers Ireland is the regulator for engineering services in Ireland. Applicants under the EU general system of mutual recognition must fulfil the requirements laid down by Engineers Ireland¹⁶² and submit a completed application form together with the relevant support documents. Engineers Ireland has also negotiated agreements for chartered engineers with relevant professional bodies in Canada, Australia, Hong Kong, New Zealand and South Africa.

Driving licences

A driver holding a driving licence from an EU/EEA country may use it in Ireland for so long as it is current and valid. A driver holding a licence issued by non-EU/EEA countries may use it for up to a year provided the driving licence is current and valid. Once resident in Ireland, drivers must either obtain an international driving permit or an Irish driving licence.

5.3.3 Engagement of and collaboration with local personnel

Section 16 (3) of the IDRL Guidelines recommend that assisting States and eligible assisting humanitarian organisations consider the degree to which disaster relief and initial recovery objectives can be met through hiring local staff.

Assisting actors employing local personnel are obliged to provide their employees with a written statement of terms of employment within the first two months of the commencement of employment.¹⁶³ However, this requirement does not apply to an employee who has been employed for less than a month. Issues concerning tax and social contributions are addressed *infra* in Section 5.5 of the report concerning taxation.

Recommendations:

- The personnel of disaster relief organisations that meet minimum quality standards ought to be exempted from the requirement to hold a visa. This could be achieved through a visa order made by the Minister for Justice and Equality under Section 17 of the Immigration Act 2004.
- The personnel of disaster relief organisations that meet minimum quality standards ought to benefit from temporary exemption from requirements to register with professional bodies for the duration of the emergency.
- The Medical Practitioners Act 2007, which is due to be amended, ought to be amended in line with the Nurses and Midwives Act 2011 by the inclusion of an exemption from registration requirements for ‘humanitarian purposes.’ This would help to ensure uniformity across the health professions for the recognition of qualifications in cases where disaster relief is provided.
- The Pre-Hospital Emergency Care Council should continue its efforts towards the automatic mutual recognition of qualifications between the UK and Ireland.

5.4 Goods and equipment

5.4.1 Customs procedures and conditions of import/export

Paragraph 9.4.2 of the HNS Guidelines provides that the Host Nation should exempt requested goods and equipment from all customs duties and taxes and exempt them from all export, transit and import restrictions. Furthermore, the Host Nation should waive or reduce inspection requirements and use pre-clearance processes where this is difficult.¹⁶⁴ Section 17 of the IDRL Guidelines contains similar guidance.

In relation to customs duties, the European Union comprises a customs union covering all trade in goods.¹⁶⁵ Customs duties on imports and exports between Member States are prohibited, and common customs tariffs apply in relation to relations with third countries. Goods originating in the Member States may circulate freely, as may goods originating in third countries on which applicable customs duties have been paid.¹⁶⁶ Under EU law the definition of ‘goods’ is broad and includes any moveable physical object to which property rights or obligations attach, and which can therefore be valued in monetary terms, whether

positive or negative. This broad definition necessarily includes items that might be required in an international relief effort. As a general rule, when goods are imported into, or received in Ireland, from a country outside the EU they are liable to import charges at the point of importation. However, exemptions are available where the goods are for disaster relief or charitable purposes.

An important exemption applies in respect of goods for disaster relief which are intended for importation on a temporary basis only. This class of goods might include high-value or specialised disaster relief vehicles or equipment which it is not intended should be left behind when the relief operation concludes. The rules applicable to customs exemptions in respect of goods temporarily imported are derived from EU law,¹⁶⁷ and Ireland has established a system for the total exemption from import duties of disaster relief material temporarily imported. In accordance with these rules, the benefit of temporary importation arrangements with exemption from import charges is to be granted, for a maximum period of 24 months, in respect of disaster relief material where it is used in connection with measures taken to counter the effects of disasters affecting the EU and intended for State bodies or other approved bodies. The benefit of such temporary importation arrangements is normally to be granted only to Government Agencies or to other bodies approved by the Revenue Commissioners. However, in cases of emergency, a senior Revenue official may admit goods without prior approval. In all such cases, a report is to be furnished as soon as possible through the normal channels to the Revenue Commissioners' Customs Procedures Branch. The importer's declaration as to the purpose for which the goods are being temporarily imported must include a statement either on the import declaration or on a separate document presented therewith that they are on loan and free of charge. Exceptionally, the importer will not be required to provide a security before importation is permitted.

Consumable goods for disaster relief – goods such as food or clothing which it is not intended to export when the relief operation concludes – are also subject to certain exemptions from import charges. Again, the relevant rules derive from EU law. Council Regulation 1186/2009, which is directly effective in Ireland, establishes a Community system of reliefs from customs duties including a number of exemptions relevant in the context of disaster relief.¹⁶⁸ Article 61 of the Regulation exempts from import duties, subject to certain conditions, basic necessities for the needy and vulnerable, goods to be used or sold at charity events for the benefit of such persons, and equipment and office materials to help run an organisation for their benefit.¹⁶⁹

In accordance with Articles 74-80 of the Regulation, goods imported by State, charitable or philanthropic organisations to be distributed free of charge to victims of natural disasters are exempt from import duties. The customs exemption is subject to a decision of the European

Commission laying down its scope and conditions, and imported goods exempted from customs duties may not be lent, hired out or otherwise disposed of, whether for consideration or free of charge, except in circumstances duly justified to the satisfaction of and with the prior sanction of the Revenue Commissioners.¹⁷⁰

Section 9 of The Convention on the Privileges and Immunities of the Specialised Agencies of the United Nations provides for the importation free of customs duties of all items for the official use of the UN's specialised agencies. The Convention is incorporated into Irish law by the Diplomatic Relations and Immunities Act 1967.

Exemption from value added tax on imports

In general, goods imported into the EU are subject to value added tax (VAT) at the point of entry. However, there is an exemption from VAT on the importation of certain goods, including goods for the needy and vulnerable, goods for the disabled and goods for victims of natural disasters.¹⁷¹ These exemptions are subject to a decision of the European Commission laying down its scope and conditions. Imported goods exempted from VAT may not be lent, hired out or otherwise disposed of, whether for consideration or free of charge, except in circumstances duly justified to the satisfaction of and with the prior sanction of the Revenue Commissioners. The exemptions do not apply to alcohol, tobacco products, vehicles other than ambulances nor to building materials or equipment intended for rebuilding in disaster areas. Entitlement to relief under the Regulations may be granted only to organisations whose accounting procedures provide the necessary security and which enable the Revenue Commissioners to supervise their operations. The Revenue Commissioners may limit the quantities or kinds of goods that can be imported to avoid any abuse or distortion of competition. Regulation 14 of the Value Added Tax Regulations 2010 provides that exemption from VAT on goods temporarily imported is to be granted under the same conditions as apply to total exemption from customs duty on such goods.

Annex 9, 8.4 of the Convention on International Civil Aviation to which Ireland is party, states that each state shall temporarily admit free from customs duties and other taxes all aircraft, tools, spare parts and equipment required in the search, rescue, accident investigation, repair or salvage of the damaged aircraft of another State. Similarly, Article 8(3) of the Convention on Assistance in the Event of a Nuclear Disaster or Radiological Emergency provides for the similar exemptions for equipment and property imported for the purpose of assistance in accordance with the Convention.

Current customs procedures and VAT requirements in Ireland allow for flexibility in the case of an emergency requiring the expedited importation of goods and can therefore be considered to be in accordance with the Guidelines relating to the importation of goods and equipment.

5.4.2 Special issues: food, medicines, animals

Section 18 of the IDRL Guidelines provides guidance concerning the reduction of barriers to the importation of special goods and equipment, including food, medicines and animals.

Food

Section 18 (4) of the IDRL Guidelines state that the Host Nation should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports by assisting States and eligible assisting humanitarian organisations in disaster relief operations can be modified or reduced.

The law governing food safety in Ireland is found in a wide range of legislative instruments, many of which in turn have their origins in European Union and international instruments.¹⁷² Food imports into the EU, including Ireland, must comply with the principles laid down in Regulation 178/2002/EC (General Food Law Regulation).¹⁷³ Article 11 of the General Food Law Regulation provides that ‘food and feed imported into the Community for placing on the market within the Community shall comply with the relevant requirements of food law or conditions recognised by the Community to be at least equivalent thereto or, where a specific agreement exists between the Community and the exporting country, with requirements contained therein.’ Section 4 of the General Food Law Regulation sets out certain general requirements of food law, including in relation to food safety,¹⁷⁴ presentation¹⁷⁵ and traceability.¹⁷⁶ For example, Article 14 provides that food shall not be placed on the market if it is unsafe. For the purposes of the Regulation, the terms ‘food’ and ‘placing on the market’ are broadly defined. Food means ‘any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans’¹⁷⁷; ‘placing on the market’ means ‘the holding of food or feed for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer themselves.’¹⁷⁸ These definitions could therefore encompass the supply of food in the context of disaster relief operations.

The Irish Government has enacted secondary legislation for the purpose of giving further effect to the General Food Law Regulation in the form of the European Communities (General Food Law) Regulations 2007 as amended and further measures dealing with specific issues within this field. However, none of these measures address the procedure regarding food imports in the specific context of disaster settings. There are a number of other important sources of Irish food safety law.¹⁷⁹

Imports of products of animal origin for human consumption from countries outside the EU customs area may only be brought into Ireland through a Border Inspection Point operated by the Department of Agriculture, Food and the Marine in collaboration with the Customs Services. There are no provisions in place for waiving this requirement in cases of emergency.

Irish law, directly or through applicable EU law, does not create any special procedures in relation to food imports in disaster settings.

Medicines

Section 18 (3) of the IDRL Guidelines states that legal and administrative barriers to the exportation, transit, importation and re-exportation of medications by assisting actors be reduced to the extent consistent with public safety and international law.¹⁸⁰

Irish law regulates and licenses the manufacture, importation, distribution, placing on the market, advertising and supply of medicinal products. Because of the competence of the European Union in some of these areas, Irish law includes relevant EU legislation. The Irish Medicines Board Act 1995 established the Board to oversee this system of regulation and licensing within Ireland and all medicines being manufactured, sold or supplied in Ireland must comply with the standards laid down and overseen by the Irish Medicines Board.

In order to place a medicinal product on the market, national marketing authorisation must be obtained in the relevant Member States; once obtained, this authorisation forms the basis for mutual recognition throughout the EU. Article 40(3) of Directive 2001/83/EC¹⁸¹ provides that an authorisation is obtained for imports coming from third countries into a Member State.

Finally, insofar as controlled substances are concerned, it should be noted that Ireland is a party both to the Single Convention on Narcotic Drugs 1961 and the UN Convention on Psychotropic Substances 1971. These Conventions have been implemented in Irish law through the Misuse of Drugs Act 1977 as amended, which regulate and control the import, export, production, supply and possession of a range of named narcotic drugs and psychotropic substances listed in the Schedules to the Act.

Although there is detailed regulation of medicinal products in Ireland and throughout the EU, including in respect of import and export, there is no special regime to facilitate or monitor the import and/or export of medications for the purpose of disaster relief.

Animals

Ensuring ease of entry of search dogs into Ireland is of paramount importance given that Ireland has limited urban search and rescue capability¹⁸² and that both medium and heavy urban search and rescue civil protection modules for Host Nation Support are required to have the capacity to use search dogs.¹⁸³

The Diseases of Animals Act 1966 grants a Government Minister a wide range of powers to

regulate the entry of animals into Ireland.¹⁸⁴ The Act will be repealed on commencement of the Animal Health and Welfare Act 2013.

Special arrangements exist in respect to the importation of pets from other EU Member States which are set out, inter alia, in Council Directive 92/65/EEC and, more recently, Regulation (EC) no 998/2003 on animal health requirements applicable to the non-commercial movement of pet animals.¹⁸⁵ These instruments take steps to prevent the risk of rabies and other animal diseases from such animal movement.¹⁸⁶ Regulation 998/2003/EC also applies to the movement of pet animals from third countries with a differentiated regime in operation according to whether or not the third countries have a favourable situation in respect of rabies. There are no special exemptions for search and rescue dogs. Additional requirements apply to the importation of five or more animals.

Pets coming from EU and non-EU countries must be presented for inspection at a veterinary hospital on arrival at Dublin Airport. Such animals must arrive in the State in manifested freight on an approved airline or be accompanied by a veterinary health certificate that has been verified by the competent authority of the state of origin. All dogs imported must be identified with an electronic identification system. While service animals such as guide dogs may be inspected directly on arrival at the airport there are no procedures in place currently to allow for such expedited inspection of search and rescue dogs.

It should also be noted that the Control of Dogs Act 1986 lays down a requirement to hold a licence in respect of a dog. However, there are certain exemptions from this requirement, including, under section 5 (g) of the 1986 Act, in respect of a dog ‘which is imported into the State for a period not exceeding thirty days.’ While this provision may exempt rescue dogs present in Ireland for a period of thirty days or under, it is not specifically directed towards the position of such dogs.

5.4.3 Dispositions for unused humanitarian goods

Section 17(d) of the IDRL Guidelines and Paragraph 9.4.2 of the Host Nation Support Guidelines provide that the Host Nation should permit the re-exportation of goods and equipment used, in the event that the Sending Nation or assisting organisation wishes to retain what it originally owned.¹⁸⁷

There is no provision in Irish law that would prevent the re-exportation of goods and equipment lawfully belonging to assisting actors. The Constitution of Ireland places considerable emphasis on the right to private property.¹⁸⁸

Recommendations:

- The expedited authorisation of imports of required medications coming from non-EU countries for the duration of an emergency should be ensured.
- Disaster relief organisations meeting minimum quality standards ought to be permitted to possess and supply controlled drugs for the duration of an emergency.
- The Department of Agriculture, Food and the Marine ought to either waive inspection requirements for search and rescue dogs or provide for expedited inspections of search and rescue dogs to be carried out at Dublin Airport or any other port of entry of such dogs in case of emergency. This could be achieved through the classification of search and rescue dogs as service animals in a similar manner to guide dogs.

5.5 Taxation

Section 21 of the IDRL Guidelines states that the Host Nation should provide exemptions to assisting States and assisting humanitarian organisations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.

Many assisting humanitarian organisations may qualify as charitable organisations under the Taxes Consolidation Act 1997. The Act provides for the grant of exemptions from income tax and capital gains tax by the Revenue Commissioners in respect of income and gains made by charitable bodies established for charitable purposes only.¹⁸⁹ Charitable companies eligible for exemption from income tax and capital gains tax will also qualify automatically for a corporation tax exemption.¹⁹⁰ It is to be determined by the Revenue Commissioners on the basis of a number of criteria whether a charity established in an EEA/EFTA State may benefit from these provisions.¹⁹¹ Notably, a charity, which is not resident in Ireland or an EEA/EFTA State, cannot seek a determination for charitable status under the Act. At the time of writing, the provisions of the Charities Act 2009 which relate to the taxation of charities have yet to be commenced.

In relation to the UN and its specialised agencies, Section 7 of the Convention on the Privileges and Immunities of the UN and Section 9 (a) of the Convention on the Privileges and Immunities of the Specialised Agencies renders their assets, income and other property exempt from taxation. Both the above-mentioned Conventions are incorporated into Irish law by the Diplomatic Privileges and Immunities Act 1967. Officials of the UN¹⁹² and of its specialised agencies¹⁹³ are exempt from taxation on income received from the UN.

Article 8 of the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency provides that assisting States and personnel be exempt from taxation, duties or other charges, except value added tax, in respect of the performance of their assistance functions.¹⁹⁴

Ireland has entered into several double taxation treaties the provisions of which could be availed of by assisting actors.¹⁹⁵ These treaties cover direct taxes, including income tax, corporation tax and capital gains tax.¹⁹⁶

Recommendations:

- Foreign non-governmental humanitarian organisations that meet minimum quality standards ought to be considered for tax exemption by the Revenue Commissioners under the Taxes Consolidation Act 1997 regardless of whether or not it is resident in Ireland or an EEA/EFTA State.

5.6 Transport, Movement and Access

5.6.1 Transport

Paragraph 9.2 of the Host Nation Support Guidelines recommend that entry points in Ireland for international relief personnel be identified and catalogued, including their capacities. Currently, no entry points have been catalogued in the Common Emergency Communication and Information Service. Section 19 (1) of the IDRL Guidelines provide that the Host Nation should grant permission for the speedy passage of land, marine and air vehicles operated by assisting actors.

Land Transport

Exemptions from road tolls

The HNS Guidelines explicitly recommend the waiving of tolls.¹⁹⁷ Section 19 of the IDRL Guidelines states that the Host Nation should waive any tolls that may impede the speedy passage of land vehicles. In Irish law, Section 6 of the Local Government (Toll Roads) Act 1979 provides that vehicles belonging to and used for official purposes by the Defence Forces and the Garda Síochána as well as fire brigade vehicles and ambulances shall be exempt from the payment of tolls. No exemption is granted under this provision to other civil protection vehicles. The European Communities (Charging of Heavy Goods Vehicles for the Use of Certain Infrastructures) Regulations 2009 allows for exemptions from or reduced tolls for vehicles used for civil defence in general.¹⁹⁸ However, the relevant bye-laws for toll roads in the State only allow for exemption for the limited set of vehicles as outlined in the 1979 Act above.¹⁹⁹ There is an exemption from the toll for use of the Dublin Port Tunnel for vehicles with a design gross vehicle weight exceeding 3,500 kilograms.²⁰⁰

Exemptions from transport regulations

The HNS Guidelines recommend that national transport regulations be waived. Section 19 of the IDRL Guidelines also recommends that the Host Nation grant permission for the speedy passage of land vehicles. The Road Traffic Act 2010 provides for exemptions to traffic regulations (including regulations relating to speed limits and the obligation to stop at red traffic lights) to drivers of fire brigade vehicles belonging to local authorities in Ireland or ambulances.²⁰¹ The exemption does not extend to fire brigade vehicles from other jurisdictions (e.g. from Northern Ireland) or to other vehicles involved in disaster relief, including civil protection vehicles. The exemption does, however, extend to persons driving or using a vehicle under the direction of a member of the Garda Síochána, where such use does not endanger the safety of road users.

Blue and amber lamps may be carried on a vehicle being used inter alia: by a member of the Garda Síochána in the performance of his or her duties, as a fire brigade vehicle, by persons providing an ambulance service, as an Irish Coast Guard vehicle, with or without a trailer, for the delivery or collection of human transplant organs, human blood or human blood products.²⁰² There is no provision in law permitting the use of blue and amber lights on vehicles used by international assisting actors.

Emergency sirens may be fitted to a vehicle where the vehicle is being used by a member of the Garda Síochána, as a fire brigade vehicle, by persons providing an ambulance service, by the Irish Prison Service, as an Irish Coast Guard vehicle, for the delivery or collection of human transplant organs, human blood or human blood products, or as a marked Military Police Vehicle.²⁰³ The definition of a fire brigade vehicle only encompasses those operated by local authorities. Fire brigade vehicles from other jurisdictions are therefore not permitted to have emergency sirens fitted to their vehicles. Those driving vehicles permitted to be fitted with emergency sirens may only use them where necessary in the circumstances.²⁰⁴

In practice, the authorities will strive to facilitate the speedy passage of vehicles required in a crisis situation.²⁰⁵ An example provided in this regard is the response to the December 2010 severe weather whereby escorts were provided to specialised vehicles by An Garda Síochána to facilitate the salting of roads. Such arrangements may be available for incoming civil protection vehicles.

The Road Traffic (Construction and Use of Vehicles) Regulations 2003 detail the maximum weight and dimensions of road vehicles in Ireland. While exemptions to these regulations are confined to vehicles belonging to, or used for official purposes, by the Defence Forces, a permit system is administered by local authorities under Regulation 59 for vehicles that exceed the maximum weight and dimensions. Furthermore, the Minister for Transport has the authority under Regulation 60 to issue a special permit authorising the use of a particular vehicle or a particular combination of vehicles. These permits may be of pertinence to the use by assisting actors of specialised civil protection vehicles that would otherwise exceed the maximum permitted weight and dimensions of road vehicles.

