

IDRL IN ITALY

A STUDY ON STRENGTHENING LEGAL PREPAREDNESS FOR INTERNATIONAL DISASTER RESPONSE



prepared for

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ALMA MATER STUDIORUM
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DIPARTIMENTO DI SCIENZE GIURIDICHE



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Acknowledgments

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

The research received support from: David Fisher and Elyse Mosquini of the IFRC Disaster Law Programme;¹ Giulio Bartolini (University of Roma Tre), Flavia Zorzi Giustiniani (Uninettuno University), and Emanuele Sommario (Scuola Superiore Sant'Anna) of the International Disaster Law Project; Fabio Strinati and Fabio Carturan of the Italian Red Cross; and Luigi D'Angelo, Danilo Bilotta, Ambra Sorrenti and other staff of the Italian Civil Protection Department. This report is part of a wider study on the legal and policy frameworks of countries in the EU (including Finland, Iceland, Ireland, Latvia and Poland). Thanks to Filippo Valente for the English language revision of the manuscript.

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

The International Disaster Law Project

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

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

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

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

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

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

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

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

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

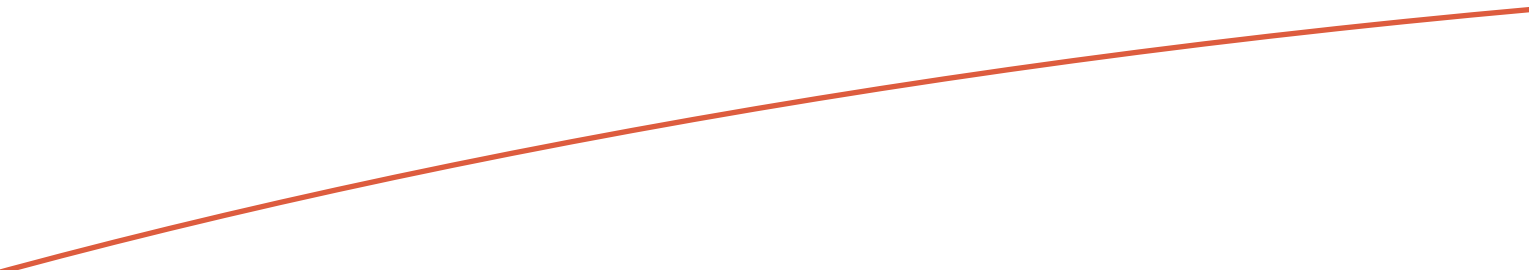
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Acronyms

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

Executive Summary

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

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

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

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

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

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

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

Introduction

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

Experience shows that a number of rules may hinder the delivery of external aid in disaster situations. This report seeks to identify the major obstacles that existing rules create for international cooperation in the event of disasters in Italy: It does so by looking to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (hereinafter the IDRL Guidelines) adopted by state parties to the Geneva Conventions at the 30th International Conference of the Red Cross and Red Crescent,¹ and to the EU Host Nation Support Guidelines (HNSG),² a nonbinding document prepared by European Commission staff with the support of the Member States, which identifies key actions that assisted States should take in dealing with emergency planning, emergency management and coordination, logistics, transport, and legal and financial issues.³ The analysis seeks also to point out solutions (mostly legislative ones) that may contribute to enhancing international cooperation in the response to disasters occurring in Italy.

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

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

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

³ See Chapter 4.4 below.

A Methodological Note

The sources for the report are in the first place legal documents: the Italian Constitution, Italian laws and decrees, acts of Italian regional authorities, European Union treaties and secondary law, and finally international agreements entered into by Italy or the European Union (hereinafter the ‘Union’ or ‘EU’). Since this report seeks to identify both the law and the practice, subsidiary sources have been taken into account as well. The analysis also draws on the internal documents of Italian administrations and on soft law instruments in the effort to identify the rules that are likely to be applied in practice. The documents consulted in preparing this report are listed in Annex I.