Regulation (EC) No 561/2006 lays down rules limiting driving times, imposing breaks and rest periods for drivers engaged in the carriage of goods and passengers by road.²⁰⁶ However, the Regulation does not apply to the transport of humanitarian aid, which is to be used in emergencies or rescue operations.²⁰⁷ Furthermore, the Regulation does not apply to drivers of vehicles owned by civil defence services, fire services, and forces responsible for maintaining public order²⁰⁸ or of specialised vehicles used for medical purposes.²⁰⁹ Vehicles used in connection with flood protection and water, gas and electricity maintenance services

arriving in Ireland from the United Kingdom for the above purposes are exempt from the limitation on working hours detailed in Regulation 561/2006.²¹⁰ Furthermore, the transport of articles required for medical care in emergency relief is exempted from the requirement to hold an operator's licence.²¹¹

Maritime Transport

The United Nations Convention on the Law of the Sea to which Ireland is party provides that ships of all States enjoy the right of innocent passage through the territorial sea.²¹² Passage is considered innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State if it engages in the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal state.²¹³ The Paris Memorandum of Understanding on Port State Control, which has been signed by the maritime authorities of Ireland, provides that it must be ensured that foreign merchant ships calling at a port in Ireland, or anchored off such a port, comply with the safety standards laid down in a set of relevant instruments.²¹⁴ Compliance with the Paris Memorandum of Understanding would not be waived in an emergency setting. Ireland has issued a list of ports authorised to issue ship sanitation certificates in accordance with Article 20 (3) of the International Health Regulations.²¹⁵

All ships arriving in a Community port from ports situated outside the customs territory of the European Union must complete reporting formalities irrespective of the flag or trade of such ships.²¹⁶ Reporting must be undertaken at least 24 hours in advance of arrival or, if the voyage time is less than 24 hours, at the latest at the time the ship leaves the previous port.²¹⁷ Reporting formalities are not required of ships owned or operated by a Member State and used for non-commercial public service.

Ireland is a State Party to the 1965 Convention on the Facilitation of Maritime Traffic. The Annex to the Convention has been amended to provide in Sections 7.8-7.10 for the facilitation of the arrival and departure of ships engaged in disaster relief work, including the facilitation of the entry and clearance of persons, cargo, material and equipment required to deal with disaster situations. These sections are given the status of "standards" within the Convention, which deems these sections are necessary and practicable in order to facilitate international maritime traffic.²¹⁸

There are two multi-modal base ports in the Republic of Ireland in Dublin and Cork, which provide connections to transshipment ports such as Rotterdam and handle the six modes of shipping. The two ports are operated by Dublin Port Company and the Port of Cork Company respectively. The Department of Transport considers it reasonable that charges would not apply for vessels providing aid arriving at Dublin and Cork ports. The Minister for Transport, Tourism and Sport is the major shareholder of both port companies.

Air Transport²¹⁹

Section 19 (1) of the IDRL Guidelines provides that the Host Nation should grant, without undue delay, permission for the speedy passage of aircraft operated by assisting actors.

In addition, Section 18 (2) provides that the Host Nation should permit the landing and departure of aircraft involved in humanitarian assistance.

The Convention on International Civil Aviation provides that States Parties shall facilitate relief flights.²²⁰ This provision only applies to civil aircraft.²²¹

There is no specific provision for landing rights in Ireland for aircraft bearing relief goods. However, under the Air Navigation and Transport Act 1988, the Minister for Transport may, during an emergency, give directions as to the use, or possession, of any aircraft or aerodrome and their facilities.²²² The same Act grants the Minister for Transport the power to prohibit landing at, or departure from, aerodromes under certain circumstances.²²³

The Irish Aviation Authority (IAA) was established in 1993 with the purpose of providing air traffic management, safety regulation, and safety assessment of foreign aircraft. The Irish Aviation Authority Act 1993 empowers the Minister for Transport to make an Order to the Irish Aviation Authority to do or refrain from doing anything within the function of the Authority, which is necessary or expedient in the national interest.²²⁴ This power could be exercised to ensure priority for aircraft bearing relief goods in situations where such aircraft require to land in Ireland.²²⁵ Similarly, Section 60 of the same Act, which gives the IAA a wide range of powers to control Irish airspace, could be exercised in ensuring priority for same aircraft. The IAA would be prepared to receive any instructions from the Minister for Transport and would facilitate such assistance.²²⁶

The above provisions do not automatically relate to State aircraft or to aerodromes under the control of the Minister for Defence. However, under Article 3(4) of the Irish Aviation Authority

Act 1993, the Minister for Transport may by order declare that specified provisions of the Act or instruments made under the Act shall apply to foreign State aircraft. Should there be a humanitarian crisis in Ireland, the Department of Defence would be favourably disposed to allowing for the use of Casement Aerodrome, a military airport, for humanitarian purposes.²²⁷

Section 19(1) of the IDRL Guidelines provides that, ideally, applicable fees relating to relief flights ought to be waived. There are a number of charges that may accrue in relation to relief flights. These include route charges, terminal navigation charges and communication charges.

Route charges are charges for using managed airspace.²²⁸ Search and rescue flights are automatically exempt from route charges. Humanitarian flights may also be exempted from route charges provided they are authorised by the appropriate competent body of the country the airspace of which the relief flight passed through. The authorities in Ireland would be favourably disposed to exempting relief flights from route charges it would otherwise incur arising from its passage through Irish airspace.²²⁹

Terminal navigation and ground handling charges at Dublin Airport are regulated by the Commission for Aviation Regulation and imposed by the Dublin Airport Authority. Airport charges at the two other State airports,²³⁰ Cork and Shannon Airports, are set by the relevant airport authority. The Dublin Airport Authority would anticipate applying a waiver of charges depending on the nature of the emergency. The Dublin Airport Authority has responsibility for Cork airport. Where required or requested, the Shannon Airport Authority would on the basis of facilitating aircraft movements through Shannon airport as part of a significant disaster response or humanitarian operation waive airport charges for all non-commercial operators.

Exemptions from EU rules relating to the technical requirements and administrative procedures relating to civil aviation are provided for in case of unforeseen circumstances.²³¹

5.6.2 Movement/Access within Ireland

Paragraph 9.3 of the Host Nation Support Guidelines provides that the Host Nation is responsible for the route planning and the provision of necessary transport arrangements for incoming assisting actors starting from the point of entry and lasting for the entire operation.

Section 16 (1) d. of the IDRL Guidelines provides that the Host Nation should facilitate freedom of access to and freedom of movement in and from the disaster-affected area, bearing in mind the safety of the assisting actors.

Road transport within Ireland has been identified as a key risk for international responders, arising from Ireland's left-hand traffic system. A solution to this problem identified at the focus group discussions is to ensure that An Garda Síochána escorts incoming civil protection vehicles *en route* to the emergency site.

In terms of access of assisting actors to disaster-affected communities, the principal response agencies are primarily responsible for the operational response to the disaster. The "*Framework for Major Emergency Management*" provides for access of international assisting actors through their engagement with the coordination mechanisms provided for in the Framework.²³²

Although not yet commenced, Section 12 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 obliges a wide range of organisations to ensure that they have received a vetting disclosure from the National Vetting Bureau of An Garda Síochána in respect of persons working for them in any capacity and who are in contact with, or have access to, children²³³ or vulnerable persons.^{234 235} Assisting actors may avail of an exemption from the requirements of the Act under circumstances in which an individual is providing assistance on an occasional basis, for no commercial consideration and where such assistance does not involve counseling, teaching or training of children or vulnerable persons.²³⁶

Recommendations:

- Consideration ought to be given to identifying entry points for international assisting actors (e.g. airports, seaports, helipads etc.) in the Common Emergency Communication and Information System. The capacities of such entry points ought to be detailed.
- Transport-related regulations ought to be documented in CECIS, drawing possibly on this section of the report.
- Current legislation concerning the use of sirens and flashing lights should be amended to permit vehicles belonging to Host Nation Support civil protection modules or emergency services vehicles from Northern Ireland to lawfully use such signals in the State for the duration of narrowly defined emergencies.
- The potential impact of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 on the ability of assisting actors to work with children and vulnerable persons during emergencies should be further explored.

5.7 Telecommunications

The Host Nation Support Guidelines recommend that the Host Nation should facilitate the use of telecommunications and provide radio frequencies to incoming teams. Section 18 of the IDRL Guidelines also recommends that barriers to access to telecommunications and information technology equipment be reduced and that provision be made for priority access to bandwidth, frequencies and satellite use for telecommunications and data transfer. The “*Framework for Major Emergency Management*” identifies the quality of facilities for communications between international assisting actors and Ireland’s principal response agencies as a factor in the successful coordination of international and domestic response capabilities.²³⁷

The National Digital Radio Service network (commonly known as TETRA) is the network used exclusively by the emergency services in Ireland.²³⁸ There is a register of users of the network.²³⁹ The Commission for Communications Regulation is responsible for managing the radio frequency spectrum²⁴⁰ and has issued guidance notes concerning application for an Emergency Services Digital Radio (‘ESDR’) Licence.²⁴¹ It would not be practical under these arrangements for assisting actors to be entered on the register due to the delay that would be caused by the administrative burden involved in obtaining one.

Paragraph 6 of the HNS Guidelines invites the Host Nation to develop a media relations plan where international assistance is required. The “*Guidelines for coordinating a national level emergency/crisis response*” tasks the National Coordination Group with developing a public information strategy.²⁴² There are guidelines in place for Lead Government Departments for broadcasting an emergency warning or advisory message through the Government Information Service.²⁴³ Also, a guidance document has been prepared for working with the media under the “*Framework for Major Emergency Management*.”²⁴⁴

Generally, all wireless telegraphy equipment requires a licence unless an exemption is provided.²⁴⁵ However, a wide range of satellite communications systems likely to be used in an international relief operation are exempted from the requirement to have a licence by order.²⁴⁶ The Tampere Convention (Privileges and Immunities) Order 2007 giving effect to the Tampere Convention provides for the exemption from all duties or other charges in respect of equipment, materials and other property brought into Ireland by persons and organisations for the purpose of providing telecommunications assistance.²⁴⁷

Recommendations:

- It should be ensured that assisting actors have expedited access to the National Digital Radio Services Network.
- The Commission for Communications Regulation should consider adopting a blanket waiver of licence fees and application requirements for the use of telecommunications equipment during emergencies.

5.8 Currency Exchange and Bank Accounts

5.8.1 Currency Exchange and Cross-border Payments

Section 10 (2) of the IDRL Guidelines recommend that sending nations and eligible assisting humanitarian organizations 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.

EU law places a control on cash entering or leaving the EU. A person carrying €10,000 or more (or its equivalent) into or out of the EU territory must declare it to customs officials.²⁴⁸ In accordance with the European Communities (Controls of Cash Entering or Leaving the Community) Regulations 2007 which give effect to the Regulation, the person carrying the cash must declare to an officer of the Revenue Commissioners the origin and intended use of the money. The Revenue may seize and detain any cash worth not less than €10,000 that is being imported into or exported from the EU through Ireland in contravention of the EU Regulation. There is no special provision for the bringing into Ireland of larger sums in cases of emergency. The exchange rates by which foreign currencies are converted into euro are set by Revenue, and there are no rules regarding access to or preferential exchange rates for humanitarian organisations or their personnel.

The Cross-Border Payments Regulation 924/2009/EC aims to ensure that any charges for cross border payments within the EU (up to €50,000) are at the same level as charges for domestic payments in the same currency within a Member State. This covers direct debits, credit transfers and withdrawals at automated teller machines.²⁴⁹

The Wire Transfer Regulation introduces measures to ensure the traceability of funds transfers to, from and within the EU.²⁵⁰ The Regulation requires all payment service providers within the EU to collect and verify the payer's identity and account number when transferring or receiving funds. When the required payer information is absent, the payee's payment service provider must either reject the transfer or request complete information.²⁵¹ There is no exemption from these requirements for individuals and humanitarian organisations sending funds to Ireland for disaster relief purposes.

Experts (not including UN officials) performing missions for specialised agencies of the United Nations to which privileges and immunities are granted by the State shall be accorded the same facilities in respect of currency and exchange restrictions as are accorded to foreign government officials.²⁵²

5.8.2 Bank Accounts

Section 20(1) of the IDRL Guidelines states that ‘affected States should grant relevant entities of assisting States and eligible, assisting humanitarian organizations, upon entry or as soon as possible thereafter, at least a temporary authorization to legally operate on their territory so as to enjoy the rights, inter alia, to open bank accounts...’ Paragraph 9.4.2 of the Host Nation Guidelines mirrors this guidance in recommending that the Host Nation ought to be prepared to ensure that assisting actors can open bank accounts in the event of a disaster.

Directive 2005/60/EC obliges credit or financial institutions and certain other types of businesses to apply detailed customer due diligence in order to prevent money laundering and terrorist financing.²⁵³ The Directive requires that they must ascertain and verify the identity of the customer and obtain information on the purpose and nature of the transaction before carrying out transactions amounting to €15,000 or more. The Directive imposes the same obligation on anyone trading in goods where goods sold at €15,000 or more and are to be paid in cash. The due diligence obligations also apply where electronic money of €150 or more on a non-rechargeable device is to be issued or an electronic money holder redeems an amount of €1,000 or more in the same year.

The Department of Finance has issued a document containing guidelines on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.²⁵⁴ The Guidelines are intended to guide the financial service industry and professional service providers in the application of Part IV of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, which sets out, inter alia, the obligations of banks and other financial institutions in relation to customer identification, verification and monitoring. Although the Guidelines have not been approved under Section 107 of the 2010 Act, the Central Bank has regard to them in assessing compliance with the Act. In respect of the application of Part IV of the Act to charities, the Guidelines state:

‘Non-profit organisations and charities have been used to divert funds for terrorist and other criminal activities and as a result, Designated Persons [including banks] should be mindful of the risks that charities can present, particularly in the case of unregistered charities.’²⁵⁵

The Department of Finance Guidelines provide that charities should be treated according to their legal form. Charitable companies are treated in the same way as other companies, so that banks and financial institutions must identify the charity itself, its directors and those authorised to sign mandates on its behalf. Identification can take place by reference to the founding documents and independent sources. The information provided by the company should be verified with the relevant registries or independent commercial databases.

The Department of Finance Guidelines provide details concerning the information that should be obtained by financial institutions.²⁵⁶ The information should be verified by reference to relevant charities registers and tax authorities in the country concerned. There is no provision in the Guidelines for expedited procedures in emergency situations.

Recommendations:

- Registration of non-governmental humanitarian organisations in accordance with Recommendation 36 (see main recommendations below) ought to satisfy the requirements concerning identification contained in the Department of Finance 'Guidelines on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.'

5.9 Extended Hours

Section 23 of the IDRL Guidelines recommends that the Host Nation should endeavour to ensure, when necessary, that State-operated offices and services essential to the timely delivery of international disaster relief function outside of normal business hours.

The Organisation of Working Time Act 1997 imposes limitations on the working time of employees. However, there are a number of exemptions to these limitations. An employer is exempt under Section 5 of the Act from the obligation to provide rest periods or to curtail working hours at night if this is not possible due to exceptional circumstances or emergency. The provision of ambulance, fire and civil protection services is also exempted from the working time requirements of the Act.²⁵⁷ This exemption would also apply to the provision of ambulance, fire and civil protection services by assisting actors.²⁵⁸

Many facilities of relevance to an international relief operation operate on a 24 hour basis under normal circumstances. Immigration controls operate on a 24 hour basis as do the three State airports and the military airport at Baldonnell in Dublin. Air traffic management at all three State airports is also conducted on a 24 hour basis.²⁵⁹ The limitations on working time for mobile staff in civil aviation (pilots and air stewards) are unlikely to constitute an obstacle to incoming relief flights.²⁶⁰ Key seaports such as Dublin Port and the Port of Cork also operate on a 24 hour basis.

In addition to the above IDRL guideline, Paragraph 9.4.2 of the HNS Guidelines contains a recommendation to the Host Nation that arrangements ought to be in place to inspect and release incoming disaster relief goods outside of business hours and/or at a place outside the customs office to avoid unnecessary delay. Revenue offers electronic systems that are available 24 hours a day and there are contingency arrangements in place should the electronic systems fail.

5.10 Quality and Accountability of the Affected State and of the Assisting Actors: Adequacy, Timeliness and Appropriateness

5.10.1 Quality and Accountability of the Host Nation

Section 6 of the IDRL Guidelines provide that the Host Nation, together with the assisting actors, ought to cooperate to prevent unlawful diversion, misappropriation, or fraud concerning disaster relief goods, equipment or resources and initiate proceedings as appropriate.

There are a number of general mechanisms in place to guard against diversion, misappropriation or fraud concerning foreign disaster relief and recovery goods and funds. The Standards in Public Office Act 2001 provides for codes of conduct for a range of public servants, including members of the Oireachtas and office holders.²⁶¹ These codes of conduct set out the standards of conduct and integrity expected to be observed by the persons to whom they relate in the performance of their official duties. A code of conduct forms part of the terms of employment of all civil servants, with which compliance is expected at all times.²⁶² The requirements of the code include always acting within the law. Public and civil servants are also subject to the criminal law relating to theft and fraud.²⁶³

The prohibition of corruption is contained in a series of Corruption Acts from 1889 to 2010. Active and passive corruption is criminalised under the Criminal Justice (Theft and Fraud) Act 2001.²⁶⁴ Of particular relevance to Host Nation Support under the EU Civil Protection Mechanism is that the Convention on Protection of European Communities' Financial Interests and its protocols is incorporated into Irish law in the same Act.²⁶⁵ Section 42 of the Act renders a person who commits, participates or benefits from any fraud affecting the European Union's financial interests guilty of an offence and liable on conviction to a fine or imprisonment for a term not exceeding five years or both. Whistleblowers that make reports of corruption in good faith are protected by the Prevention of Corruption (Amendment) Act 2010. The same Act gives effect in domestic law to the Convention on Corruption of officials of the European Communities and officials of the EU Member States.²⁶⁶ Ireland has also ratified the Convention against Corruption.²⁶⁷

Section 6 (2) of the IDRL Guidelines recommends that the Host Nation 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. There are no specific rules concerning the audit of foreign aid and reports concerning its use. The release of foreign disaster relief and recovery funds donated to the State would be subject to authorisation by the Office of the Comptroller and Auditor General who is assigned the general role of releasing Exchequer funds for purposes permitted by law. The Comptroller and Auditor General is specifically responsible for auditing the accounts of public bodies and establishing that funds are applied for the purposes intended.

Other accountability mechanisms in Ireland include the Office of the Ombudsman, which can examine complaints in relation to the ‘administrative actions’ of certain public bodies.²⁶⁸ The Garda Síochána Ombudsman Commission is an independent, statutory body responsible for receiving and dealing with complaints concerning the conduct of members of the Garda Síochána. Furthermore, under Section 3 of the European Convention on Human Rights Act 2003, every organ of the State must perform its functions in a manner compatible with the State’s obligations under the Convention provisions.²⁶⁹ The Human Rights Commission may conduct reviews²⁷⁰ of the adequacy and effectiveness of law and practice in the State relating to the protection of human rights, conduct enquiries²⁷¹ under certain circumstances, and institute proceedings in the courts.^{272 273} In addition, decisions of the lower courts, tribunals and other administrative bodies may be challenged by judicial review in the High Court.

The Freedom of Information Act 1997 as amended by the Freedom of Information (Amendment) Act 2003 requires public bodies²⁷⁴ to make available details of internal rules and procedures used in decision making as well as certain records held. It should be noted that Section 23 of the Act grants discretion to Government to withhold information from the public if such information is liable to endanger the life or safety of any person²⁷⁵ or prejudice or impair ‘lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property.’^{276 277}

There is currently no legal authority for assigning a Government Department for receiving and disbursing international donations made to the State. There is also no provision for maintaining donated funds in interest-bearing accounts.

5.10.2 Quality & Accountability of Assisting Actors

Assisting actors have the potential to exercise considerable influence and power over those they assist.²⁷⁸ It is thus of crucial importance that the provision of humanitarian assistance by persons and organisations from outside the jurisdiction are subject to accountability to beneficiaries. The main mode in which such accountability takes place is through mechanisms established by the Host Nation. The Host Nation Support Guidelines and the IDRL Guidelines provide guidance concerning the responsibilities of international assisting actors during an international relief effort.

Currently, there is no universally recognised system of international accreditation of NGOs available.²⁷⁹ Equally, Ireland does not have explicit minimum standards for international disaster relief and recovery operations conducted in the country. Despite this, assisting actors are accountable under the general legal framework in Ireland.²⁸⁰

In terms of civil liability, assisting actors may be liable, for example, in tort or contract. In tort, assisting actors may be liable *inter alia* in negligence, nuisance, trespass, defamation or deceit. Under the law of negligence, an organisation may owe a duty of care to a person in certain circumstances and may be liable in negligence where it has failed to act with reasonable care and has caused damage to the person. It should be noted, however, that the courts in Ireland have been reluctant to impose affirmative duties and there is 'no general duty to go to the assistance of another person who is in peril, even where to do so would involve no danger or real inconvenience to the would-be rescuer.'²⁸¹ In the case of professional rescuers in Ireland, even where assistance is provided carelessly or negligently, the organisation will not be held liable.²⁸² The doctor-patient relationship and the duties of ambulance services are, however, subject to civil liability due to their duty of care towards patients and members of the public respectively.²⁸³

Moreover, the utility of a defendant's conduct is a factor which is taken into account by the courts in determining whether there has been a breach of any duty of care. The normal rules and procedures relating to civil liability are equally applicable to the liability of non-governmental assisting actors.

Section 51 D of the Civil Liability Act 1961 as amended by Section 4 of the Civil Law (Miscellaneous Provisions) Act 2011 provides that, in the event of an emergency, a person coming to the aid of a person who is actually or apparently injured or ill shall not be personally liable in negligence. The protection from liability does not apply where the act was done by the person in bad faith or with gross negligence.²⁸⁴ The person providing the assistance must not expect payment or other reward in providing such assistance to qualify for this immunity from liability.²⁸⁵ This may exclude certain categories of assisting actors. Certain protection from civil liability is also extended to volunteers and volunteer organisations.²⁸⁶

The health and safety obligations on employers are key issues that need to be addressed so as to ensure that assisting actors can be fully integrated into the response activities of the principal response agencies in Ireland. The definition of employer in the Safety, Health and Welfare at Work Act 2005 is sufficiently broad so as to include a range of assisting actors.²⁸⁷ Every employer is required to ensure the safety, health and welfare at work of all of his or her employees insofar as this is reasonably practicable.²⁸⁸ Thus, assisting actors need to prepare risk assessments for the work they intend to do and include these in a Safety Statement in accordance with Section 20 of the Act. The Safety Statement must cover the Health and Safety Management of the incoming relief organisations and their workers. Although generally protected by the standards contained in the Act, persons engaged in the activities of civil protection or civil defence and other emergency actors are not covered by the health and safety protections contained in Section 11 of the Act when they are engaged in activities relating to inter alia civil emergencies or public order and security.²⁸⁹

Non-governmental assisting actors and their personnel would also be subject to the criminal law in Ireland. Theft, false accounting and other fraudulent activities are criminalised by the Criminal Justice (Theft and Fraud) Act 2001. The law relating to corruption is outlined above in Section 5.10.1 of the report.

Recommendations:

- Provide that donations received by the Exchequer are used for the expressed intent of donors.

5.11 Security & Vehicle Insurance

5.11.1 Security

Paragraph 8 of the HNS Guidelines and Section 22 of the IDRL Guidelines provide that the Host Nation should take appropriate measures to address the safety and security of assisting actors as well as their premises, facilities, means of transport, equipment and goods.²⁹⁰

There is no domestic institution specifically charged with ensuring the safety of relief personnel, premises, transport, equipment and goods. The responsibility for ensuring safety in these circumstances would lie primarily with An Garda Síochána, whose functions are broadly defined in Section 7 of the An Garda Síochána Act 2005. In addition, such a function may be considered to be implicit in, or a corollary of, the functions conferred on the Irish Red Cross Society under statute.²⁹¹

In the case of major emergencies, each Principal Response Agency must prepare its own emergency management plan. In this context, it should be noted that local authorities have responsibility for delivery of civil defence services at a local level. In some cases, the civil authorities may request assistance from the Irish Defence Forces, which provide such assistance in the form of Aid to the Civil Authority (ATCA) type operations.²⁹²

While Ireland is a party to the Convention on the Safety of United Nations and Associated Personnel, it has not ratified the Optional Protocol to the Convention which extends its application to personnel in humanitarian assistance operations and operations aimed at delivering emergency humanitarian assistance. However, where the UN Security Council or the General Assembly declares that there exists an exceptional risk to the safety of the personnel participating in a United Nations operation, the Convention may apply.²⁹³ Under the Convention, the United Nations and associated personnel are obliged to respect the laws and regulations of the host State and the transit State; and refrain from any action or activity incompatible with the impartial and international nature of their duties.²⁹⁴ In turn, States Parties must take 'all appropriate measures' to ensure the safety and security of United Nations and associated personnel.²⁹⁵

5.11.2 Vehicle Insurance

Section 19 of the IDRL Guidelines requires the Host Nation to grant, without undue delay, permission for the speedy passage of vehicles operating by assisting actors. The issue arises as to whether such vehicles would be covered by vehicle insurance. Irish law does not specifically address the availability of vehicle insurance for relief organizations. However, under Irish and EU law, it is compulsory to have vehicle insurance. Section 56 of the Road Traffic Act 1961 imposes an obligation on any person using a motor vehicle in a public place to have third party insurance for the vehicle and makes contravention of this obligation an offence. Section 80 of the Act provides that the Minister may make regulations for facilitating compliance with this Act by persons who ordinarily reside outside the State.

There is also an obligation under European Union law on all motor vehicles within the EU to be covered by compulsory third party insurance.²⁹⁶ The authorities in Ireland are obliged to refrain from making checks on insurance in respect of vehicles normally based in the territory of another Member State.²⁹⁷ Derogations are permitted under EU law²⁹⁸ but, in the case of Ireland, these are limited to State owned vehicles and vehicles owned by Córas Iompair Éireann.

The foreign status of relief organizations' vehicles would not *per se* preclude them from obtaining insurance on the domestic market. However, different insurance companies may have different policies for granting insurance to such vehicles.²⁹⁹

In relation to insurance more generally, Article 36 (1) of Commission Decision 2004/277 provides that the Host Nation shall refrain from making any request for compensation from participating States for damage caused to their property or service staff where such damage is the consequence of EU civil protection assistance, unless it is proven to be the result of fraud or serious misconduct.

Recommendations:

- Ireland should consider signing the Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel.

6 Role of the Irish Red Cross in Disaster Management

Section 3 (1), IDRL Guidelines recognises that '...National Red Cross and Red Crescent Societies, as auxiliaries to the public authorities in the humanitarian field, and domestic civil society actors play a key supporting role at the domestic level.' Furthermore, Section 8 (1) of the IDRL Guidelines provides that the legal, policy and institutional framework for disaster management should take full account of the auxiliary role of the National Red Cross or Red Crescent Society.

The powers of the Irish Red Cross are laid down in Article 6 of the Irish Red Cross Society Order 1939 as amended, whereby the Irish Red Cross is recognised as a voluntary aid society auxiliary to the public authorities in the humanitarian field during armed conflict.³⁰⁰ In time of peace it is empowered to carry on and assist in work 'for the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.'³⁰¹ This latter power is recognised in the Irish Red Cross Constitution.³⁰²

According to the Irish Red Cross Constitution, the principal objective of the Society is:

'to prevent and alleviate suffering with complete impartiality, making no discrimination as to nationality, race, gender, sexual orientation, religious beliefs, language, class or political opinions'³⁰³

The Constitution also includes among the other objectives and activities of the Society the organisation, 'within the scope of the Major Emergency Framework,' of assistance to victims of all disasters.³⁰⁴ Mutual assistance and co-operation with public authorities at all levels is also mandated.³⁰⁵

The Irish Red Cross is expressly mentioned in the *"Framework for Major Emergency Management"* under Section 5.6, which relates to the mobilization of resources additional to the principal response agencies.³⁰⁶ In this section the mandate of the Society under the Red Cross Acts 1938-1954 is acknowledged. The role of Irish Red Cross in relation to the principal response agencies is considered primarily as an auxiliary resource to the ambulance services. The role of the Society in subsidiary search and rescue and in-shore rescue units in support of An Garda Síochána and the Irish Coast Guard is also acknowledged.³⁰⁷ A guidance document issued under the *"Framework for Major Emergency Management"* provides guidance for staff of the Principal Response Agencies for working with voluntary emergency services, including the Irish Red Cross.³⁰⁸ In turn, Irish Red Cross has developed guidelines relating to its role in major emergencies.

The *"Framework for Major Emergency Management"* also refers to the role of the Irish Red Cross in administering Government-instituted hardship relief schemes in the aftermath of emergencies. Irish Red Cross Strategy for 2014 - 2018 places greater emphasis on community resilience, thereby expanding its humanitarian role. This new focus is not yet reflected explicitly in disaster management policy.

The Restoring Family Links service of Irish Red Cross helps people living in Ireland to re-establish contact with immediate family members after separation arising from armed conflict, political unrest, migration as well as natural disaster. It is perceivable that this service, which is run in conjunction with other components of the Red Cross Movement, would be highly valuable in the aftermath of a major disaster occurring in Ireland. The Irish Red Cross also has a role in providing psycho-social care. However, neither of these Irish Red Cross activities is currently recognised in disaster management policy.

The participation of Irish Red Cross in high-level planning and operational committees is currently limited. The Government Taskforce on Emergency Planning is composed solely of Government Ministers and senior officials of the Lead Governments Departments as are the National Coordination Groups established in reaction to major emergencies. While Irish Red Cross is not represented in Regional Steering Groups themselves, it is represented in sub-committees of Regional Steering Groups.

In terms of Irish Red Cross involvement in coordination mechanisms for international relief, Irish Red Cross is recognised as a competent auxiliary, particularly in the provision of an ambulance service. There is also a high level of familiarity between Irish Red Cross and the principal response agencies and the Irish Red Cross is included in Local Authority Major Emergency Plans. The *"Framework for Major Emergency Management"* makes provision for

including response agencies besides the principal response agencies within coordination mechanisms for response to major emergencies.

Irish Red Cross is a component of the Red Cross Movement, the largest humanitarian organisation in the world. Article 6 (1) e) of the Irish Red Cross Society Order 1939 empowers the Irish Red Cross to co-operate with other National Societies and such cooperation is mandated by Article 7 of the Statutes of the International Red Cross and Red Crescent Movement. The Society is heavily engaged in cooperation with other National Societies and with the International Federation of Red Cross and Red Crescent Societies on an ongoing basis.³⁰⁹ Should assistance from the other components of the Movement be required due to an emergency, Irish Red Cross would be well positioned to make requests to and manage offers from these components. Any requests or offers made would be handled in a coordinated manner with Government.

Recommendations:

- The Red Cross (Amendment) Bill is due to be published in 2014. The Oireachtas should use the opportunity provided by publication of the Bill to consider including reference to the auxiliary role of the Irish Red Cross in the humanitarian field. This would ensure that reference is made to the auxiliary role of the Irish Red Cross in primary legislation for the first time.
- Ensure that the Irish Red Cross Restoring Family Links service and its psycho-social support activities are recognised as core activities of Irish Red Cross in future revisions of disaster management policy. The availability of these services ought to be highlighted.
- The Government Taskforce on Emergency Planning should consider increasing the opportunities for statutory authorities and professional associations as well as a range of voluntary civil protection organisations, including the Irish Red Cross, to engage in emergency planning.
- Regional Steering and/or Working Groups on Major Emergency Management should provide for Irish Red Cross representation at their meetings where practicable. In addition, provision should be made for Irish Red Cross representation in Local and Regional Coordination Group meetings where appropriate.
- Irish Red Cross should continue to develop its cooperation with British Red Cross in Northern Ireland, especially in relation to the conducting of joint exercises. Consideration should be given to concluding an agreement on mutual assistance with British Red Cross in the event of disaster in accordance with Section 11.1 of the Principles and Rules for Red Cross and Red Crescent Disaster Relief.
- Irish Red Cross should consider becoming a registered user of the National Digital Radio Service Network.
- Irish Red Cross ought to be recognised within disaster management policy as a focal point for mobilising incoming assistance from the International Federation of the Red

Cross and Red Crescent Societies and other National Societies. In this regard, the procedures for liaison between Irish Red Cross and the National Coordination Group concerning the making of requests and the acceptance of offers from IFRC ought to be clarified.

7 Status of foreign military assistance, private sector assistance and individual assistance from abroad

7.1 Foreign military assistance

The Defence Act 1954 provides that no person shall enter, land, or be in a public place while wearing the military uniform of any other State except with the consent in writing of a Minister of State.³¹⁰ The Minister of State has the discretion to direct that these requirements be waived for any category of persons for a specified period.³¹¹ Such ministerial discretion could clearly be exercised in the case of an emergency requiring foreign military assistance.

The statutory basis for the control of landings by military aircraft in the State is the Air Navigation (Foreign Military Aircraft) Order 1952. It prohibits foreign military aircraft from landing in the State except by the express invitation or permission of the Minister for Foreign Affairs.³¹² Civilian aircraft carrying unarmed troops are treated as normal passenger freight and do not require special authorisation to land aside from the above requirements concerning the wearing of military uniform.³¹³

It should be noted that there are certain constitutional limitations on the presence/maintenance of foreign military personnel in Ireland and any assistance rendered in the course of an emergency which would involve basing foreign military personnel in the State would have to comply with the provisions and limitations imposed by the Irish Constitution, in particular Article 15.6.2 thereof.

7.2 Private sector assistance

There is no specific provision in disaster management policy relating specifically to private sector assistance from abroad. The role of private sector assistance generally is acknowledged in the *“Framework for Major Emergency Management”* whereby the private sector may be represented in On-Site or Local Co-Ordination Groups in some circumstances. The Controller of Operations of each principal response agency ought to determine whether services provided by the private sector ought to be requested.³¹⁴

If a body in Ireland wishes to set up an appeal fund to obtain assistance from private

sources abroad, a charitable trust could be established. Such a trust is usually administered by trustees named in a deed of trust.³¹⁵ It must confer a benefit on the public or on a wide section of the public and, as its name suggests, it must have as its purpose a charitable object. Charitable objects are classified into four divisions: the relief of poverty; the advancement of education; advancement of religion and other charitable purposes.³¹⁶ Other charitable purposes might include, one may assume, the relief of populations affected by disaster. The general administration of charitable trusts is the responsibility of the Commissioners of Charitable Donations and Bequests for Ireland (CCDBI) a statutory body appointed by the Government.³¹⁷ At the time of writing, the provisions of the Charities Act 2009 which will replace the CCDBI with a Charities Regulatory Authority have not been commenced.

7.3 Individual assistance

There is no specific provision for managing individual offers of assistance from abroad or regulating the initiation of such assistance. However, the *“Framework for Major Emergency Management”* does foresee the integration of what are termed ‘casual volunteers’ into disaster response. The Framework foresees that activities of such volunteers may fall into two categories; those that are instinctive and unplanned in the immediate aftermath of an emergency occurring and those that are part of a planned response to a situation such as a search for missing persons. It is probable that the activities of individual volunteers from abroad would mainly fall into the second category. The *“Framework for Major Emergency Management”* makes the general recommendation that persons engaged in the second category of activities be offered a temporary volunteer status with the Civil Defence service for the duration of their involvement.

Recommendations:

- Consideration should be given to granting foreign private companies providing charitable relief legal facilities for the duration of a disaster relief operation comparable to those granted to charitable organisations.

8 Status of foreign non-governmental humanitarian organisations

Section 20 of the IDRL Guidelines provide that the Host Nation should grant ‘relevant entities of assisting States and eligible assisting humanitarian organisations, upon entry or as soon as possible thereafter, at least a temporary authorisation to legally operate on their territory’.

Generally, there are no special procedures for registration of not-for-profit organisations in case of emergency. There is no general law providing for the registration of not-for-profit organisations, although a registration system is envisaged under provisions of the Charities Act 2009 that have not yet been commenced. Such organisations may be unincorporated associations, trusts, or companies. The Revenue Commissioners maintains a database of organisations to which it has granted charitable tax exemption.

If the organisation is a company which has been incorporated outside the State, and establishes a branch or place of business within the State, it must register with the Companies Registration Office (CRO).

Foreign humanitarian organisations, like domestic not-for-profit organisations, may establish a legal identity in Ireland in three ways. First, the formation of an incorporated association may provide a legal identity for the organisation although it is not a legal identity which is distinct from that of its members. While easy to form and often regulated by an internal constitution, because of the lack of separate legal personality, members may be personally liable for the debts of the organisation. Second, a foreign humanitarian organisation might establish a legal identity by the creation of a trust.³¹⁸ Third, a foreign humanitarian organisation might incorporate a company in Ireland and, more specifically, a company limited by guarantee.³¹⁹

Under current arrangements, even if a specific entity is not established in Ireland but has legal personality in its home State, it may nonetheless be recognised as a matter of Irish law. This would permit the organisation and its staff to act within the State. For example, in the case of companies incorporated outside the State which wish to establish a branch or place of business in the State, it is possible to register as a foreign company in Ireland under Part XI of the Companies Act 1963.³²⁰ Even in the absence of such a branch or place of business and thus the requirement of registration, foreign companies may engage in activities short of establishment of a branch or place of business. In a similar vein, foreign charities, and in particular those based in EU/EFTA States, may be recognised in Ireland under tax law. A foreign charity with a branch in Ireland is entitled to the charity exemption in respect of the funds applied towards the Irish charitable activities.³²¹ The organisation’s capacity to contract, acquire or dispose of property and initiate or defend legal proceedings will depend on its legal status in its home country.

Many non-governmental assisting actors are charitable organisations. The Charities Act 2009 is aimed at regulating the charity sector. While not yet fully commenced,³²² the Minister for Justice has announced that he will proceed with the establishment of an independent Charities Regulatory Authority in early 2014.³²³ The creation of a register of charitable organisations is also foreseen in the Act.³²⁴ All charitable organisations intending to operate or carry on activities in the State would be required to register.³²⁵

An important exemption from the application requirements for registration is provided for in cases where the Charities Regulator is of the opinion that compliance by the applicant with the application requirements would be unduly onerous having regard to his or her circumstances.³²⁶ In such cases a charity may be exempt from some or all of the requirements of registration. It could be argued that disaster relief organisations operating in Ireland should be permitted to avail of this provision in order to expedite such organisations' registration.

Recommendations:

- Minimum standards for the humanitarian sector should be identified that would apply to non-governmental humanitarian organisations.³²⁷ Those organisations whose offers of assistance are accepted by the National Coordination Group and meet the minimum standards for the humanitarian sector could be entered on a register that would be created on the onset of an emergency requiring international assistance.

Alternatively, non-governmental humanitarian organisations could be registered under the Charities Act 2009. Once the relevant provisions of the Act are commenced, the Charities Regulator, under Section 39 of the Act, could adapt the application requirements for registration in such a manner so as to speedily allow the registration of solely those non-governmental humanitarian organisations that comply with minimum standards for the humanitarian sector.

The register could be used by the authorities responsible for the recognition of professional qualifications, immigration, customs, communications regulation, taxation and other areas in providing exemptions to those registered non-governmental humanitarian organisations from existing rules for the duration of an emergency.

9 Reimbursement

Paragraph 9.4.1 of the HNS Guidelines recommends that the Host Nation should ensure in advance that appropriate financial channels and procedures are in place to facilitate the reimbursement of incoming assistance if required. The Council Conclusions concerning Host Nation Support also noted the need for clarity on the conditions, including the costs, of offers and acceptance of international assistance at an early stage of the process.

While the “*Framework for Major Emergency Management*” considers the issue of reimbursement in the aftermath of a major emergency,³²⁸ there are no general formal procedures in place for the reimbursement of costs associated with international assistance received. Reimbursement for costs associated with assistance received either under the Host Nation Support mechanism or through other international channels would likely be considered on a case-by-case basis.³²⁹

It should be noted that Article 35 (1) of Commission Decision 2004/277 states that, unless agreed otherwise, the Host Nation shall bear the costs of assistance provided by the Sending Nation under the EU Civil Protection Mechanism.³³⁰

Recommendations:

- It should be ensured In advance of a disaster requiring an international response that appropriate financial channels and procedures are in place to expedite and facilitate an easy reimbursement of the incoming assistance if so required.

CONCLUSION

A number of general observations can be made concerning Ireland's legal and policy framework for international disaster response in light of the EU Host Nation Support Guidelines and the related IDRL Guidelines.

As already outlined, many aspects of emergency planning are regulated by policy guidelines rather than legislation. Despite this, there are some legislative exemptions designed specifically to facilitate an international relief effort in Ireland. However, the main legislative provisions that could be relied upon during an emergency requiring international assistance flow from the general discretionary powers granted to Government Ministers.

Despite the absence of a bilateral mutual assistance treaty concerning the whole range of potential disasters, Ireland's membership of the European Union facilitates the receipt of international assistance from other Member States. This is due not only to the measures in place under the Civil Protection Mechanism but also due to the general harmonisation of laws across many of the policy domains addressed by the study. The likelihood of legal obstacles to international assistance from States that are not EU Members is relatively greater, especially in relation to the granting of visas to incoming relief personnel, the recognition of their professional qualifications, and the approval of importations of medications.

While Ireland's exposure to the risk of a disaster that would require international assistance is comparatively low, it is often those that are least exposed to risk that are least prepared if and when risk is realised.³³¹ The stakeholders consulted as part of the study were unanimous in pledging the support of their respective organisations for an international relief effort in any manner possible. The challenge remains to ensure that such willingness translates into the most efficient and predictable response. A legal and policy framework fully prepared for an international assistance operation increases the likelihood of such a response. Such a framework is best developed before rather than during the period of response.

MAIN RECOMMENDATIONS

Paragraph 9.4.2 of the HNS Guidelines recommends that participating States address legal issues that may impede the provision of international assistance, including, if appropriate, by modifying their legislation. While amendment of legislation is one manner by which the HNS and IDRL Guidelines can be implemented, there are also other means to ensure compliance with the Guidelines. The main recommendations of the report are outlined below.