For the purpose of describing what the practice is, a questionnaire (contained in Annex II) was sent to the Italian Red Cross, the Italian Civil Protection Department, the Italian Ministry of Home Affairs, the Ministry of Health, the Ministry of Transportation, the Ministry of Foreign Affairs, and the Customs Agency. Further information about international cooperation has been collected by contacting the regions and autonomous provinces adjacent to the national borders,¹ as well as the prefects operating in provinces close to other countries.² Finally, the practice was also identified by interviewing civil protection operators and observing the international drill called *Tidal Wave in the South Tyrrhenian Sea* (staged in Salerno, Italy, in October 2013), which was organized by the Civil Protection Department and involved other European countries.³

This report is based also on secondary sources, including the OECD report on Italian civil protection,⁴ as well as a recent study of Italian civil security published by the Istituto Affari Internazionali.⁵

The terminology used in the report is consistent with Italian law, with two exceptions. The term *disaster* is used in the meaning ascribed to it by the IDRL Guidelines, that is, ‘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.’⁶ Secondly, the expression *non-governmental organization* (NGO) refers to *any* non-governmental not-for-profit organization and not just to organizations that qualify as non-governmental (*organizzazione non governativa*) under Italian law.

¹ These are Bolzano, Friuli Venezia-Giulia, Liguria, Lombardy, Piedmont, Trento, Valle d’Aosta, and Veneto.

² These are the prefectures of Belluno, Bolzano, Como, Cuneo, Gorizia, Imperia, Sondrio, Torino, Trieste, Udine, Varese, and Verbano Cusio Ossola. It is worth noting that, although there are currently no arrangements between Italian and foreign prefectures, the prefecture of Imperia is negotiating such an arrangement with the prefecture of the *Alpes Maritimes* department in France. For further information in this regard, see the Imperia Prefecture website at http://www.prefettura.it/imperia/news/71265.htm#News_38217 (last accessed 7 July 2014). The prefecture of Trieste mentioned the existence of an initiative called “Friends for Emergency,” aimed at favouring cross-border cooperation in the event of emergencies (www.friends4emergencies.eu/it/). The initiative, however, is not meant to introduce changes in the law.

³ For further information, see the DPC website at http://www.protezionecivile.gov.it/jcms/en/view_dossier.wp?contentId=DOS41830 (last accessed 14 July 2014).

⁴ OECD Reviews of Risk Management Policies: Italy 2010 – Review of the Italian National Civil Protection System (OCSE 2010), available at <http://www.oecd.org/italy/oecdreviewsofriskmanagementpoliciesitaly.htm> (last accessed 8 July 2014).

⁵ F. Di Camillo et al., *The Italian Civil Security System* (IAI-Nuova Cultura 2014), available at <http://www.iai.it/en/pubblicazioni/italian-civil-security-system> (last accessed 1 May 2015).

⁶ See the International Disaster Response Law Guidelines at the address <https://www.ifrc.org/what-we-do/disaster-law/about-disaster-law/international-disaster-response-laws-rules-and-principles/idrl-guidelines/> (last accessed 7 July 2014).

The acts (or legal provisions) cited in the report are mentioned in the form [type of act] [number]/[year], e.g., L 225/1992, meaning Italian Law no. 225, enacted in 1992. EU directives and non-legislative decisions are an exception and are reported, as is customary, in the form [type of act] [year]/[number]. When an act's official number is missing, the act is indicated by reference to its date of enactment. For the sake of simplicity and ease of consultation, references to official journals are omitted, and any reference to legal sources refers to the law's *consolidated* version. For instance, a reference to L 225/1992 must be understood as a reference to this law as amended until July 2014.⁷

Unless otherwise indicated, this report takes into account the development of the practice and of legislation until 31 July 2014.

⁷ The legal sources used for this report can be retrieved in official journals (e.g., the *Gazzetta Ufficiale* of the Italian Republic and the *Official Journal of the European Union*, hereinafter the OJEU), as well as on websites, which can be accessed more easily. Italian legal sources are generally available (in Italian) on the Normattiva website (<http://www.normattiva.it/ricerca/semplice>, last accessed 15 July 2014), which shows the consolidated version of each law. The agreements entered into by Italy are available in the ATRIO database, maintained by the Ministry of Foreign Affairs (<http://itra.esteri.it/Default.aspx>, last accessed 15 July 2014). The status of international agreements and the data relating to the laws that implement them are mentioned here on the basis of the information available on ATRIO. The sources of EU law are available on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>, last accessed 15 July 2014).