5.1 Requests for, offers of, initiation, and termination of assistance

1. Lead Government Departments should consider simulating the decision-making process whereby international assistance from various sources may be required. Such simulations could involve both requests for and offers of international assistance. Criteria for acceptance of offers from outside the jurisdiction could be identified based on minimum standards for humanitarian assistance.³³²
2. Consideration should be given to further formalising arrangements, where appropriate, for issuing requests to and accepting offers from the counterparts of Government Departments and response agencies in Northern Ireland and the rest of the United Kingdom.
3. Consideration should be given to including in future revisions of relevant policy documents the proviso that assistance from outside Ireland may not be initiated (with the exception of cross-border assistance from Northern Ireland) prior to approval by the Lead Government Department for the emergency type.
4. Consideration should be given by Government to signing the Convention on the Transboundary Effects of Industrial Accidents.

5.2 Coordination

5. Consideration should be given to identifying and briefing senior personnel within the principal response agencies who could act as liaison officers for incoming Host Nation Support teams should the Civil Protection Mechanism be activated. It would be desirable that in the case of Host Nation Support being required, there would be liaison officers between incoming HNS modules and the principal response agencies both on-site and off-site.

6. Consideration should be given by Lead Government Departments and/or the Office of Emergency Planning to developing a procedure for designating a focal point between the National Coordination Groups (NCGs) and international assisting actors in Ireland. The focal point should be empowered by the NCG/ Lead Government Department to establish rules or procedures related to international assistance and to report back to the National Coordination Group concerning issues raised by international assisting actors. The focal point should also be tasked with addressing issues raised by international assisting actors (e.g. through intervening with professional registration bodies).
7. The type of information to be provided by incoming assisting actors to the government focal point before they provide humanitarian assistance should be prepared in advance of a disaster requiring international assistance. Such information might include, for example, the funding arrangements of assisting actors and the quality standards to which they adhere.
8. Arrangements should be made for a briefing or factsheet to be provided to incoming assisting actors. Some of the elements of the briefing or factsheet would naturally be specific to the incident. However, some elements contained in the template such as those concerning the national disaster management system (e.g. the structure, communications, and the coordination system of international assistance) and relevant web resources could be prepared in advance. Annex 8 to the Host Nation Support Guidelines contains a template for such a country briefing. Provision should be made for speedily including summary versions of the relevant Local Authority Major Emergency Plan(s) that are directed towards international assisting actors. Other details that could be included in such a briefing or factsheet:
 - The population profile of Ireland and location of major population centres
 - The contact details of key disaster management personnel at different levels
 - Details concerning provisions for communications, including the radio frequencies used in the emergency response
 - The location(s) of relevant pre-nominated Local and Regional Co-ordination Centres and Bases of Operations
 - Information concerning Garda vetting requirements
 - The electric socket type used in Ireland
 - A clear indication that Ireland has left-hand traffic³³³

9. It should be ensured that officials responsible for emergency management and planning at central Government level and senior members of the principal response agencies are familiar with Virtual OSOCC.
10. Consideration should be given to promoting greater awareness of the HNS and IDRL Guidelines among emergency management authorities across Government Departments and among the principal response agencies.

5.3 Personnel

11. The personnel of disaster relief organisations meeting minimum quality standards ought to be exempted from the requirement to hold a visa. This could be achieved through a visa order made by the Minister for Justice and Equality under Section 17 of the Immigration Act 2004.
12. The personnel of disaster relief organisations meeting minimum quality standards ought to benefit from temporary exemption from requirements to register with professional bodies for the duration of the emergency.
13. The Medical Practitioners Act 2007, which is due to be amended, ought to be amended in line with the Nurses and Midwives Act 2011 by the inclusion of an exemption from registration requirements for ‘humanitarian purposes.’ This would help to ensure uniformity across the health professions for the recognition of qualifications in cases where disaster relief is provided.
14. The Pre-Hospital Emergency Care Council should continue its efforts towards the automatic mutual recognition of qualifications between the UK and Ireland.

5.4 Goods and Equipment

15. The expedited authorisation of imports of required medications coming from non-EU countries for the duration of an emergency should be ensured.
16. Disaster relief organisations meeting minimum quality standards ought to be permitted to possess and supply controlled drugs for the duration of an emergency.
17. The Department of Agriculture, Food and the Marine ought to either waive inspection requirements for search and rescue dogs or provide for expedited inspections of search and rescue dogs to be carried out at Dublin Airport or any other port of entry of such dogs in case of emergency. This could be achieved

through the classification of search and rescue dogs as service animals in a similar manner to guide dogs.

5.5 Taxation

18. Foreign non-governmental humanitarian organisation that meet minimum quality criteria ought to be considered for exemption from taxation by the Revenue Commissioners under the Taxes Consolidation Act 1997 regardless of whether or not it is resident in Ireland or an EEA/EFTA State.

5.6 Transport, Movement and Access

19. Consideration ought to be given to identifying entry points for international assisting actors (e.g. airports, seaports, helipads etc.) in the Common Emergency Communication and Information System. The capacities of such entry points ought to be detailed.

Transport-related regulations ought to be documented in CECIS, drawing possibly on this section of the report.

20. Transport-related regulations ought to be documented in CECIS, drawing possibly on this section of the report.
21. Current legislation concerning the use of sirens and flashing lights should be amended to permit vehicles belonging to Host Nation Support civil protection modules or emergency services vehicles from Northern Ireland to lawfully use such signals in the State for the duration of narrowly defined emergencies.
22. The potential impact of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 on the ability of assisting actors to work with children and vulnerable persons during emergencies should be further explored.

5.7 Telecommunications

23. It should be ensured that assisting actors have expedited access to the National Digital Radio Services Network.
24. The Commission for Communications Regulation should consider adopting a blanket waiver of licence fees and application requirements for the use of telecommunications equipment during emergencies.

5.8 Currency Exchange and Bank Accounts

25. Registration of non-governmental humanitarian organisations in accordance with Recommendation 36 below ought to satisfy the requirements concerning identification contained in the Department of Finance 'Guidelines on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.'

5.9 Extended Hours

No recommendation.

5.10 Quality/accountability of the Host Nation & Assisting Actors

26. Provide that donations received by the Exchequer are used for the expressed intent of donors.

5.11 Security and Vehicle Insurance

27. Ireland should consider signing the Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel.

6 Role of the Irish Red Cross in Disaster Management

- 28.** The Red Cross (Amendment) Bill is due to be published in 2014. The Oireachtas should use the opportunity provided by publication of the Bill to consider including reference to the auxiliary role of the Irish Red Cross in the humanitarian field. This would ensure that reference is made to the auxiliary role of the Irish Red Cross in primary legislation for the first time.
- 29.** Ensure that the Irish Red Cross Restoring Family Links service and its psycho-social support activities are recognised as core activities of Irish Red Cross in future revisions of disaster management policy. The availability of these services ought to be highlighted.
- 30.** The Government Taskforce on Emergency Planning should consider increasing the opportunities for statutory authorities and professional associations as well as a range of voluntary civil protection organisations, including the Irish Red Cross, to engage in emergency planning.
- 31.** Regional Steering and/or Working Groups on Major Emergency Management should provide for Irish Red Cross representation at their meetings where practicable. In addition, provision should be made for Irish Red Cross representation in Local and Regional Coordination Group meetings where appropriate.
- 32.** Irish Red Cross should continue to develop its cooperation with British Red Cross in Northern Ireland, especially in relation to the conducting of joint exercises. Consideration should be given to concluding an agreement on mutual assistance with British Red Cross in the event of disaster in accordance with Section 11.1 of the Principles and Rules for Red Cross and Red Crescent Disaster Relief.
- 33.** Irish Red Cross should consider becoming a registered user of the National Digital Radio Service Network.
- 34.** Irish Red Cross ought to be recognised within disaster management policy as a focal point for mobilising incoming assistance from the International Federation of the Red Cross and Red Crescent Societies and other National Societies. In this regard, the procedures for liaison between Irish Red Cross and the National Coordination Group concerning the making of requests and the acceptance of offers from IFRC ought to be clarified.

7 Status of foreign military assistance, private sector assistance and individual assistance from abroad

35. Consideration should be given to granting foreign private companies providing charitable relief legal facilities for the duration of a disaster relief operation comparable to those granted to charitable organisations.

8 Status of foreign non-governmental humanitarian organisations

36. Minimum standards for the humanitarian sector should be identified that would apply to non-governmental humanitarian organisations.³³⁴ Those organisations whose offers of assistance are accepted are accepted by the National Coordination Group and meet the minimum standards for the humanitarian sector could be entered on a register that would be created on the onset of an emergency requiring international assistance.

Alternatively, non-governmental humanitarian organisations could be registered under the Charities Act 2009. Once the relevant provisions of the Act are commenced, the Charities Regulator, under Section 39 of the Act, could adapt the application requirements for registration in such a manner so as to speedily allow the registration of solely those non-governmental humanitarian organisations that comply with minimum standards for the humanitarian sector.

The register could be used by the authorities responsible for the recognition of professional qualifications, immigration, customs, communications regulation, taxation and other areas in providing exemptions to those registered non-governmental humanitarian organisations from existing rules for the duration of an emergency.

9 Reimbursement

37. It should be ensured In advance of a disaster requiring an international response that appropriate financial channels and procedures are in place to expedite and facilitate an easy reimbursement of the incoming assistance if so required.

ANNEXES

Annex 1: European Union Host Nation Support Guidelines

COMMISSION STAFF WORKING DOCUMENT

EU HOST NATION SUPPORT GUIDELINES

DISCLAIMER:

‘This document is a European Commission staff working document for information purposes. It does not represent an official position of the Commission on this issue, nor does it anticipate such a position’

1. INTRODUCTION

The group of experts of Civil Protection (CP) modules, acknowledging lessons learnt in past civil protection operations, identified and stressed the need to develop EU guidelines for the provision of host nation support (HNS) to Participating States¹ delivering assistance during a major emergency. This was equally confirmed by the Belgian Presidency of the Council of the EU which took this issue forward and organised a three day seminar on HNS in the second half of 2010. The Seminar’s conclusions provided the basis for Council conclusions on Host Nation Support 15874/10 which were adopted on 2 December 2010.

2. BASIC PRINCIPLES

These EU Host Nation Support Guidelines (EU HNSG) aim at assisting the affected Participating States to receive international assistance in the most effective and efficient manner. The level of HNS may vary according to the severity of the situation and will be subject to a prior agreement between the requesting and offering Participating States. These guidelines are of a non binding nature and aim to provide guidance and support. Compliance with the self-sufficiency requirements for the CP modules as defined by Commission Decision 2010/481/EU, EURATOM² will be respected by the offering Participating States in order to avoid any burdensome requirements for the affected Participating State unless agreed between the requesting and offering Participating States otherwise.

The EU HNSG are based on experience and lessons learnt by Participating States during emergencies, exercises and trainings and incorporate the existing relevant international documents. It also includes procedures for mutual information exchange between requesting, transit and assisting Participating States and the Monitoring and Information Centre (MIC). In order to simplify the process of the HNS, the EU HNSG provide a number of annexes (HNS checklist, templates, glossary of terms, etc.).

3. SCOPE

HNS implies all actions undertaken in the preparedness phase and the disaster response management by a Participating State, receiving or sending assistance, or the Commission, in order to remove as much as possible any foreseeable obstacle to international assistance so as to ensure that disaster response operations proceed smoothly. It also includes the support that Participating States can provide to facilitate international assistance transiting through their territory by land, sea or air. Taking into account Article 4.4 of Council Decision 2007/779/EC, Euratom³, Participating States shall consider the possibility of receiving, as required, other intervention support which might be available from the competent services, such as specialised personnel and equipment to deal with a particular emergency, and on calling upon resources which may be provided by non-governmental organisations and other relevant entities.

4. APPLICABILITY

Although these EU HNSG are of a non binding nature, Participating States are encouraged to apply them during EU CP Mechanism operations inside EU and when possible in case of bilateral assistance from an EU or non-EU country. Non-EU states are encouraged to take the EU HNSG into account when they request and receive international assistance via the EU CP Mechanism.

5. RELATION TO EXISTING INTERNATIONAL FRAMEWORK

The EU HNSG are complementary to existing international documents related to relief operations and disaster management (Annex 11).

6. MEDIA AND COMMUNICATION

Media relations and other public communication issues do not feature in these guidelines as such issues are usually the responsibility of the host nation⁴ (HN). However, the Participating States - as a part of their respective national strategy on HNS - are invited to consider developing a plan on how to deal with all media during emergencies where international assistance is requested. Acknowledging the fact that media handling under such circumstances might require a coordinated approach from the affected country, the issue will not be further elaborated on, nor addressed by these guidelines.

7. RELATION WITH THIRD PARTIES

Relations with third parties - NGOs, volunteers, etc. will not feature in these guidelines as such relations are normally the responsibility of the HN. However, referring to Article 4, paragraph 4 of Council Decision 2007/779/EC, Euratom⁵, the Participating States - as a part of their respective national strategy on HNS - are invited to consider developing a plan on how to deal with all third parties during emergencies should such parties offer assistance.

8. SAFETY&SECURITY

The HN should be responsible for, and take appropriate measures, to address the safety and security of personnel of the incoming teams and modules and of the locations, facilities, means of transport, equipment and goods used in connection with the international assistance provided.

The safety measures shall be taken by deployed teams and modules in cooperation with the HN. For operating equipment of the modules/teams, the main responsibility lies with the modules/teams themselves.

9. METHODOLOGY

In order to properly address all aspects of the HNS, the EU HNSG have been divided into the following four areas:

9.1. Emergency planning

Advanced planning with a focus on incoming assistance arrangements is a vital aspect of effective European emergency response cooperation. To ensure proper HNS in case of a major disaster, Participating States should consider setting up/integrating national arrangements to allow for international emergency support within their territory. To do so, it is helpful to have in advance an analysis of national risks and possible capacity gaps of national resources. This analysis will help to define the moment when a country may activate the EU CP Mechanism and to formulate a precise and timely request for assistance. All emergency management actors should be identified and made aware of their responsibility in the different phases in the process of HNS. All levels of emergency management authorities/actors should be aware of the EU CP Mechanism and of international guidelines and standards.

During the emergency planning phase the Participating States should, inter alia, focus on

- the preparation of country briefings/factsheets for incoming teams;
- the identification and training of liaison officers (LO) (preferably EU CP trained experts) to join the incoming team;
- the set-up and training of HNS team/cell.

The HN and incoming teams and modules should take all necessary measures to ensure the interoperability of the assistance.

9.2. Emergency management and co-ordination on site

Participating States should use the existing EU and other international coordination systems as much as possible.

The HN should make arrangements at all levels of its existing emergency command, control and coordination structure to facilitate the coordination of international assistance. At the same time, incoming teams should be aware of the HN command, control and coordination structure and should report to the on-site commander at least on a daily basis.

The HN should use CECIS (Common Emergency Communication and Information System) as the primary tool and Virtual OSOCC (On-Site Operations Coordination Centre) when applicable to provide regular updates at the headquarter level regarding casualties and damage, entry points and procedures, specific requests for assistance and to inform all international participants of any special cultural, religious or traditional habits of the affected country, weather, safety and security issues.

The HN should establish entry points, Reception and Departure Centre (RDC), a base of operations (BoO), a HNS team and should provide incoming teams with information in the form of a prepared Country briefing (Annex 8). The HN should also consider requesting support from an EU CP Team. The HN when setting up its emergency coordination structures should use the existing EU and other international concepts (such as the OSOCC concept).

9.3. Logistics/transport

The respective National contact points (NCP) of the Participating States should use the existing EU CP procedures for requesting and offering support. To streamline this process they should use the templates provided for by these guidelines to request the international assistance (Annex 2 and 4) and the corresponding answer forms for offering assistance (Annex 3 and 5). The Participating States should ensure that use of these templates is incorporated into national contingency planning, courses, trainings and exercises.

All Participating States should pre-identify points of entry for incoming teams. Entry points can be any type of border crossing (at roads, rivers, railroads, airports and seaports). The Participating States should develop a “catalogue” of these pre-identified entry points, including their capacities.

The HN should make all necessary arrangements to receive the incoming teams and modules at the point of entry (provision of LO, instructions, etc.). As a best practice, it is recommended for the LO to join the incoming team as early as possible.

Transit countries should facilitate quick transit of the teams, modules and in-kind assistance through its territory by removing all potential “obstacles” (e.g. by provision of escorts, route planning, waiving restrictions/regulations) and by providing a single point of contact. The

sending nation (SN) is responsible for negotiating these arrangements with the transit nation (TN). A number of transport related national restrictions and regulations can be found in “transport questionnaires” available in CECIS.

In case of insufficient transport capacities to dispatch the assistance, SN can request transport support in accordance with Commission Decision 2007/606/EC, Euratom. Also, the HN should be responsible for the route planning and the provision of necessary transport arrangements (transport means, escorts, maps, material handling equipment, fuel, food, etc.) for the incoming teams starting from the point of entry and lasting for the entire operation.

The HN should provide logistic support for the incoming teams and the general maintenance of their equipment. The SN are responsible for the specialised maintenance of their equipment, including bringing specialized spare parts for their equipment to ensure self sufficiency for the whole mission.

The SN should ensure the adequacy and sufficient quality of the offered assistance, in particular food, medicine and its proper packing, respecting international standards. The HN should communicate all specific requirements connected to the delivery of incoming in-kind assistance (labelling, packaging etc.).

The HN should be responsible for the take-over, storage and distribution of in-kind assistance received.

The HN should be responsible for the identification of a base of operation, located as close as possible to the existing infrastructure. The HN should take into account the base of operation requirements such as access to water, electrical power, and sewage, access for cars and trucks, closeness to the disaster site.

The HN should facilitate the use of telecommunication and the possibility to establish the necessary arrangements/facilities to maintain communications with and within the locations of the international assistance operation. The HN should also provide radio frequencies at the latest upon entry.

Whereas the point of entry has been pre-identified by the HN, the decisions concerning the points of exit should be made bilaterally between HN and SN to ensure the most cost-effective and smooth exit transportation route.

9.4. Legal and financial issues

9.4.1. FINANCIAL ASPECTS

Referring to Article 35, paragraph 1 and 2 of Commission Decision 2004/277/EC, Euratom: the HN should ensure in advance that appropriate financial channels and procedures are in place to expedite and facilitate an easy reimbursement of the incoming assistance if so required.

– the SN and TN should ensure in advance that appropriate financial channels and procedures are in place to cost, invoice, or waive needs for reimbursement or to receive payments if so required.

Offering Participating States should fill in the templates (Annex 3 and 5) to include the conditions under which the offers are made.

9.4.2. LEGAL ASPECTS

Numerous Participating States have either ad hoc and/or bilateral solutions with neighbouring countries in place. Nevertheless, it is crucial for a smooth delivery of international assistance that the Participating States have solid and systematic solutions ready to identify relevant legal issues that may constitute obstacles to the overall objective of facilitating the provision of international assistance and, if appropriate, modify their legislation.

Participating States should consider the granting of legal exemptions, in particular the HN and the TN should:

- exempt goods and equipment requested from all custom duties, taxes, tariffs, or any governmental fees, and exempt them from all export transit and import restrictions,
- simplify and minimise documentation requirements for export, transit, and import,
- permit the re-exportation of goods and equipment used, in the event that the SN wishes to retain what it originally owned,
- waive or reduce inspection requirements (where this is difficult use pre-clearance processes where possible to clear relief goods and equipment more rapidly),
- arrange for inspection and release outside of business hours and/or at a place outside the customs office to avoid unnecessary delay.

The HN should be prepared to ensure that assisting countries and relevant international organisations are provided with temporary authorisation to legally operate on their territory so as to enjoy the rights, inter alia to open bank accounts, enter into contracts and leases, acquire and dispose of property and instigate legal proceedings, for the purpose of providing assistance.

Personnel sent to assist Participating State after the disaster may possess specific skills and qualifications that are regulated in the affected state. Regulated professions usually include doctors, nurses, paramedics, engineers, and others. The HN should, whenever possible, recognize the relevant professional qualifications of relief personnel for the time necessary to carry out the disaster relief assistance.

The HN should, when necessary and possible, exempt relief personnel from visa regulations and immigration inspection. Where visa regulations and immigration inspection cannot be waived, the HN should expedite the necessary formalities at the appropriate point of entry.

9.4.3. LIABILITY

In questions of liability during relief operations, one would first and foremost seek to find amicable settlements between the HN and SN.

Rules for compensation of damage caused by assisting modules/teams to property or service staff of requesting state are provided for by Article 36, paragraph 1 of Commission Decision 2004/2779.

For damage suffered by third parties, paragraph 2 of the same Article invites the requesting State and State providing assistance to cooperate to facilitate compensation for such damage. In order to streamline and expedite this process of cooperation and to avoid any potential for later misunderstanding, the HN and SN should agree on the principles for compensating the potential damage suffered by third parties as early as possible, ideally already during the process of requesting, offering and accepting the international assistance. Both, the HN and SN should declare its willingness or non-willingness to cover damage suffered by third parties. For this the HN and SN should use the templates for requesting and offering international assistance (Annex 2 and 4).

Annex 2: Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance

Introduction

1. Purpose and Scope

1. These Guidelines are non-binding. While it is hoped that States will make use of them to strengthen their laws, policies and/or procedures related to international disaster response, as appropriate, the Guidelines do not have a direct effect on any existing rights or obligations under domestic law.

2. They draw from many existing international instruments, including United Nations General Assembly Resolutions 46/182 of 1991 and 57/150 of 2002, the Measures to Expedite International Relief of 1977 and the Hyogo Framework for Action of 2005.

3. Their purpose is to contribute to national legal preparedness by providing guidance to States interested in improving their domestic legal, policy and institutional frameworks concerning international disaster relief and initial recovery assistance. While affirming the principal role of domestic authorities and actors, they recommend minimum legal facilities to be provided to assisting States and to assisting humanitarian organizations that are willing and able to comply with minimum standards of coordination, quality and accountability. It is hoped that the use of these Guidelines will enhance the quality and efficiency of international disaster relief and initial recovery assistance in order to better serve disaster-affected communities.

4. These Guidelines are not intended to apply to situations of armed conflict or disasters that occur during armed conflicts, or to imply changes in any rules governing relief in those contexts. They are also not intended to recommend any changes to, or affect the meaning or implementation of, any existing international law or agreements, including but not limited to:

- a. International humanitarian, human rights and refugee law;
- b. The legal personality and status of States, inter-governmental organizations, the
- c. International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross; International law related to privileges and immunities;
- d. The Statutes and regulations of the International Red Cross and Red Crescent Movement and existing legal arrangements between the individual components of the Movement and States; and
- e. Existing agreements between States or between States and assisting actors.

2. Definitions

For the purposes of these Guidelines,

1. **“Disaster”** means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict.
2. **“Disaster relief”** means goods and services provided to meet the immediate needs of disaster-affected communities.
3. **“Initial recovery assistance”** means goods and services intended to restore or improve the pre-disaster living conditions of disaster-affected communities, including initiatives to increase resilience and reduce risk, provided for an initial period of time, as determined by the affected State, after the immediate needs of disaster-affected communities have been met.
4. **“Goods”** means the supplies intended to be provided to disaster-affected communities for their relief or initial recovery.
5. **“Services”** means activities (such as rescue and medical care) undertaken by disaster relief and initial recovery personnel to assist disaster-affected communities.
6. **“Equipment”** means physical items, other than goods, that are necessary for disaster relief or initial recovery assistance, such as vehicles and radios.
7. **“Personnel”** means the staff and volunteers providing disaster relief or initial recovery assistance.
8. **“Affected State”** means the State upon whose territory persons or property are affected by a disaster.
9. **“Assisting State”** means a State providing disaster relief or initial recovery assistance, whether through civil or military components.
10. **“Originating State”** means the State from which disaster relief and initial recovery personnel, goods and equipment begin travel to the affected State.
11. **“Transit State”** means the State through whose territorial jurisdiction disaster relief or initial recovery assistance has received permission to pass on its way to or from the affected State in connection with disaster relief or initial recovery assistance.
12. **“Assisting humanitarian organization”** means a foreign, regional, intergovernmental or international non-profit entity whose mandate and activities are primarily focused on humanitarian relief, recovery or development.

13. **“Eligible assisting humanitarian organization”** means an assisting humanitarian organization determined to be eligible to receive legal facilities pursuant to Part V by the originating, transit or affected State, as applicable.

14. **“Assisting actor”** means any assisting humanitarian organization, assisting State, foreign individual, foreign private company providing charitable relief or other foreign entity responding to a disaster on the territory of the affected State or sending in-kind or cash donations.

Part I: Core Responsibilities

3. Responsibilities of Affected States

1. Affected States have the primary responsibility to ensure disaster risk reduction, relief and recovery assistance in their territory. National Red Cross and Red Crescent Societies, as auxiliaries to the public authorities in the humanitarian field, and domestic civil society actors play a key supporting role at the domestic level.

2. If an affected State determines that a disaster situation exceeds national coping capacities, it should seek international and/or regional assistance to address the needs of affected persons.

3. Affected States have the sovereign right to coordinate, regulate and monitor, disaster relief and recovery assistance provided by assisting actors on their territory, consistent with international law.

4. Responsibilities of Assisting Actors

1. Assisting actors and their personnel should 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.

2. Assisting actors should ensure that their disaster relief and initial recovery assistance is provided in accordance with the principles of humanity, neutrality and impartiality, and in particular:

a. Aid priorities are calculated on the basis of need alone;

b. Provided without any adverse distinction (such as in regards to nationality, race, ethnicity, religious beliefs, class, gender, disability, age and political opinions) to disaster-affected persons;

c. Provided without seeking to further a particular political or religious standpoint, intervene in the internal affairs of the affected State, or obtain commercial gain from charitable assistance;

- d. Not used as a means to gather sensitive information of a political, economic or military nature that is irrelevant to disaster relief or initial recovery assistance.
- 3. To the greatest extent practicable, their disaster relief and initial recovery assistance should also be:
 - a. Responsive to the special needs, if any, of women and particularly vulnerable groups, which may include children, displaced persons, the elderly, persons with disabilities, and persons living with HIV and other debilitating illnesses;
 - b. Adequate for the needs of affected persons and consistent with any applicable international standards of quality;
 - c. Coordinated with other relevant domestic and assisting actors;
 - d. Provided and conducted in a manner that is sensitive to cultural, social and religious customs and traditions;
 - e. Carried out with adequate involvement of affected persons, including women, youth and the elderly, in their design, implementation, monitoring and evaluation;
 - f. Provided by competent and adequately trained personnel;
 - g. Commensurate with their organisational capacities;
 - h. Building upon and conducted in a manner that strengthens local disaster risk reduction, relief and recovery capacities and reduces future vulnerabilities to disasters;
 - i. Carried out so as to minimize negative impacts on the local community, economy, job markets, development objectives and the environment; and
 - j. Provided in a transparent manner, sharing appropriate information on activities and funding.

5. Additional Responsibilities of All States

- 1. States providing funding to other assisting actors should encourage them to act in a manner consistent with the provisions of paragraph 4.
- 2. All States should actively encourage members of the public interested in contributing to international disaster relief or initial recovery to make financial donations where possible or otherwise donate only those types of relief goods expressly requested by the affected State.

6. Responsibilities Concerning Diversion and the Intended Use of Resources

- 1. States and assisting humanitarian organizations should cooperate to prevent unlawful

diversion, misappropriation, or fraud concerning disaster relief or initial recovery goods, equipment or resources and initiate proceedings as appropriate.

2. 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.

Part II: Early Warning and Preparedness

7. Early Warning

1. In order to minimize transboundary impacts and maximize the effectiveness of any international assistance that might be required, all States should have procedures in place to facilitate the expeditious sharing of information about disasters, including emerging hazards that are likely to cause disasters, with other States and assisting humanitarian organizations as appropriate,

including the United Nations' Emergency Relief Coordinator.

8. Legal, Policy and Institutional Frameworks

1. As an essential element of a larger disaster risk reduction programme, States should adopt comprehensive legal, policy, and institutional frameworks and planning for disaster prevention, mitigation, preparedness, relief and recovery which take full account of the auxiliary role of their National Red Cross or Red Crescent Society, are inclusive of domestic civil society, and empower communities to enhance their own safety and resilience. States, with the support, as appropriate, of relevant regional and international organizations, should devote adequate resources to ensure the effectiveness of these frameworks.

2. These frameworks should also adequately address the initiation, facilitation, transit and regulation of international disaster relief and initial recovery assistance consistent with these Guidelines. They should allow for effective coordination of international disaster relief and initial recovery assistance, taking into account the role of the United Nations Emergency Relief Coordinator as central focal point with States and assisting humanitarian organizations concerning United Nations emergency relief operations. They should also clearly designate domestic governmental entities with responsibility and authority in these areas. Consideration should be given to establishing a national focal point to liaise between international and government actors at all levels.

3. Where necessary and appropriate, national governments should encourage other domestic actors with authority over areas of law or policy pertinent to international disaster relief or initial recovery assistance, such as provincial or local governments and private regulatory bodies, to take the necessary steps at their level to implement the Guidelines.

9. Regional and International Support for Domestic Capacity

1. With a view to increasing resilience and reducing the need for international disaster relief and initial recovery assistance, the international community, including donors, regional and other relevant actors, should support developing States, domestic civil society actors and National Red Cross and Red Crescent Societies to build their capacities to prevent, mitigate, prepare for and respond to disasters domestically.

2. The international community should also support developing States to build the capacity to adequately implement legal, policy and institutional frameworks to facilitate international relief and initial recovery assistance.

This support should be provided to States in a coordinated manner among the relevant actors.

Part III: Initiation and Termination of International Disaster Relief and Initial Recovery Assistance

10. Initiation

1. Disaster relief or initial recovery assistance should be initiated only with the consent of the affected State and in principle, on the basis of an appeal. 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. In order to make this decision, the affected State should promptly assess needs. Consideration should be given to undertaking joint needs assessments with the United Nations and other assisting humanitarian organisations.

2. Requests and offers for assistance should be as specific as possible as to the types and amounts of goods as well as the services and expertise available or required, respectively. Affected States may also wish to indicate particular types of goods and services likely to be offered that are not needed.

3. Affected States should make available to assisting actors adequate information about domestic laws and regulations of particular relevance to the entry and operation of disaster relief or initial recovery assistance.

11. Initiation of Military Relief

1. Military assets should be deployed for disaster relief or initial recovery assistance only at the request or with the express consent of the affected State, after having considered comparable civilian alternatives. Prior to any such deployment, terms and conditions (including such issues as the duration of deployment, whether they must be unarmed or

may be armed the use of their national uniforms, and mechanisms for cooperation with civilian actors) are to be agreed by the affected and assisting States.

12. Termination

1. 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.

Part IV: Eligibility for Legal Facilities

13. Facilities for Assisting States

1. It is recommended that transit and affected States grant, at a minimum, the legal facilities described in Part V to assisting States with respect to their disaster relief or initial recovery assistance.

14. Facilities for Assisting Humanitarian Organizations

1. Subject to existing international law, it is the prerogative of originating, transit and affected States to determine which assisting humanitarian organizations will be eligible to receive the legal facilities described in Part V with respect to their disaster relief or initial recovery assistance.

2. It is recommended that States establish criteria for assisting humanitarian organizations seeking eligibility for legal facilities. These criteria should include a showing by the organization of its willingness and capacity to act in accordance with the responsibilities described in paragraph 4 of these Guidelines.

3. Any additional requirements imposed on assisting humanitarian organizations should not unduly burden the provision of appropriate disaster relief and initial recovery assistance.

4. Determination of eligibility by the State granting the facilities should be possible in advance of a disaster, or as soon as possible after its onset. Applicable procedures and mechanisms should be as simple and expeditious as possible.

They should be clearly described and information about them should be made freely available. They might include the use of a national roster, bilateral agreements or reliance upon international or regional systems of accreditation, if available.

5. Retention of the legal facilities in Part V should be made dependent on ongoing compliance with the provisions of subsection 2 of this paragraph. However, entitlement to legal facilities should not be changed arbitrarily, retroactively or without notice appropriate to the circumstances.

15. Facilities for Other Assisting Actors

1. Affected States may also wish to extend, upon request, some of the legal facilities in Part V to assisting actors other than those covered by paragraphs 13 and 14, such as private companies providing charitable relief, provided this does not negatively affect operations of assisting humanitarian organizations or assisting States. Any actor receiving such facilities should be required to abide, at a minimum, by the same conditions described in paragraph 4.

Part V: Legal Facilities for Entry and Operations

It is recommended that States provide the legal facilities described in paragraphs 16-24 to assisting States and eligible assisting humanitarian organizations. It is understood that the granting of these facilities will be subject to the interests of national security, public order, public and environmental health, and public morals of the concerned affected, originating and transit States. Measures to protect such interests should be tailored to the exigencies of the specific disaster and consistent with the humanitarian imperative of addressing the needs of affected communities.

Where specific facilities recommended here are within the competence of authorities other than the national government, the national government should, where possible and appropriate, encourage those authorities to provide the relevant facilities to assisting States and eligible assisting humanitarian organizations.

16. Personnel

1. With regard to disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations, affected States should:

- a. 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;
- b. In disaster relief operations, waive or significantly expedite the provision of such visas and work permits;
- c. Establish expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers, drivers licences and other types of licenses and certificates 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 organization, for the time necessary to carry out disaster relief or initial recovery activities;
- d. Facilitate freedom of access to and freedom of movement in and from the disaster-affected area, bearing in mind the safety of disaster relief and initial recovery personnel.

2. Upon request, originating and transit States should likewise waive or promptly issue, ideally without cost, exit or transit visas, as appropriate, for the disaster relief and initial recovery personnel of eligible assisting humanitarian organizations.

3. Assisting States and eligible assisting humanitarian organizations should consider to what degree disaster relief and initial recovery objectives can be met through hiring local staff.

17. Goods and Equipment

1. With regard to disaster relief and initial recovery goods and equipment exported or imported by, or on behalf of, assisting States and eligible assisting humanitarian organizations, originating, transit and affected States should:

- a. Exempt them from all customs duties, taxes, tariffs or 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 organization owns and wishes to retain.

2. With regard to disaster relief goods and equipment only, originating, transit and affected States should additionally:

- a. Waive or reduce inspection requirements. Where waiver is not possible, clear relief goods and equipment rapidly and as a matter of priority, through a “preclearance” process where feasible; and
- b. Arrange for inspection and release outside business hours and/or at a place other than a customs office as necessary to minimize delay, in accordance with the safety regulations of the affected State. Assisting States and eligible assisting humanitarian organizations should respect any routes and delivery points prescribed by the affected State.

3. In order to benefit from the facilities above, assisting States and assisting humanitarian organizations should, in accordance with agreed international standards, appropriately pack, classify and mark disaster relief and initial recovery goods and equipment, and include detailed manifests with each shipment.

They should additionally inspect all such goods and equipment to ensure their quality, appropriateness for the needs in the affected State, and conformity with the national law of the affected State and international standards.

4. Assisting States and eligible assisting humanitarian organizations should assume responsibility for removing or disposing of any unwanted and unused relief and initial recovery goods, particularly if they may pose a threat to human health or safety, or the environment.

18. Special Goods and Equipment

In addition to the facilities described in paragraph 17:

1. Affected States should grant temporary recognition to foreign registration and plates with regard to vehicles imported by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance.
2. Affected States should waive or expedite the granting of any applicable licenses and reduce any other barriers to the use, import or export of telecommunications and information technology equipment by assisting States and assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance. Without discrimination against or negative impact to domestic relief actors, affected States should also grant (or where, appropriate, encourage other domestic actors to grant) assisting States and eligible assisting humanitarian organizations priority access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations.
3. Originating, transit and affected States should reduce legal and administrative barriers to the exportation, transit, importation and re-exportation of medications and medical equipment by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance, to the extent consistent with public safety and international law.

Assisting States and eligible assisting humanitarian organizations should take all reasonable steps to ensure the quality, appropriateness and safety of any such medications and equipment and in particular:

- a. Any medications they import should be approved for use in the originating and affected State;
- b. Medications they use in their own operations should be:
 - (i) transported and maintained in appropriate conditions to ensure their quality and;
 - (ii) guarded against misappropriation and abuse.
- c. Any medications they donate for use by others in the affected State should be:
 - (i) at least twelve months from their expiration date upon arrival, unless otherwise agreed by receiving authorities;
 - (ii) transported and maintained in appropriate conditions to ensure their quality until they reach the affected State; and

(iii) appropriately labelled in a language understood in the affected State with the International Nonproprietary Name or generic name, batch number, dosage form, strength, name of manufacturer, quantity in the container, storage conditions and expiry date.

4. Originating, transit and affected States should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports by assisting States and eligible assisting humanitarian organizations in disaster relief operations can be modified or reduced.

19. Transport

1. 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 organization or on its behalf, for the purpose of transporting disaster relief or initial recovery assistance and, ideally, waive applicable fees.

2. In particular, permission should be granted for overflight, 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.

3. Any applicable exit, transit and entry visas for the operating personnel of such transport vehicles should be promptly issued.

20. Temporary Domestic Legal Status

1. Affected States should grant relevant entities of assisting States and eligible assisting humanitarian organizations, upon entry or as soon as possible thereafter, at least a temporary authorization to legally operate on their territory so as to enjoy the rights, *inter alia*, to open bank accounts, enter into contracts and leases, acquire and dispose of property and instigate legal proceedings, for the purpose of providing disaster relief and initial recovery assistance.
2. Assisting States and eligible assisting humanitarian organizations should also 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.
3. Affected States should allow assisting States and eligible assisting humanitarian organizations to legally hire and terminate the contracts of local personnel.

21. Taxation

1. Affected States should provide exemptions to assisting States and eligible assisting humanitarian organizations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.

22. Security

1. Affected States should take appropriate measures to address the safety and security of disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations and of the premises, facilities, means of transport, equipment and goods used in connection with their disaster relief or initial recovery assistance. Assisting States and assisting humanitarian organizations should also take appropriate steps in their own planning and operations to mitigate security risks.

23. Extended Hours

1. Affected States should endeavour to ensure, when necessary, that State operated offices and services essential to the timely delivery of international disaster relief function outside of normal business hours.

24. Costs

1. The costs of providing international disaster relief or initial recovery assistance pursuant to these Guidelines should normally be borne by the assisting State or assisting humanitarian organization. However, assisting States may agree in advance with the affected State for the reimbursement of certain costs and fees, or for the temporary loan of equipment.

2. Affected States should consider, when it is in their power and to the extent possible under the circumstances, providing certain services at reduced or no cost to assisting States and eligible assisting humanitarian organizations, which may include:

- a. In-country transport, including by national airlines;
- b. Use of buildings and land for office and warehouse space; and
- c. Use of cargo handling equipment and logistic support.