PART I

CONTEXT FOR THE ANALYSIS

Italian Red Cross biocontainment training, 2014



POSSIBLE RISK SCENARIOS



Italy is periodically subject to different disasters. This chapter presents the major sources of risk for the country, that is, seismic risk (Section 1); volcanic risk (2); tsunamis (3); floods (4); wildfires (5); industrial accidents (6); and chemical, bacteriological, radiological, and nuclear risk (7).*



* Unless otherwise indicated, statistics are taken from the website of the Italian Department of Civil Protection, www.protezionecivile.gov.it. (last accessed 15 July 2014)

1. Earthquakes
2. Volcanoes
3. Tsunamis
4. Floods
5. Wildfires
6. Industrial Risk
7. CBRN

1. Earthquakes

Italy is one of the most earthquake-prone countries in the Mediterranean, because of both (i) the frequency of earthquakes that have affected its territory in the past and (ii) their intensity.¹ The seismicity is mainly concentrated in Apennine areas and on the Tyrrhenian volcanic belt.

More than 150,000 earthquakes have been recorded in Italy over the past 31 years, most of which have not been perceived by the population.² More than 50 earthquakes had a Richter magnitude greater than 5.0. The strongest earthquakes in this period have taken place recently. The earthquake that hit the Abruzzo region on April 6, 2009, was a magnitude 6.3 and caused 308 casualties. Another major earthquake affected the Emilia-Romagna, Lombardy, and Veneto regions on May 20 and 29, 2012 (magnitude 5.9), and claimed 27 lives. Earthquakes have a significant economic social impact. During In the last 40 years, earthquakes have caused damage for about EUR 80 billion, in addition to the damage to the historical, artistic, and architectural heritage.

The correlation between the magnitude of earthquakes and the damage they cause is higher in Italy than in other countries with elevated seismic activity, this owing to a greater population density and to the fragility of many Italian buildings. There also seems to be a lack of adequate awareness of the problem. Recent studies show that nine out of ten Italian citizens living in areas at high risk lack an accurate perception of the seismic danger.³

2. Volcanoes

Although volcanic eruptions are less frequent and devastating than earthquakes, they pose a serious risk for Italy. There are several volcanoes in the country: Alban Hills, Campi Flegrei, Etna, Ischia, Island Ferdinandea (also known as Graham Island or Île Julia), Lipari, Panarea, Pantelleria, Stromboli, Vesuvius and Vulcano. More than 300 eruptions occurred over the last 1,000 years, a significant number of which affected inhabited areas. Volcanic risk is further increased by human activity, which often does not take into account the dangers of volcanoes, especially in the building of towns. Eruptions claimed about 500 lives in the 20th century alone. The inhabited areas exposed to volcanic hazard are (i) the area near the Vesuvius volcano and the city of Naples; (ii) the area surrounding Mount Etna and the city of Catania; and (iii) the volcanic islands of Ischia, Stromboli, and Lipari.

3. Tsunamis

Italy is at risk for tsunamis because of the high seismicity of its territory and the presence of numerous volcanoes. The areas at risk are mostly the coastlines of eastern Sicily, Calabria, Apulia, and the Aeolian archipelago.

¹ Cf. Associazione Nazionale Costruttori Edili, *Lo stato del territorio italiano 2012: Insediamento e rischio sismico e idrogeologico*, 2012, http://www.camera.it/temiap/CRESME_rischiosismico.pdf (last accessed 1 May 2015).

² See the website maintained by the National Institute of Geophysics and Vulcanology at <http://ingvterremoti.wordpress.com/i-terremoti-in-italia/> (last accessed 11 July 2014).

³ M. Crescimbeno et al., *Report on Risk Perception*, Department of Civil Protection and National Institute of Geophysics and Vulcanology, 2013, available at <https://docs.google.com/file/d/oB6owsWaPpDL4SG5wOFlwRjdqeEE/edit?usp=sharing> (last accessed 18 July 2014).