Annex 3: Table of Extracted Legislation

Title	No.
Air Navigation and Transport Act 1988	15
Air Navigation (Foreign Military Aircraft) Order 1952	SI 1952/74
Air Navigation (Notification and Investigation of Accident Serious Incidents and Incidents) Regulations 2009	SI 460/2009
Animal Health and Welfare Act 2013	15
Charities Act 2009	6
Charities Act 2009 (Commencement) Order 2009	SI 2009/284
Communications Regulation Act 2002	20
Control of Dogs Act 1986	32
Civil Law (Miscellaneous Provisions) Act 2011	23
Civil Liability Act 1961	41
Criminal Justice (Money Laundering and Terrorist Financing) Act 2010	6
Criminal Justice (Theft and Fraud) Act 2001	50
Defence Act 1954	18
Diplomatic Relations and Immunities Act 1967	8
Diplomatic Relations and Immunities (Amendment) Act 1976	2
Diplomatic Relations and Immunities (Amendment) Act 2006	10
Diseases of Animals Act 1966	6
Employment Permits Act 2003	7
Employment Permits Act 2006	16
European Communities (Air Navigation and Transport Rules and Procedures for Noise Related Operating Restrictions at Airports) Regulations 2003	SI 2003/645
European Communities (Assessment and Management of Flood Risks) Regulations 2010	SI 2010/122
European Communities (Charging of Heavy Goods Vehicles for the Use of Certain Infrastructures) Regulations 2009	SI 2009/87
European Communities (Controls of Cash Entering or Leaving the Community) Regulations 2007	SI 2007/281
European Communities (Exemption from Value Added Tax) Regulations 2012	SI 2012/267
European Communities (Free Movement of Persons) Regulations 2006	SI 2006/226
European Communities (General Food Law) Regulations 2007	SI 2007/747
European Communities (Information on the Payer Accompanying Transfers of Funds) Regulations 2007	SI 2007/799
European Convention on Human Rights Act 2003	20
Food Standards Act 1974	11
Freedom of Information Act 1997	13
Freedom of Information (Amendment) Act 2003	9
Garda Síochána Act 2005	20
Garda Síochána (Police Co-Operation) Act 2003	19
Human Rights Commission Act 2000	9
Immigration Act 2004	1
Immigration Act 2004 (Visas) Order 2012	SI 2012/417
Red Cross Acts 1938	32
Red Cross Act 1954	28
Irish Red Cross Society Order 1939	1939/206

Title	No.
Irish Red Cross Society (Amendment) Order 2012	2012/133
Importation of Dogs and Cats Order 2003	SI 2003/192
Constitution of the Irish Free State (Saorstát Éireann) Act 1922	N/A
Irish Aviation Authority Act 1993	29
Irish Medicines Board Act 1995	29
Local Government (Toll Roads) Act 1979	34
Medical Practitioners Act 2007	25
Medicinal Products (Prescription and Control of Supply) (Amendment) Regulations 2002	SI 2002/627
Medicinal Products (Prescription and Control of Supply) Regulations 2003	SI 2003/540
Misuse of Drugs Act 1977	12
National Vetting Bureau (Children and Vulnerable Persons) Act 2012	47
Nurses Act 1985	18
Nurses and Midwives Act 2011	41
Organisation of Working Time Act 1997	20
Organisation of Working Time (Exemption of Civil Protection Services) Regulations 1998	SI 1998/52
Pre-Hospital Emergency Care Council (Establishment) Order 2000	SI 2000/109
Prevention of Corruption (Amendment) Act 2001	27
Prevention of Corruption (Amendment) Act 2010	33
Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations 2008	SI 2008/139
Recognition of the Professional Qualifications of Nurses and Midwives (Directive 2005/36/EC) Regulations 2008	SI 2008/166
Road Traffic Act 1961	24
Road Traffic Act 2004	44
Road Traffic Act 2010	25
Road Traffic (Construction and Use of Vehicles) Regulations 2003	SI 2003/5
Road Traffic (Lighting of Vehicles) Regulations 1963	SI 1963/189
Road Traffic (Lighting of Vehicles)(Blue and Amber Lamps) Regulations 2006	SI 2006/342
Road Traffic (Lighting of Vehicles) (Blue and Amber Lamps) Regulations 2011	SI 2011/695
Road Transport Act 2011	31
Safety, Health and Welfare at Work Act 2005	10
Standards in Public Office Act 2001	31
Tampere Convention (Privileges and Immunities) Order 2007	2007/553
Taxes Consolidation Act 1997	39
Value Added Tax Regulations 2010	SI 2010/639
Wireless Telegraphy (Use of the Band 380-400 MHz by Emergency Services) Regulations 2008	SI 2008/324

Annex 4: Table of Relevant International Instruments

Name	Signature	Instrument	Entry into force
Convention on Early Notification of a Nuclear Accident (1986)	26 September 1986	Ratification	14 October 1991
Convention on Assistance in case of a Nuclear Accident or Radiological Emergency (1986)	26 September 1986	Ratification	14 Oct 1991
Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on the Early Notification of a Nuclear Accident or Incident of Radiological Significance and the Exchange of Information concerning the Operation and Management of Nuclear Facilities or Activities (2004)	10 December 2004		10 December 2004
Belfast Agreement (1998)			
Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on Police Co-Operation (2002)	29 April 2002		20 December 2002
Chemical Weapons Convention (1993)	14 January 1993		29 April 1997
Vienna Convention on Consular Relations (1964)	24 April 1963	Ratification	10 May 1967
Vienna Convention on Diplomatic Relations (1961)	18 April 1961	Ratification	10 May 1967
Convention on the Privileges and Immunities of the United Nations (1946)		Accession	10 May 1967
Convention on the Privileges and Immunities of the Specialised Agencies (1947)		Accession	10 May 1967
European Convention on Human Rights and Fundamental Freedoms (1949)	4 November 1950	Ratification	25 February 1953
Convention on International Civil Aviation (Chicago Convention)			31 October 1946
Single Convention on Narcotic Drugs (1961)			16 December 1980
UN Convention on Psychotropic Substances (1971)		Accession	7 August 1992
UN Convention on the Law of the Sea (1982)	10 December 1982	Ratification	21 June 1996
Convention on the Facilitation of International Maritime Traffic (1965)	9 April 1965		
Agreement between the Government of Ireland and the Government of Great Britain and Northern Ireland to exempt road transport vehicles engaged in certain categories of international transport activities from EU tachograph and drivers' hours rules (2011)	Letters exchanged 21 July 2011		1 September 2011
Multilateral Agreement relating to Route Charges (1981)	12 February 1981	Ratification	1 January 1986
Convention against Corruption (2003)	9 December 2003	Ratification	9 November 2011
Convention on Safety of United Nations and Associated Personnel (1994)		Accession	28 March 2002
Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation Relief (1999)		Accession	16 August 2007
Convention on Temporary Admission (Istanbul Convention) (1990)	28 June 1990		18 June 1997
Treaty on the Functioning of the European Union	13 December 2007		1 December 2009

Footnotes

- ¹ European Commission, 'EU Host Nation Support Guidelines' SWD (2012) 169 final. This document is available at: <http://ec.europa.eu/echo/files/about/COMM_PDF_SWD%2020120169_F_EN_.pdf> accessed 30th August 2013
- ² Resolution 4, 30th International Conference of the Red Cross and Red Crescent 30IC/07/R4. Resolution 7 of the 31st International Conference of the Red Cross and Red Crescent 31IC/11/R7 called on those states that have not already made use of the IDRL Guidelines to 'examine and, where appropriate, strengthen their national legal, policy and/or institutional frameworks to consider doing so
- ³ CIA, World Factbook <<https://www.cia.gov/library/publications/the-world-factbook/geos/ei.html>> accessed 22nd August 2013
- ⁴ CIA, World Factbook <<https://www.cia.gov/library/publications/the-world-factbook/geos/ei.html>> accessed 22nd August 2013
- ⁵ Central Statistics Office, 'Census 2011 Results: Profile 1 Town and Country – Population Distribution and Movements and Population by Area' (Press Release, 26th April 2012) <<http://www.cso.ie/en/newsandevents/pressreleases/2012pressreleases/pressreleasecensus2011profile1townandcountryandpopulationclassifiedbyarea/>> accessed 22nd August 2013
- ⁶ Central Statistics Office, This is Ireland – Highlights from Census 2011 – Part 1 (Stationery Office 2012). The total dependency ratio increased to 49.3 in 2011 from 45.8 in 2006.
- ⁷ Article 8, Constitution of Ireland
- ⁸ This is Ireland – Highlights from Census 2011 – Part 1
- ⁹ In 2012 Ireland was the 19th largest donor of international humanitarian assistance in real terms, providing \$137 million in international humanitarian assistance. Cf. Development Initiatives, 'Global Humanitarian Assistance Report 2013' <<http://www.globalhumanitarianassistance.org/wp-content/uploads/2013/07/GHA-Report-2013.pdf>> accessed 22nd August 2013.
- ¹⁰ UNDP, 'The Rise of the South: Human Progress in a Diverse World' (2013 Human Development Report) <http://hdr.undp.org/en/media/HDR2013_EN_Summary.pdf> accessed 22nd August 2013. Ireland was ranked 7th in the world, which is the third highest ranking amongst EU Member States.
- ¹¹ EY, 'Looking beyond the obvious: Globalisation and new opportunities for growth' <<http://www.ey.com/GL/en/Issues/Driving-growth/Globalization---Looking-beyond-the-obvious--2012-Index>> accessed 22nd August 2013. Ireland is ranked 3rd in Ernst & Young's 2012 Globalisation Index, which combines indicators for trade, capital flows, labour mobility, technology and culture.
- ¹² Raymond Byrne & Paul McCutcheon, Byrne and McCutcheon on the Irish Legal System (5th edn, Bloomsbury 2009) Pages 45-53
- ¹³ Neil Collins & Aodh Quinlivan, 'Multi-level governance' in John Coakley & Michael Gallagher (eds), Politics in the Republic of Ireland, (5th edn, Routledge 2010)
- ¹⁴ Department of Environment, Community and Local Government, Putting People First: Action Programme for Effective Local Government (October 2012) <<http://www.envirom.ie/en/PublicationsDocuments/FileDownload.31309,en.pdf>> accessed 22nd August 2013.
- ¹⁵ Office of Emergency Planning, A National Risk Assessment for Ireland (December 2012), < <http://www.emergencyplanning.ie/media/docs/A%20National%20Risk%20Assessment%20for%20Ireland%20Published.pdf>> accessed 14th November 2013
- ¹⁶ *ibid* Page 32
- ¹⁷ Department of Defence, Green Paper on Defence (July 2013), Page 32
- ¹⁸ *ibid*
- ¹⁹ Department of the Environment, Community and Local Government, National Climate Change Adaptation Framework: Building Resilience to Climate Change (December 2012)
- ²⁰ Met Éireann submission, 17th February 2014
- ²¹ Office of Public Works, The National Preliminary Flood Risk Assessment – Overview Report (August 2011). The assessment is being conducted in accordance with Articles 4 and 5 of Appendix A to the EU 'Floods' Directive (Directive 2007/EC/60) and European Communities (Assessment and Management of Flood Risks) Regulations 2010.
- ²² Green Paper on Defence, Page 32
- ²³ European Police Office, EU Terrorism Situation and Trend Report (2013)
- ²⁴ Green Paper on Defence, Page 32
- ²⁵ Section 5.3.6, National Risk Register
- ²⁶ Submission by Business Continuity Coordinator, Dublin Airport Authority. See also Seán McCárthaigh, 'Lockerbie disaster "could have struck Longford"', Irish Examiner (Cork, 13th September 2006) <<http://www.irishexaminer.com/archives/2006/0913/world/lockerbie-disaster-aposcould-have-struck-longfordapos-13166.html>> accessed 21st January 2014.
- ²⁷ See Sections 5.2.1-5.2.2, National Risk Register
- ²⁸ *ibid*
- ²⁹ Health Service Executive and Department of Health and Children, National Pandemic Influenza Plan (Version 1, January 2007)
- ³⁰ World Health Organisation, 'Monthly Risk Assessment Summary for Influenza at the Human-Animal Interface' <http://www.who.int/influenza/human_animal_interface/HAI_Risk_Assessment/en/index.html>
- ³¹ Radiological Protection Institute of Ireland, Proposed nuclear power plants in the UK – potential radiological implications for Ireland (2013) RPII 13/01, Page vi
- ³² Department of the Environment, Heritage and Local Government, National Emergency Plan for Nuclear Accidents (2005)
- ³³ The National Preliminary Flood Risk Assessment – Overview Report, Page 27
- ³⁴ Bill McGuire, Simon Day, Christopher Kilburn & Steven Ward, 'Volcano collapse-generated megatsunamis: Fact or fiction?' (undated) <http://es.ucsc.edu/~ward/papers/EOSCumbreVieja.pdf> accessed 21st February 2014
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- ³⁶ A list of establishments notified under the Seveso Directives is available at: Health and Safety Authority, 'Notified Seveso Establishments' <http://www.hsa.ie/eng/Your_Industry/CheERCals/Control_of_Major_Accident_Hazards/List_of_Establishments/List_of_Establishments_.html> accessed 29th August 2013

- ³⁷ Richard A. Posner, 'Efficient Responses to Catastrophic Risk' (2006) 6 Chicago J of International Law, Pages 511-525. There is a low-probability/high-impact risk of a meteorite/satellite impact. NASA maintains a risk table for potential future Earth impact events: National Aeronautics and Space Administration, 'Near Earth Object Program' <<http://neo.jpl.nasa.gov/risks/>> accessed 29th August 2013
- ³⁸ United Nations General Assembly Resolutions 67/87 and 66/119
- ³⁹ United Nations Educational, Scientific and Cultural Organisation Resolution 2011/8
- ⁴⁰ UNGA Res 64/76, 65/264 and 65/133 and UNESCO Res 2010/1, 2009/3 and 2008/36
- ⁴¹ International Law Commission, Protection of persons in the event of disasters (21st August 2013) <http://untreaty.un.org/ilc/guide/6_3.htm> accessed 22nd August 2013
- ⁴² Resolution on the introduction of Community cooperation on civil protection (1987) OJ C 176; Resolution on the new developments in Community cooperation on civil protection (1989) OJ C 44; Resolution of 23 November 1990 on Community cooperation on civil protection (1990) OJ C 315; Resolution of 8 July 1991 on improving mutual aid between member states in the event of natural or technological disaster (1991) OJ C 198; resolution of 31 October 1994 on strengthening Community cooperation on civil protection (1994) OJ C 313 ; and resolution of 26 February 2001 on strengthening the capabilities of the European Union in the field of civil protection (2001) OJ C 82
- ⁴³ Council Decision 2001/792/EC of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions (2001) OJ L 297. This Decision was subsequently recast in 2007 by Council Decision 2007/779/EC of 8 November 2007 establishing a Community Civil Protection Mechanism (recast) (2007) OJ L 314/9
- ⁴⁴ The Emergency Response Centre replaced and upgraded the functions of the Monitoring and Information Centre (MIC).
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- ⁴⁷ North Atlantic Treaty Organisation, The Alliance's Strategic Concept (24th April, 1999) <[http://www.internationaldemocracywatch.org/attachments/344_Nato%20Strategic%20Concept%20\(1999\).pdf](http://www.internationaldemocracywatch.org/attachments/344_Nato%20Strategic%20Concept%20(1999).pdf)> accessed 15th August 2013
- ⁴⁸ Department of Defence, 'Office of International Security and Defence Policy Branch' <<http://www.defence.ie/WebSite.nsf/Branches/3BF09991CEF0C80256C7D005C7471>> accessed 22nd August 2013
- ⁴⁹ NATO/Euro-Atlantic Partnership Council, Facilitation of Vital Civil Cross Border Transport – Memorandum of Understanding (2006) Document EAPC(C)/D(2006)0031
- ⁵⁰ NATO/Euro-Atlantic Partnership Council, 'Checklist and Non-binding Guidelines for the Request, Reception and Provision of International Assistance in the Event of a CBRN Incident or Natural Disaster,' Document EAPC (PBOS)N(2009)0011 <http://www.nato.int/eadrcc/docs/checklist_eng.pdf> accessed 22nd August 2013. A model technical arrangement on the liability of relief personnel (a technical annex to the MoU is currently in development).
- ⁵¹ NATO, 'Civil Emergency Planning' (10 November 2010) <http://www.nato.int/cps/en/SID-316C3DF0-A4C8A1C4/natolive/topics_49158.htm> accessed 27th August 2013
- ⁵² Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on the Early Notification of a Nuclear Accident or Incident of Radiological Significance and the Exchange of Information concerning the Operation and Management of Nuclear Facilities or Activities (2004) <<http://www.dfa.ie/uploads/documents/treaties/docs/200403.pdf>> accessed 22nd August 2013
- ⁵³ North-South and East-West relationships were formalised by the Belfast Agreement, which established the North/South Ministerial Council, the British-Irish Council and the British-Irish Intergovernmental Conference. <<http://www.dfa.ie/uploads/documents/Anglo-Irish/agreement.pdf>> accessed 22nd August 2013
- ⁵⁴ A Framework for Major Emergency Management (2006) <<http://www.mem.ie/memdocuments/a%20framework%20for%20major%20emergency%20management.pdf>> accessed 22nd August 2013
- ⁵⁵ Central Emergency Planning Unit Northern Ireland & Office of the First Minister and Deputy First Minister, The Northern Ireland Civil Contingencies Framework, <http://www.ofmdfnni.gov.uk/ni_civil_contingencies_framework_-_refreshed_september_2011-2.pdf> accessed 22nd August 2013 65: '[i]t is expected that NI departments and other public sector bodies for which they are responsible will have formal and informal civil contingencies liaison arrangements in place as necessary with counterpart departments and agencies in the Republic of Ireland. If there are areas where it proves difficult to put these arrangements in place, CCPB in Northern Ireland and the Office of Emergency Planning in the Republic of Ireland will help to facilitate the development of relationships.'
- ⁵⁶ *ibid* Pages 78-79
- ⁵⁷ For example, the Dublin City Council Major Emergency Plan states that '(w)here there are existing arrangements between the emergency services in Dublin and those in Northern Ireland these should continue to operate as they do at present. Where a Local/Regional Co-ordination Group determines that additional assistance should be sought or that information on a situation should be made available to authorities in Northern Ireland, the request / information should be transmitted by An Garda Síochána to the Police Service of Northern Ireland.'
- ⁵⁸ CAWT was established by the Ballyconnell Agreement entered into by health authorities in the Republic of Ireland and in Northern Ireland in 1992.
- ⁵⁹ Cross-border emergency exercises in which CAWT has been involved included the HSE Ambulance Service and the Northern Ireland Ambulance Service. Exercises have also involved cooperation between the Irish Defence Forces and their counterparts in the British military.
- ⁶⁰ CAWT, Strategic Plan for 2007-2013 (2006)
- ⁶¹ *ibid* Page 49
- ⁶² North-South Ministerial Council Joint Secretariat, Joint Communiqué of the North-South Ministerial Council, 20th July 2011, PAPER HEFS 1 (11) JC, Page 2
- ⁶³ National Pandemic Influenza Plan, Page 27. See *supra* note 27.
- ⁶⁴ Independent Commission on Policing for Northern Ireland, A New Beginning: Policing in Northern Ireland (September 1999), Page 101
- ⁶⁵ *ibid* Page 103
- ⁶⁶ Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on Police Co-Operation, done at Belfast on 29th April 2002. This Agreement was incorporated into the Schedule to the Garda Síochána (Police Cooperation) Act 2003.
- ⁶⁷ Article 6 of the Agreement contained in the Schedule to the Garda Síochána (Police Cooperation) Act 2003 provides for the designation of liaison officers in both services in order to enhance police co-operation.
- ⁶⁸ Section 28, Garda Síochána Act 2005

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⁷⁰ Irish Coast Guard & Her Majesty's Coast Guard, Memorandum of understanding for the conduct of operations between Her Majesty's Coastguard and the Irish Coast Guard for Search and Rescue and Maritime Salvage and Intervention and Counter Pollution <http://www.transport.ie/upload/general/12573-IRCG_UKIRL_MOU_FINAL1-0.PDF> accessed 22nd August 2013

⁷¹ Raymond Byrne & Paul McCutcheon, Byrne and McCutcheon on the Irish Legal System (5th edn, Bloomsbury 2009) Page 4

⁷² *ibid* Page 5

⁷³ This principle is contained in Article 29.6 of the Constitution.

⁷⁴ This provision has been utilised on two occasions in the history of the State, due to World War II and the Troubles in Northern Ireland respectively.

⁷⁵ Office of Emergency Planning, Strategic Emergency Planning Guidance (30th November 2004) <<http://www.emergencyplanning.ie/media/docs/1SEPG.pdf>> accessed 22nd August 2013

⁷⁶ Office of Emergency Planning, Guidelines for coordinating a National-level Emergency/Crisis Response (15th March 2013). The document is updated regularly. <<http://www.emergencyplanning.ie/media/docs/Guidelines%20for%20Coordinating%20a%20National%20level%20emergency%20crisis%20response%20Version%202013%2003.15.pdf>> accessed 22nd August 2013

⁷⁷ At the strategic level, the "Strategic Emergency Planning Guidance" assigned lead responsibilities for emergency planning to a range of Government Departments in 2004. Annex A of the 2008 version of the "Guidelines for Coordinating a National-level Emergency/Crisis Response" details the Lead Government Department (and Minister by consequence) for a range of potential types of emergency.

⁷⁸ *ibid* Page 2

⁷⁹ A fourth principal response agency is the Irish Coast Guard, which, according to Footnote 1 of the "Framework for Major Emergency Management," is 'responsible for the initiation, control and coordination of maritime emergencies (Search & Rescue, Pollution and Salvage, and Casualty) in the Irish territorial waters, harbours and coastline which include the Irish International Search and Rescue Region and the Pollution Responsibility Zone.'

⁸⁰ The "Framework for Major Emergency Management" replaced the Framework for Coordinated Response to Major Emergency, which had underpinned major emergency preparedness and response capability since 1984.

⁸¹ A Framework for Major Emergency Management, Paragraph 1.5

⁸² *ibid* Paragraph 5.1

⁸³ *ibid* Figure 5.1

⁸⁴ International Federation of Red Cross and Red Crescent Societies, Law and legal issues in international disaster response: a desk study, (IFRC 2007) Page 89 <<https://www.ifrc.org/PageFiles/41194/113600-idrl-deskstudy-en.pdf>> accessed 22nd August 2013

⁸⁵ A Framework for Major Emergency Management, Paragraph 5.6.6. This provision may be revised in future revisions of the Framework.

⁸⁶ See *supra* Section 3 – Bilateral Agreements and Treaties. While the decision to request international assistance can only be taken at the national level, the senior member of the

lead principal response agency (known as the On-Site Co-ordinator), in association with senior members of the other principal response agencies within the Local or Regional Co-ordination Group, is responsible under Paragraph 5.6.5 of the "Framework for Major Emergency Management" for identifying potential sources of additional assistance that may be required from outside their area of responsibility, including potentially from Northern Ireland, the rest of the United Kingdom, or other EU member states. As discussed above, however, the responsibility for formally making the request rests at the national level.

⁸⁷ UNDAC helps governments of disaster-affected countries during the first phase of a sudden-onset emergency and also assists in the coordination of incoming international relief at national level and/or at the site of the emergency.

⁸⁸ National Emergency Plan for Nuclear Accidents

⁸⁹ The IAEA Mutual Assistance Convention is the abbreviated form for the IAEA Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency.