The Messina earthquake of 1908 generated a tsunami with waves up to ten meters, but the most recent tsunamis have been less significant. For example, in 2002, following the eruption of Stromboli volcano, a landslide of 16 million cubic meters of material generated a tsunami that struck the coast of the island of Stromboli and the other Aeolian islands (as well as the coast of Calabria and Sicily), but caused no casualties.

Tsunamis of limited size have also been recorded along the coasts bordering the Ligurian, Tyrrhenian, and Adriatic Seas. The Italian coasts can also be reached by tsunamis generated in other Mediterranean areas (e.g., due to an earthquake in the waters of Greece).

4. Floods

Floods are determined by adverse weather conditions and are strongly influenced by anthropogenic factors, such as population density, urbanization, illegal construction, logging, and inadequate maintenance of riverbeds.

Some statistics clarify the severity of this risk. Over the last eighty years there have been 11,000 floods. These events have involved 70,000 people over the last 20 years alone. Not all Italian regions are affected in the same way. Some are affected by the risk of floods across their entire territory, examples being Calabria, Umbria, and Valle d'Aosta. Others are less affected by this risk, but are not immune, either.⁴

5. Wildfires

Thirty percent of the Italian territory is forestland. Fires may affect the whole peninsula, but the most significant episodes typically occur in its southern part.⁵ Tens of thousands of hectares of forest are burned each year in fires started mainly because of human negligence or through arson, primarily because of financial speculation. The fires have serious and lasting consequences for the forest ecosystem and the environment. The alteration of the natural conditions of the soil caused by the fires also promotes the instability of the slopes, which in the event of heavy rains leads to the sliding of topsoil.

Twelve percent of the national forest heritage has been destroyed over the last 30 years; 1,850 fires took place in the first eight months of 2013 alone (58% fewer than in 2012).⁶

6. Industrial Risk

A risk to the environment and the population is posed by industrial sites dealing with potentially hazardous substances, such as chemicals and petrochemicals (including liquid propane gas deposits), as well as by refineries and sites storing explosives or toxic com-

⁴ See the website maintained by the Institute for Environmental Protection and Research at <http://www.isprambiente.gov.it/it/temi/suolo-e-territorio/rischio-idrogeologico> (last accessed 13 July 2014).

⁵ See M. Mirchetti, *Forest Fires in Italy: An econometric analysis of major driving factors* (Centro Euro-mediterraneo sui cambiamenti climatici, 2013), <http://www.cmcc.it/wp-content/uploads/2013/01/rp0152-cip-01-2013.pdf> (last accessed 14 July 2014).

⁶ National Forestry Corps (Corpo Forestale dello Stato), *Attività di Prevenzione e Contrasto agli Incendi Boschivi*, 2013, <http://www3.corpoforestale.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/6358> (last accessed 12 July 2014).

pounds. When these sites suffer an accident or malfunction, the substances they store or treat can contribute to fires, contaminate the soil and water, and generate toxic clouds.

There are currently 1,152 industrial facilities in Italy that deal with hazardous substances. These establishments are located in the territory of 739 municipalities.⁷ The areas with the most dangerous establishments are in the north, but almost all Italian provinces have facilities with at least one industrial-risk factor. Industrial risk in Italy is mainly posed by chemical or petrochemical facilities – concentrated especially in Lombardy, Piedmont, Emilia-Romagna, and Veneto – and liquefied-gas storage facilities, and they are spread throughout the country, particularly in the southern regions (Campania and Sicily), but also in the north (Lombardy and Veneto).⁸

7. CBRN

Chemical, biological, radiological, and nuclear (CBRN) risk can be defined as the possible spread of chemical, biological, radiological, or nuclear substances that can cause serious damage to people, animals, or objects. It can be linked to factors not dependent on human activities, such as pandemics, but it can also be caused by precisely those activities, such as accidents or terrorism.