⁹⁰ Article 2 (1), Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency

⁹¹ EU Council Conclusion (21.11.89) on "Cooperation and Assistance in the EU in the event of a nuclear accident or radiological emergency".

⁹² Under Section 2 of the Chemical Weapons Act 1997, the National Authority means the National Authority for Occupational Safety and Health, or any other authority designated to be the National Authority in place of that authority in regulations made under this Act. The National Authority for Occupational Safety and Health is also known as the Health and Safety Authority.

⁹³ Section 7, Chemical Weapons Act 1997

⁹⁴ Section 5(1), Chemical Weapons Act 1997

⁹⁵ These include the powers to install, use and maintain in, at or on the place of inspection monitoring instruments, systems and seals in a manner consistent with the Convention.

⁹⁶ A Department of Health official stated that it would be highly unlikely that external assistance from WHO experts would be required in Ireland.

⁹⁷ Section 14, Principles and Rules for Red Cross Red Crescent Disaster Relief. The Principles and Rules for Red Cross Red Crescent Disaster Relief were adopted by the 21st International Conference of the Red Cross and Red Crescent and revised by the 22nd, 23rd, 24th, 25th and 26th Conferences. They are currently being revised once again.

⁹⁸ Offers from IFRC would be channelled in the first instance to Irish Red Cross in accordance with the Principles and Rules for Red Cross Red Crescent Disaster Relief.

⁹⁹ Annex B to the "Strategic Emergency Planning Guidance" outlines some of the mechanisms in place for international early warning.

¹⁰⁰ Smallpox, poliomyelitis due to wild-type poliovirus, human influenza caused by a new subtype, and severe acute respiratory syndrome (SARS)

¹⁰¹ Article 6 (3), Decision No. 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC [2013] OJ L293/1

¹⁰² *ibid* Article 9 (1)

¹⁰³ *ibid* Article 2 (1) (a)-(d)

¹⁰⁴ This rapid alert system is known as RAS BICHAT. It is part of the Programme of Cooperation on Preparedness and Response to Biological and Chemical Agent Attacks.

¹⁰⁵ Rapid Alert System for Food and Feed (RASFF)

¹⁰⁶ Article 18, Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC [2012] OJ L197/1. The Health and Safety Authority is the competent authority for Council Directive 96/82/EC of 9th December 1996 on the control of major accident hazards involving dangerous substances [1996] OJ L10/13 (the Seveso II Directive).

¹⁰⁷ EMERCON is an early notification system established under the Convention on Early Notification of a Nuclear Accident and operated by the IAEA. Under ECURIE (European Community Urgent Radiological Information Exchange) the Radiological Protection Institute of Ireland (RPII) is obliged to notify other EU Member States of any radiological accident that could have consequence outside of Ireland, including results of radiological measurements and response actions taken. ECURIE was established by Council Decision 87/600/Euratom of 14 December 1987 on Community arrangements for the early exchange of information in the event of a radiological emergency [1987] OJ L371. The RPII maintains a 24-hour radiation monitoring network, with stations located throughout Ireland (Page 4, National Emergency Plan for Nuclear Accidents). The RPII's radiation monitoring network may be viewed at <<http://www.rpii.ie/Monitoring-Stations.aspx>>. RPII is also the contact point for the European Union Radiological Data Exchange Programme (EURDEP), which is a platform for exchanging monitoring data. Ireland has entered into a bilateral treaty with the United Kingdom concerning the early notification of nuclear accidents. Its full title is the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on the early Notification of a Nuclear Accident or Incident of Radiological Significance and the Exchange of Information concerning the Operation and Management of Nuclear Facilities or Activities. Under Article 2 (1) of the Agreement, Ireland is under an obligation to notify the United Kingdom authorities in the event of a nuclear accident occurring in Ireland.

¹⁰⁸ Council Directive 2003/85/ of 29th September 2003 on Community measures for the control of foot-and-mouth disease repealing Directive 85/511/EEC and Decisions 89/531/EEC and 91/665/EEC and amending Directive 92/46/EEC [2003] EC OJ L306/1

¹⁰⁹ Council Directive 2001/89/EC of 23 October 2001 on Community measures for the control of classical swine fever [2001] OJ L 316/5

¹¹⁰ Section 12.1, Principles and Rules for Red Cross Red Crescent Disaster Relief

¹¹¹ A Framework for Major Emergency Management, Page 15

¹¹² See infra note 326

¹¹³ Revised Annex A to the "Strategic Emergency Planning Guidance"

¹¹⁴ Guidelines on coordinating a national level emergency/crisis response, Page 5.

¹¹⁵ For example, Sections 1.4.5 and 2.3 respectively, of the Coast Guard Memorandum of Understanding provides criteria for determining the authority responsible for the co-ordination of joint operations between the Irish Coast Guard and Her Majesty's Coast Guard, including those relating to maritime search and rescue.

¹¹⁶ A Framework for Major Emergency Management, Page 79

¹¹⁷ *ibid*

¹¹⁸ Guidance Document 8 to the Framework for Major Emergency Management, 'A Guide to Working with the Voluntary Emergency Services' (2011) <<http://www.mem.ie/guidancedocuments/a%20guide%20to%20working%20with%20the%20ves.pdf>> accessed 22nd August 2013

¹¹⁹ A Framework for Major Emergency Management, Page 79

¹²⁰ Guidelines for coordinating a national level emergency crisis response, Page 5

¹²¹ *ibid*

¹²² *ibid* Page 8

¹²³ For example, see the National Emergency Plan for Nuclear Accidents and the National Plan for Pandemic Influenza

¹²⁴ Further details concerning the content of country briefings can be found in Annex 8 of the EU Host Nation Support Guidelines.

¹²⁵ The CTA came into being in the 1920s and was first legally recognised by the Treaty of Amsterdam.

¹²⁶ The Irish Naturalisation and Immigration Service has the power to carry out checks on people arriving in the State from the UK and to refuse them entry to the State if he or she is suffering from a disease specified in Schedule 1 to the Regulations, or his or her personal conduct has been such that it would be contrary to public policy or would endanger public security to grant him or her permission to enter the state.

¹²⁷ It is advisable to travel with a passport. Other documents may also be accepted as proof of nationality. Examples of accepted documents are: a driver's licence with photo, an international student card, a national ID card, a bus pass with photo, a Garda ID with photo, a work ID with photo.

¹²⁸ Regulation 4 (1), European Communities (Free Movement of Persons) Regulations 2006. The Regulations provide that an EU citizen may be refused entry to the State if he or she is suffering from a disease specified in Schedule 1 to the Regulations, or his or her personal conduct has been such that it would be contrary to public policy or would endanger public security to grant him or her permission to enter the state.

¹²⁹ Section 4 (3) b), Immigration Act 2004

¹³⁰ *ibid* Section 17 a). This discretionary power has been exercised in exempting citizens of several non-EU countries from the requirement to hold a visa on landing in Ireland. The list of countries is contained in Schedule 1, Immigration Act 2004 (Visas) Order 2012, SI 2012/417

¹³¹ A complete list of the Orders granting privileges and immunities to international organisations are available at: Department of Foreign Affairs, 'Orders made under Part VII of the Diplomatic Relations and Immunities Acts 1967-2006' (9th October 2012) <<http://www.dfa.ie/home/index.aspx?id=3032>> accessed 27th August 2013

¹³² See for example Article V, Section 18 of the UN General Convention of 1946 and Article VI, Section 19 of the UN Convention on the Privileges and Immunities of the Specialised Agencies incorporated respectively into Irish law by Sections 7 and 20 of the Diplomatic Relations and Immunities Act 1967.

¹³³ Article 3(e), Immigration Act 2004 (Visas) Order 2012 furthermore provides that those qualifying United Nations officials who are holders of a United Nations laissez-passer referred to in Section 24 of the Convention on the Privileges and Immunities of the United Nations are declared to be non-nationals specified as a class the members of which are not required to be in possession of a valid Irish visa when landing in the State.

¹³⁴ Sections 5-6, Diplomatic Privileges and Immunities Act 1967, incorporating respectively into Irish law the Vienna Convention on Diplomatic Relations 1951 and the Vienna Convention on Consular Relations 1963

¹³⁵ Focus Group Discussion, 24th June 2013

¹³⁶ Visas are available for short stays of Ministers of Religion and both religious and lay volunteers. Irish Naturalisation and Immigration Service, 'Short Stay Medical Treatment, Religious, Lay Volunteer' (July 2011) <<http://www.inis.gov.ie/en/INIS/Pages/Short%20Stay%20Medical,%20Religious,%20Lay%20Volunteer>> accessed 22nd August 2013. The determination and collection of visa fees is the competence of the Department of Foreign Affairs. In practice, visa fees are discretionary and for the relevant embassy to determine.

¹³⁷ Not all non-EEA medical practitioners require an employment permit to work in the Public Health Service: <<http://www.inis>>

gov.ie/en/INIS/Pages/WP10000012> accessed 22nd August 2013

¹³⁸ Interview, July 2013

¹³⁹ Section 2 (1), Employment Permits Act 2003 as amended by Section 2, Employment Permits Act 2006

¹⁴⁰ Section 2 (1A), Employment Permits Act 2003 as amended by Section 2, Employment Permits Act 2006

¹⁴¹ The Employment Permits Acts 2003 & 2006 provide that non-nationals working in Ireland without a work permit are guilty of an offence and are liable to a fine not exceeding €3000 or imprisonment for up to 12 months or both. Those persons who employ non-nationals without a permit are liable, on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 10 years or both.

¹⁴² Section 2 (10) of the Employment Permits Act 2003 as amended by Section 3 (b) of the Employment Permits Act 2006. Persons not required to hold an employment permit also include persons granted temporary leave to remain on humanitarian grounds, persons with specific immigration permission permitting them to work, and persons with a Working Visa/ Work Authorisation

¹⁴³ Interview, July 2013

¹⁴⁴ Article 7, Regulation (EU) 492/2011 of the European Parliament and of the Council of 5th April 2011 on freedom of movement for workers within the Union [2011] OJ L141/1

¹⁴⁵ Cf. *Amjad Hussein v The Labour Court and Mohammad Younis* [2012] 2 I.L.R.M. 508

¹⁴⁶ See *infra* Section 5.10.2

¹⁴⁷ A Framework for Major Emergency Management, Page 80

¹⁴⁸ *ibid* Page 90

¹⁴⁹ Article 10 (2) d (i), Convention on Assistance in Case of a Nuclear Accident or Radiological Emergency

¹⁵⁰ Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications [2005] OJ L255

¹⁵¹ Regulation 15, Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations 2008

¹⁵² These do not include those professionals who are eligible for automatic recognition of their qualifications under Articles 21 to 49 of Directive 2005/36/EC. Such professionals include doctors with basic training, specialised doctors, nurses responsible for general care, dental practitioners, specialised dental practitioners, veterinary surgeons, midwives, pharmacists and architects.

¹⁵³ Directive 2013/55/EU of the European Parliament and of the Council of 20th November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No. 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation')

¹⁵⁴ Section 37 (a), Medical Practitioners Act 2007

¹⁵⁵ *ibid* Section 38 (e) - (f) in conjunction with Section 50 (a), *ibid*

¹⁵⁶ *ibid* Article 50 (4)

¹⁵⁷ Section 39a of the Nurses and Midwives Act 2011

¹⁵⁸ *ibid* Section 41 (1)

¹⁵⁹ *ibid* Section 41 (2)

¹⁶⁰ Regulation 11 (2) - (3), Recognition of the Professional Qualifications of Nurses and Midwives (Directive 2005/36/EC) Regulations 2008

¹⁶¹ Section 4 s) of the Pre-Hospital Emergency Care Council (Establishment) Order, 2000 as amended by later Orders, SI No 575 of 2004 and SI No. 166 of 2008.

¹⁶² Engineers Ireland, 'Chartered Engineer Regulations for the title of Chartered Engineer by recognition under EU Directive 2005/36/EC' (August 2010) <<http://www.engineersireland.ie/EngineersIreland/media/SiteMedia/membership/international-agreements/EU-Directive-Regulations-CEng.pdf>> accessed 22nd August 2013

¹⁶³ Terms of Employment (Information) Act 1994 read in conjunction with the Protection of Employment (Part-Time Work) Act 2001

¹⁶⁴ Additionally, Chapter 8.9 of Annex 9 to the Convention on International Civil Aviation provides that 'contracting States shall ensure that...articles arriving on relief flights are cleared without delay'

¹⁶⁵ Articles 28-30, Treaty on the Functioning of the European Union

¹⁶⁶ *ibid*, Articles 28-29

¹⁶⁷ This is required by Article 565, Commission Regulation (EC) No. 993/2001 amending Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [2001] OJ L 141.

¹⁶⁸ Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty [2009] OJ L324/23

¹⁶⁹ Articles 66-73, *ibid* contain a similar exemption in respect of articles for supply to blind or other physically or mentally handicapped persons.

¹⁷⁰ The exemptions do not apply to alcohol, tobacco products, and vehicles other than ambulances or to building materials or equipment intended for rebuilding in disaster areas.

¹⁷¹ European Communities (Exemption from Value Added Tax) Regulations 2012 (SI 267 of 2012), which transposes into Irish law Council Directive 2009/132/EC of 19 October 2009 on determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods [2009] OJ L292/5. Article 10 of the 2012 Regulations exempts from VAT basic necessities for the needy and vulnerable; goods to be used or sold at charity events for the benefit of the needy and vulnerable; and equipment and office materials to help run an organisation for the benefit of the needy and vulnerable. Article 11 of the 2012 Regulations grants a comparable exemption in respect of articles donated to and imported by relief organisations for supply to blind or other physically or mentally handicapped persons and which are specially designed for the education, employment or social advancement of such persons. In accordance with Article 12 of the 2012 Regulations, VAT is not payable on goods imported by State, charitable or philanthropic organisations to be distributed free of charge to victims of natural disasters.

¹⁷² For a helpful guide to the different legislative provisions see the website of the Food Safety Authority of Ireland: http://www.fsai.ie/legislation/food_legislation.html

¹⁷³ Regulation (EC) 178/2002 of the European Parliament and of the Council of 28th January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety [2002] OJ L31/1

¹⁷⁴ Article 14, Regulation (EC) 178/2002

¹⁷⁵ *ibid* Article 16

¹⁷⁶ *ibid* Article 18

¹⁷⁷ *ibid* Article 2

¹⁷⁸ *ibid* Article 3

¹⁷⁹ The Food Standards Act 1974 provided the relevant Government Ministers with the power to make regulations in relation to food standards. More recently, the Food Safety Authority of Ireland Act 1998 ('the Act of 1998') establishes the Authority as the body responsible in Ireland for the supervision of food safety and hygiene standards. In Section 2, the Act of 1998 defines food as including "any substance used, available to be used or intended to be used, for food or drink by human persons" and "any substance which enters into or is used in the production, composition or preparation of these substances". It also defines sale as including "to offer for sale or to sell or to supply whether or not for profit ...". These broad definitions could encompass the supply of food in the context of disaster relief operations. However, neither instrument creates special procedures relating to food imports in disaster settings.

¹⁸⁰ The importation and re-exportation of medical equipment is addressed *supra* in Section 5.4.1

¹⁸¹ Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use [2001] OJ L311/67. The Directive was transposed into Irish law, primarily by way of the Medicinal Products (Prescription and Control of Supply) (Amendment) Regulations, 2002 (S.I. No. 627/2002) and the Medicinal Products (Prescription and Control of Supply) Regulations 2003 (S.I. No. 540/2003). The Irish Medicines Board is the competent authority in Ireland for the purpose of the Directive.

¹⁸² The International Search and Rescue Advisory Group (INSARAG) Guidelines recommend that affected countries arrange for entry permission for search dogs. The veterinary requirements to be met of search dogs under the Guidelines include the following:
Valid rabies vaccination as well as any additional vaccinations as required by the home country
Annual veterinary health checks
Parasite control (e.g. worms, fleas, ticks, etc.)
Canines are micro-chipped using an ISO compatible transponder

¹⁸³ Annex to Commission Decision 2010/481/EU of 29th July 2010 amending Decision 2004/277/EC, Euratom as regards rules for the implementation of Council Decision 2007/779/EC, Euratom establishing a Community civil protection mechanism [2010] OJ L236/5

¹⁸⁴ Special arrangements exist with the United Kingdom (see e.g. S.I. No. 192/2003, Importation of Dogs and Cats Order 2003).

¹⁸⁵ Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26th May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC [2003] OJ L146

¹⁸⁶ Dogs arriving in the State from the UK, Norway, Malta, and Finland do not require tapeworm vaccination.

¹⁸⁷ The Convention on Assistance in the Case of a Radiological Emergency or Nuclear Accident to which Ireland is party obliges States parties under Article 8 (4) to ensure the ownership and return of equipment and materials provided during periods of assistance.

¹⁸⁸ Article 43, Constitution of Ireland

¹⁸⁹ Sections 207-209, Taxes Consolidation Act 1997

¹⁹⁰ *ibid* Section 76

¹⁹¹ Revenue Commissioners, Non-resident Charities (resident in and operating an EEA/EFTA State) seeking a determination under the provisions of Sections 208A and 208B, Taxes Consolidation Act 1997 (February 2013) <<http://www.revenue.ie/en/tax/it/leaflets/dchy1.pdf>> accessed 22nd August 2013

¹⁹² Article V, Section 18 of the Convention on the Privileges and Immunities of the United Nations as contained in the Third

Schedule to the Diplomatic Relations and Immunities Act 1967, as amended.

¹⁹³ Article VI, Section 19 of the Convention on the Privileges and Immunities of the Specialised Agencies of the United Nations as contained in the Fourth Schedule to the Diplomatic Relations and Immunities Act 1967, as amended.

¹⁹⁴ These provisions have been incorporated into Irish law by the Convention on Assistance in The Case of a Nuclear Accident or Radiological Emergency (Privileges and Immunities) Order, 1992 (S.I. No. 144/1992).

¹⁹⁵ Revenue, 'Double Taxation Treaties entered into by Ireland' (2nd May 2013) <<http://www.revenue.ie/en/practitioner/law/double/double-taxation-agreements.html>> accessed 22nd August 2013

¹⁹⁶ Revenue, 'A Commentary on Typical Provisions of Irish Tax Treaties' <http://www.revenue.ie/en/practitioner/law/commentary_irishtaxtreaties.pdf> accessed 22nd August 2013

¹⁹⁷ This is contained in the EU HNS Checklist included in Annex 1 to the HNS Guidelines.

¹⁹⁸ Regulation 13 (b), European Communities (Charging of Heavy Goods Vehicles For the Use of Certain Infrastructures) Regulations 2009

¹⁹⁹ cf. Toll By-Laws for the following toll roads respectively: Limerick Southern Ring Road Phase II, M1 Motorway (Gormanston to Monasterboice), M3 Clonee to Kells Motorway, M4 Kinnegad-Enfield-Kilcock Motorway, N6 Galway to Ballinasloe Motorway, M7 Portlaoise to Castletown/M8 Portlaoise to Cullahill Motorway, M8 Rathcormac Fermoy Bypass, N25 Waterford Bypass, M50 (Between Junctions 6 & 7)

²⁰⁰ Second Schedule to the Bye-Laws for the Dublin Port Tunnel made pursuant to the Roads Act 1993 (as amended)

²⁰¹ Section 87, Road Traffic Act 2010

²⁰² Article 52, Road Traffic (Lighting of Vehicles) Regulations 1963 as amended by the Road Traffic (Lighting of Vehicles) (Blue and Amber Lamps) Regulations 2006 and the Road Traffic (Lighting of Vehicles) (Blue and Amber Lamps) Regulations 2011

²⁰³ Regulation 2 (3), Road Traffic (Requirement to have Audible Warning Devices on Vehicles) Regulations 2011

²⁰⁴ *ibid* Regulation 2 (4) a)

²⁰⁵ Focus Group Discussion, 28th June 2013

²⁰⁶ Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 [2006] OJ L102/1

²⁰⁷ *ibid* Article 3 (d)

²⁰⁸ *ibid* Article 3 (c)

²⁰⁹ *ibid* Article 3 (e)

²¹⁰ Exchange of Letters Constituting an Agreement between the Government of Ireland and the Government of Great Britain and Northern Ireland, to exempt road transport vehicles engaged in certain categories of international transport activities from EU tachograph and drivers' hours rules

²¹¹ Section 9 (7) of the Road Transport Act 2011 referring to Schedule 8 of the Act provides that the carriage of articles required for medical care in emergency relief and in particular for relief in natural disasters are exempted from the requirement to hold an operator's licence in the State.

²¹² Article 17, UN Convention on the Law of the Sea

²¹³ *ibid* Article 19 (2) g)

²¹⁴ The list of relevant instruments are laid out in Section 2.1 of the Memorandum of Understanding

²¹⁵ Interview, July 2013

²¹⁶ European Union (Reporting Formalities for Ships) Regulations 2012 giving effect to Directive 2010/65/EU of the European Parliament and of the Council of 20th October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC [2010] OJ L 283/1 and full effect to Regulation (EC) No. 725/2004 of the European Parliament and the Council of 31 March 2004 on enhancing ship and port facility security [2004] OJ L129/6

²¹⁷ Reporting formalities, which must be provided to the competent authority may include: IMO FAL forms 1 – 7 and a Maritime Declaration of Health

²¹⁸ Article II (3) of the Convention provides that the provisions of the Convention do not apply to warships and Article V (2) provides that the provisions of the Convention can be temporarily overridden in order to preserve public order and security or to prevent the introduction or spread of diseases or pests affecting public health, animals or plants.

²¹⁹ This section concerns civil air transport. For further details concerning military air transport, see Section 7.1 of the report below.

²²⁰ Chapter 8.8 of Annex 9 to the Convention on International Civil Aviation additionally provides that: 'Contracting States shall facilitate the entry into, departure from and transit through their territories of aircraft engaged in relief flights performed by or on behalf of international organisations recognised by the UN or by or on behalf of States themselves and shall take all possible measures to ensure their safe operation. Such relief flights are those undertaken in response to natural and man-made disasters which seriously endanger human health or the environment, as well as similar emergency situations where UN assistance is required. Such flights shall be commenced as quickly as possible after obtaining agreement with the recipient State.'

²²¹ Article 3, Convention on International Civil Aviation. State aircraft are considered aircraft used in military, customs and police services. Article 3(c) provides that no state aircraft of a state party shall fly over the territory of another State or land in another State without authorisation by special agreement.

²²² Section 22, Air Navigation and Transport Act 1988

²²³ Section 10, Air Navigation and Transport Act 1988

²²⁴ Section 7, Irish Aviation Authority Act 1993

²²⁵ Focus Group Discussion, 26th June 2013

²²⁶ *ibid*

²²⁷ *ibid*

²²⁸ Ireland entered into a Multilateral Agreement relating to Route Charges on 12th February 1981. Article 24 of the Agreement provides that in the event of a state of emergency or war the States Parties are in effect not bound by the Agreement.

²²⁹ Focus Group Discussion, 26th June 2013

²³⁰ All airports in Ireland are obliged to comply with standards contained in Annex 1 to the International Health Regulations as well as the standards contained in Annex 14 to the Convention on International Civil Aviation relating to the planning and design, as well as operation and maintenance, of aerodromes.

²³¹ Council Regulation 3922/91/EC of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil Aviation OJ L 373. Article 8(2) of Regulation 3922/91 provides that Member States may grant exemptions from technical requirements and procedures 'in the case of unforeseen urgent operational circumstances or operational needs of a limited duration.' Under Article 8 (2)

of the same Regulation such exemptions must be notified to the Commission and the other Member States where they are granted repeatedly or for a period of more than two months. This provision could be relied upon in cases of emergency requiring urgent international relief flights.

It was also noted at the transport-related focus group discussion that certain models of aircraft commonly used for the transportation of disaster relief can emit high levels of noise. Noise levels at airports in Ireland are regulated by the European Communities (Air Navigation and Transport Rules and Procedures for Noise Related Operating Restrictions at Airports) Regulations 2003, which gives effect to Directive 2002/30/EC of the European Parliament and of the Council of 26th March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports [2002] OJ L85/40. Under Regulation 9 of the 2003 Regulations, an airport authority may authorise the individual operation of marginally compliant aircraft which are prohibited on the basis of other provisions in the Regulations, where those individual operations are of such an exceptional nature that it would be unreasonable to withhold a temporary exemption. It can be reasonably argued that relief flights may come within the scope of this exemption.

²³² See *supra* Section 5.2.2

²³³ A child is defined as any person under the age of 18 years in Section 2 of the 2012 Act

²³⁴ A vulnerable person is defined quite broadly in Section 2 of the 2012 Act to include adults with a range of mental and physical impairments. Assisting actors would quite plausibly be working with many such persons during and after a disaster.

²³⁵ Government is currently preparing a Children First Bill, which places obligations on a similar range of organisations concerning the reporting of child abuse.

²³⁶ Section 3 (1) (c), National Vetting Bureau (Children and Vulnerable Persons) Act 2012

²³⁷ A Framework for Major Emergency Management, Page 79

²³⁸ Regulation 10(1) of the Wireless Telegraphy (Use of the Band 380-400 MHz by Emergency Services) Regulations 2008, SI 2008/324 provides that the National Digital Radio Service Network may only be used by State security and emergency services, non-commercial bodies engaged in the provision of security and emergency services or related ancillary services, and electricity or gas utility companies when they are making essential and urgent repairs to their networks in an emergency situation.

²³⁹ Commission for Communications Regulation (2009) Revised Register of Users on the Managed Digital Radio Services Network, Document 08/68R1. At the time of writing the Commission for Communication Regulation is receiving submissions concerning the addition of four more agencies to the network. These agencies are the Coast Guard, Mountain Rescue, Electricity Supply Board and Bord Gáis. For further information concerning the proposed revision of the Register of Users on the Managed Digital Radio Services Network see: Commission for Communication Regulation Proposed revision of the Register of Users on the Managed Digital Radio Services Network, (2013) Document 13/54

²⁴⁰ Section 10, Communications Regulation Act 2002

²⁴¹ Commission for Communications Regulation, Emergency Services Digital Radio ('ESDR') Licence: Guidance Notes & Application Form, (2009) Document 08/67

²⁴² Guidelines for coordinating a national level emergency/crisis response, Page 5

²⁴³ Section 36 of the Communications Regulation Act 2002 empowers a Government Minister to specify public service requirements in relation to licenses and authorisations. Public service requirements are defined in Sub-section 4 as essential requirements and requirements relating to conditions of permanence and availability provided or to be provided by the provider of electronic communications, services, networks or associated facilities.

²⁴⁴ Department of Environment, Heritage and Local Government, A Guide to Working with the Media, Guidance Document 5, A Framework for Major Emergency Management (undated) [Working Draft].

²⁴⁵ Wireless Telegraphy Act 1926 (as amended)

²⁴⁶ A list of all radio systems exempted from licensing requirements are available at: Commission for Communication Regulation, 'Radio Spectrum Exemptions' <http://www.comreg.ie/radio_spectrum/exemptions.541.488.html> accessed 23rd August 2013

²⁴⁷ Article 3, Tampere Convention (Privileges and Immunities) Order 2007

²⁴⁸ Article 3, Regulation 1889/2005/EC of the European Parliament and of the Council of 26th October 2005 on controls of cash entering or leaving the Community [2005] OJ L309/9

²⁴⁹ In Ireland, full effect was given the Cross-Border Payments Regulation by the adoption of the European Communities (Cross Border Payments) Regulations 2010.

²⁵⁰ Regulation 1781/2006/EC of the European Parliament and of the Council of 15th November 2006 on information on the payer accompanying transfers of funds [2006] OJ L345/1

²⁵¹ Ireland has given effect to the Wire Transfer Regulation by the adoption of the European Communities (Information on the Payer Accompanying Transfers of Funds) Regulations 2007

²⁵² Annexes I – XIV of the Fourth Schedule of the Diplomatic Relations and Immunities Act 1967

²⁵³ The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 transposes the Directive in Irish law. The Act does not provide for measures or special treatment in the case of emergency or in relation to humanitarian organisations or not-for-profit organisations. In February 2013 the European Commission adopted proposals to update the Third Money Laundering Directive.

²⁵⁴ Department of Finance, Criminal Justice (Money Laundering and Terrorist Financing) Act 2010: Guidelines on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing – Part I (2012)

²⁵⁵ *ibid* Page 125

²⁵⁶ The information required is as follows:

- Full name of the trust;
 - Nature and purpose of the trust (e.g., discretionary, testamentary, bare);
 - Country of establishment;
 - Names of all trustees;
 - Names of any protector or controller or settlor;
 - Names of beneficiaries of 25% or more; and
 - Relevant part of the trust deed setting out all parties to the trust.
- The Guidelines add that, in all cases concerning charities – and in particular, charities based abroad - the following information must be provided:
- Full name of the charity;
 - Nature and purpose of the charity and scope.
 - Principal business address of activities;
 - Country of establishment;
 - A properly authorised mandate to open an account and conferring authority on those who will operate it; and
 - Identification of the principals controlling the charity and any beneficial owners.

²⁵⁷ Regulation 3(1), Organisation of Working Time (General Exemptions) Regulations 1998

²⁵⁸ Prison employees, fire-fighters employed by local authorities in Ireland, airport and harbour police, and members of the Irish Coast Guard are also exempted from the limitations on working time contained in the Act under the Organisation of Working Time (Exemption of Civil Protection Services) Regulations 1998 and the Organisation of Working Time (Exemption of Civil Protection Services) (Amendment) Regulations 2009.

²⁵⁹ An official at the Irish Aviation Authority stated that the Authority would be prepared to change rostering to facilitate the demands of an international relief effort if required.

²⁶⁰ These limitations are laid down in the European Communities (Organisation of Working Time) (Mobile Staff in Civil Aviation) Regulations 2006. These Regulations give effect in domestic law to Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA) [2000] OJ L302/57

²⁶¹ Section 10, Standards in Public Office Act 2001

²⁶² Standards in Public Office Commission, Civil Service Code of Standards and Behaviour, (2008, revised edition)

²⁶³ Criminal Law (Theft and Fraud) Offences Act 2001

²⁶⁴ Sections 43-44, Criminal Justice (Theft and Fraud) Act 2001

²⁶⁵ With the exception of Article 7.2 of the Convention, the First Protocol, the Protocol on Interpretation (other than Article 2(b)) and the Second Protocol (other than Articles 8 and 9).

²⁶⁶ At the time of writing the Criminal Justice (Corruption) Bill 2012 is before the Oireachtas. It is envisaged that once enacted it will provide a consolidated corruption statute to replace the existing statutes.

²⁶⁷ Ireland is also a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1999 Criminal Law Convention of the Council of Europe on Corruption.

²⁶⁸ An indicative list of the bodies under the Ombudsman's remit is available at: Office of the Ombudsman, 'Public bodies coming under remit from May 2013' <<http://www.ombudsman.gov.ie/en/About-Us/Legislation/Ombudsman-Amendment-Act-2012/Bodies-under-remit-from-May-2013/>> accessed 23rd August 2013

²⁶⁹ Should a person who has suffered injury, loss or damage as a result of a contravention of these obligations not have a remedy in damages available, he or she may institute proceedings to recover damages in respect of the contravention. Section 3 (2), European Convention on Human Rights Act 2003

²⁷⁰ Section 8, Human Rights Commission Act 2000

²⁷¹ *ibid* Section 9

²⁷² Section 11, Human Rights Commission Act 2000 as amended by Section 7, European Convention on Human Rights Act 2003

²⁷³ At the time of writing an Irish Human Rights and Equality Commission Bill is being drafted, which, if enacted, would merge the Irish Human Rights Commission with the Equality Authority to create a new body, the Irish Human Rights and Equality Commission.

²⁷⁴ Freedom of Information Central Policy Unit, Department of Public Expenditure and Reform, 'Bodies listed by category which are subject to the Freedom of Information Act' <<http://foi.gov.ie/bodies-covered-by-foi/>> accessed 23rd August 2013

²⁷⁵ Section 23 (1) (aa), Freedom of Information Act 1997 as amended

²⁷⁶ *ibid* Section 23 (1) (a) (iii)

²⁷⁷ At the time of writing the Freedom of Information Bill (2013) 89 is before the Oireachtas. If enacted, freedom of information would be extended to a wider range of public bodies.

²⁷⁸ Agnès Callamard, 'Accountability to disaster-affected

populations' in International Federation of Red Cross and Red Crescent Societies, International disaster response laws, principles and practice: reflections, prospects and challenges (International Federation of Red Cross and Red Crescent Societies 2003) Pages 153-164

²⁷⁹ David Fisher, Law and legal issues in international disaster response: a desk study (IFRC: 2007) Page 148

²⁸⁰ It should be noted that the UN, its agencies and certain other international organisations have considerable privileges and immunities under the Diplomatic Relations and Immunities Acts 1967-2006. However, such privileges and immunities are not absolute. Ireland retains the right to expel a particular official or representative. The parties enjoying privileges and immunities are required not to abuse them and to ensure that complaints about them can be addressed. See, for example, Article 21 of the Convention on the Privileges and Immunities of the United Nations.

²⁸¹ McMahon & Binchy, The Law of Torts (3rd ed., Bloomsbury, 2000) Page 169

²⁸² Law Reform Commission, 2009, Report on Civil Liability of Good Samaritans and Volunteers (LRC 93 – 2009) Page 30

²⁸³ *ibid*

²⁸⁴ Section 51E (2), Civil Liability Act 1961 as amended by the Civil Law (Miscellaneous Provisions) Act 2011

²⁸⁵ *ibid* Section 51A

²⁸⁶ Part IVA of the Civil Liability Act 1961 as amended by Section 4 of the Civil Law (Miscellaneous Provisions) Act 2011

²⁸⁷ Section 2, Safety, Health and Welfare at Work Act 2005

²⁸⁸ *ibid* Section 8 (1). Section 8(2) sets out a non-exhaustive list of duties under this general provision.

²⁸⁹ *Ibid* Section 11 (5) d)

²⁹⁰ It should also be noted that Article 3 (b) of the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency obliges Ireland as a state party 'to ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the assisting actor for such purpose.'

²⁹¹ Section 4, Irish Red Cross Act 1954

²⁹² Cf. *The People (D.P.P.) v. Ferris, Crawley and Brown CCA*, 15 December 1986 [1986] 3 Frewen. According to the Revised Annex A to the "Strategic Emergency Planning Guidance", the Irish Defence Forces also undertake a principal support role for emergencies involving explosive ordinance.

²⁹³ Article 1 (c) (ii), Convention on the Safety of United Nations and Associated Personnel

²⁹⁴ *ibid* Article 6 (1) (a) and (b)

²⁹⁵ *ibid* Article 7 (2)

²⁹⁶ Article 3, Directive 2009/103/EC of the European Parliament and of the Council of 16th September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability [2009] OJ L263/11

²⁹⁷ *ibid* Article 4

²⁹⁸ Derogations are permitted under Article 5 of Directive 2009/103/EC.

²⁹⁹ One insurance company consulted as part of the study offered vehicle insurance valid for up to 28 days for vehicles not registered in the State.

³⁰⁰ Article 6 (1) a), Irish Red Cross Society Order 1939 as amended by Article 4, Irish Red Cross Society (Amendment) Order 2012

³⁰¹ *ibid* Article 6 (1) c)

³⁰² Article 8 (c), Irish Red Cross Constitution

³⁰³ *ibid* Article 7

³⁰⁴ *ibid* Article 9 b)

³⁰⁵ *ibid* Article 9 i)

³⁰⁶ A Framework for Major Emergency Management, Page 75

³⁰⁷ *ibid* Page 76

³⁰⁸ Guidance Document 8 to the Framework for Major Emergency Management, 'A Guide to Working with the Voluntary Emergency Services', 2011 <<http://www.mem.ie/guidancedocuments/a%20guide%20to%20working%20with%20the%20oves.pdf>> accessed 22nd August 2013

³⁰⁹ For further information concerning the current cooperation arrangements with British Red Cross in Northern Ireland, please see Section 3 above.

³¹⁰ Section 317 (1) – (2), Defence Act 1954

³¹¹ *ibid* Section 317 (3)

³¹² Article 3, Air Navigation (Foreign Military Aircraft) Order 1952. It is important to note that Article 5 of the Order provides that Article 3 shall not apply to foreign military aircraft engaged in searching for an aircraft in distress or in rescuing survivors of an aircraft accident. Under normal situations, 'the Embassy of the country concerned is required to submit a written request in respect of every landing for every landing to confirm that the aircraft carries no arms, ammunition, explosives, photographic or intelligence gathering equipment. After consultation with the Department of Defence and the Department of Justice a written response is provided by the Department of Foreign Affairs', see note 296.

³¹³ Cf. Statement by the Minister for Foreign Affairs, Mr. Brian Cowen T.D., Dáil Éireann, 29th January 2003

³¹⁴ A Framework for Major Emergency Management, Page 77

³¹⁵ Although as a general rule a trust may be established by nomination in the deed of trust of a single trustee, the Revenue Commissioners require a minimum of three trustees in order that a trust should benefit from charitable tax exemption. There are no particular formalities for the appointment of trustees and the establishment of a charitable trust for 'other charitable purposes' such as disaster relief. Usually, such trusts are established by deed made by a donor, who gifts the property in trust to the trustees for the charitable purpose. The conduct of the trustees in the management of the trust is overseen, for the time being and until the commencement of the relevant sections of the Charities Act 2009, by the CCDBI.

³¹⁶ Cf. *Commissioners for Special Purposes of Income Tax v. Pemsel* [1891] AC 531

³¹⁷ Cf. Charities Acts 1961 and 1973. There are eleven Commissioners, all serving on a voluntary basis. No charge is made by way of fee or duty for services rendered by the Commissioners and neither remuneration nor expenses are sought by or paid to them. The Commissioners act as trustees for some charitable trusts and hold funds on behalf of others. They are empowered to invest, and authorize charity trustees to invest, in securities outside the ordinary range of trustee securities. Their functions also include the appointment of new trustees and the authorization of the sale of charity property.

³¹⁸ By way of a deed of settlement, the creator of the trust transfers assets – frequently a one-off transfer of assets – to the trustees for use in accordance with the objects of the trusts.

³¹⁹ Such an entity offers the benefit of limited liability for its members. As noted below, registration is affected by lodging a Memorandum and Articles of Association with the CRO. Upon establishment, the organisation may apply to the Revenue Commissioners for registration and charitable tax exemption.

³²⁰ Different forms should be completed and submitted to the Companies Registration Office depending on whether the company is a branch of a European Union country or a non-European country, or whether an external company is registering a place of business. In the case of the latter the following documentation is required: a certified copy of the charter, statutes, or memorandum and articles of the company; a list of the Directors and Secretary of the Company; the name and addresses of one or more persons resident in the State authorised to accept on behalf of the Company service of process and any notices required to be served on the Company; and the address of the company's principal place of business in the State.

Humanitarian Response (2011 edn, Sphere Project 2011) and ECHO's Framework Partnership Agreement with Humanitarian Organisations

³²¹ *Revenue Commissioners v Sisters of Charity of the Incarnate Word* [1998] 2 I.R. 533

³²² The only provisions of the Act that have been commenced are Sections 1, 2, 4, 5, 10 (other than subsections (3) and (4)), 90 and 99.

³²³ Department of Justice and Equality, 'Minister Shatter to Establish Charities Regulatory Authority by Easter this year (17th January 2014) <<http://www.justice.ie/en/JELR/Pages/PR14000010>> accessed 21st February 2014

³²⁴ Section 39, Charities Act 2009

³²⁵ *ibid* Section 39 (2). Section 41 (2) of the Act would make it an offence for an unregistered charitable organisation to carry on activities in the State if it advertises on its behalf or invites members of the public to donate to it. It would also be an offence under Section 41 (1) for a person to advertise for unregistered charities or to solicit donations on its behalf. The trustees of each charitable organisation are under a duty to make an application on behalf of the charitable organisation. The application requirements for charities established in other states are laid down in Section 39 (5) of the Act. Section 43, Charities Act 2009 provides that 'where a body that is entered in the register promotes purposes that are unlawful, contrary to public morality or policy, is in support of terrorism or terrorist activities, or is for the benefit of an organisation, membership of which is unlawful, the body shall be removed from the register.' The Act also imposes a duty under Section 47 to ensure proper accounting and issue an annual statement of accounts.

³²⁶ *ibid* Section 39 (6)

³²⁷ Minimum standards could draw on existing codes in the humanitarian sector. See, for example, People in Aid, Code of Good Practice in the management and support of aid personnel, (2nd edn, People in Aid 2003) and The Sphere Project, Humanitarian Charter and Minimum Standards in Humanitarian Response (2011 edn, Sphere Project 2011)

³²⁸ A Framework for Major Emergency Management, Page 96

³²⁹ In relation to maritime search and rescue it should be noted that the national plans of several countries, including the United States of America, India and Australia indicate that customary international law provides that reimbursement for search and rescue be neither requested nor paid.

³³⁰ Commission Decision of 29th December 2003 laying down rules for the implementation of Council Decision 2001/792/EC, Euratom establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions [2003] OJ L87/20

³³¹ Patrick A. O' Riordan, Emergency Planning in Ireland (Institute of Public Administration 1992) Page 59

³³² See *infra* note 326

³³³ Further details concerning the content of country briefings can be found in Annex 8 of the EU Host Nation Support Guidelines.

³³⁴ Minimum standards could draw on existing codes in the humanitarian sector. See, for example, People in Aid, Code of Good Practice in the management and support of aid personnel, (2nd edn, People in Aid 2003), The Sphere Project, Humanitarian Charter and Minimum Standards in



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