Chemical risk in Italy derives from terrorism and the presence of industrial plants. The Italian chemical industry is highly developed, ranking third in Europe, as measured by turnover.⁹ Biological risk arises from the possibility of terrorism and the natural spread of epidemics. For example, Italy has been affected by continuous outbreaks of the H5 and H7 influenza virus since 1997. These outbreaks have in some cases led to severe epidemics and economic damage in the nation's entire poultry sector.¹⁰ Radiological and nuclear risk derives only partly from energy production: There are no nuclear power plants operating in Italy, but there are 13 such facilities within 200 km of the country's northern borders. The other sources of nuclear and radiological risk in Italy are connected to military, medical, industrial, and scientific use, as well as to the transportation of nuclear material.¹¹

⁷ Department of Civil Protection and Legambiente, *Ecosistema Rischio Ambiente: Dossier sui comuni italiani in cui sono presenti insediamenti a rischio d'incidente rilevante*, 2013, <http://download.repubblica.it/pdf/2013/ambiente/ecosistema.pdf> (last accessed 15 July 2014).

⁸ Institute for Environmental Protection and Research, *Mappatura dei pericoli di incidente rilevante in Italia*, 2013, http://www.isprambiente.gov.it/files/pubblicazioni/rapporti/rapporto_181_2013.pdf (last accessed 18 July 2014).

⁹ Federchimica, *L'industria chimica in Italia: rapporto 2013-2014*, http://www.federchimica.it/docs/default-source/pubblicazioni/L_industria_chimica_in_Italia_-_Rapporto_2013-2014.pdf?sfvrsn=0 (last accessed 1 May 2015).

¹⁰ See the national veterinary epidemiological bulletin, http://www.izs.it/BENV_NEW/Engine/RAServePG.php/P/251510040606/Epidemia-di-influenza-aviaria-H7N7-ad-alta-patogenicit%E0-in-Italia- (last accessed 1 May 2015).

¹¹ See De Francesco, "In Italia 90.000 m. cubi rifiuti nucleari, nasce Osservatorio," ANSA, 24 July 2014, http://www.ansa.it/web/notizie/canali/energiaeambiente/nucleare/2014/03/21/In-Italia-90.000-m.cubi-rifiuti-nucleari-nasce-osservatorio_ab43d01f-d747-4fff-8e86-beda40f63b80.html (last accessed 7 July 2014).

THE ITALIAN LEGAL SYSTEM



This chapter briefly presents the essential features of the Italian legal system, features necessary for an understanding of the intricacies of Italian civil protection and its potential for international cooperation. The presentation begins by laying out the sources of Italian law (Section 1); it then turns to the relation between Italian law, on the one hand, and international law (2) and EU law (3), on the other. The final part of the chapter describes the separation of powers between state agencies (4) and the division of powers between the state and the territorial authorities (5).



1. The Sources of Italian Law
2. International Law in the Italian Legal System
3. European Union Law in the Italian Legal Order
4. Separation of Powers at the State Level
5. Distribution of Competences between the State and Territorial Authorities

1. The Sources of Italian Law

The fundamental law of Italy is the Constitution of the Italian Republic, which entered into force on January 1, 1948. It sets out (i) the fundamental principles on which stands the republic and (ii) its institutional design. Laws amending the Constitution, as well as constitutional laws (i.e., laws having the same rank as the Constitution), must be enacted in accordance with Art. 138 of the Constitution itself. Under that provision, constitutional laws or the laws amending the Constitution must be approved twice by both houses of Parliament. As a fundamental law, the Constitution is hierarchically higher than statutory law and all secondary or delegated legislation.

Below the constitutional level, the hierarchy of sources is divided into the state and regional branches. In the state law branch, the source immediately below the Constitution is statutory law and the acts having the force of law. Where such acts are contrary to the Constitution, they may be annulled by the Italian Constitutional Court. Statutory law, also known as ‘ordinary law’ (*legge ordinaria*), consists of the legal acts enacted by Parliament. There are also two types of acts which may be adopted by the government, and which have the force of law: the legislative decree (*decreto legislativo*, or ‘DLgs’, for short) and the decree-law (*decreto legge*, or ‘DL’). The DLgs is a government act adopted pursuant to a delegation by Parliament: Such delegation limits its duration and objectives. The DL, an act having the force of law, is adopted in the absence of a parliamentary delegation and when a matter comes up requiring necessary and urgent action; if Parliament does not transform the DL into a law within 60 days of the decree’s adoption, the DL ceases to have legal effects (generally *ex tunc*). It should be noted that the government often gives a broad interpretation of the requirements of necessity and urgency required for adopting a DL. Suffice it to say that to date Italian governments have adopted some 3,500 DLs, 285 of which during the last ten years. This explains why the DL is particularly used in the context of civil protection, not only to take urgent measures in case of crisis but also to modify the institutional system.

A second category of state acts, so-called regulations, are subordinate to the Constitution, the statutory law, and acts having the force of law. Given their rank, regulations in conflict with the Constitution, with the laws, or with acts having the force of law should not be applied by any court and may be annulled by administrative courts. Regulations are executive legislative acts. They can take different forms depending on their content. When adopted in the form of a Decree of the President of the Republic (DPR) – which is approved by the government – they implement ordinary laws and decrees, and even EU regulations.¹ The DPR can also integrate laws and legislative decrees, regulate issues not covered by the laws, and organize public administrations. The regulations adopted by ministerial decrees (*decreto ministeriale*, or DM, for short) and the inter-ministerial decrees (*decreto interministeriale*, or DIM) can regulate issues falling within the competence of one or more ministers, where the law so permits. These acts, too, may regulate the organization of the administrations under the responsibility of one or more ministers.

Two types of administrative instruments are particularly important in civil protection: directives (*direttive*)² and operative instructions (*indirizzi operativi*). Through these instru-

¹ It is worth stressing that whereas EU regulations are generally legislative, Italian regulations are administrative acts.

² It is worth noting that whereas Italian directives are administrative instruments, EU directives generally have the effect of framework laws.

ments, the president of the Council of Ministers gives instructions to the bodies involved in civil protection, specifically by setting out prevention programmes and emergency plans. Also sometimes relevant to this analysis are other administrative instructions such as circulars (*circolari*) and notes (*note*). Although legal scholars disagree about their legal effect, no one doubts that they affect the application of the law in practice. These instruments will therefore be taken into account in Part II of the report.

In the regional law branch, there are three types of acts. At the level immediately below the constitution, there are regional statutes and the statutes of autonomous provinces, i.e., the fundamental laws of these territorial authorities. Below these sources are the regional laws (*leggi regionali*, or ‘LR’, for short) and the laws of autonomous provinces (*leggi provinciali*, or ‘LP’, for short), which are acts having the force of law in the territory of each region or autonomous province. Finally, there are regulations, i.e., legal acts adopted by the executive organ of each region or autonomous province.

It is worth noting that the laws and regulations of the state, on the one hand, and regional laws and regulations, on the other, are not hierarchically ordered. This means that any conflict between state and regional laws must be resolved on the basis of the criterion of competence, that is, by determining whether the state or the region were competent to take action in dealing with the matter at hand. Section 5 below discusses the separation of powers between the state and the regions.

2. International Law in the Italian Legal System

The recognition of international customary law in the Italian system is automatic, by virtue of Art. 10 of the Constitution, stating that: ‘the Italian legal system conforms to the generally recognized rules of international law.’ Consequently, if any rules contained in domestic laws and regulations should turn out to be contrary to international custom, they may be declared invalid by the Italian Constitutional Court. International customs generally take precedence over Italian constitutional law as well, except for customs that conflict with the fundamental principles of the Italian legal order.³

Unlike customs, international agreements do not automatically become part of the Italian system.⁴ For this to happen, the legislature or the executive branch must give execution to the agreement via a legislative or sub-legislative act (as through a DPR). In the areas under the state’s jurisdiction, the agreement is executed by the state itself; in the areas of regional competence, responsibility falls in the first instance with the regions, but, if the regions fail to take action, the state may give execution to the agreement in the region’s stead. In the areas of regional competence, the regions may also enter into nonbinding arrangements with the local authorities of other states and may form agreements executing other international agreements, as well as technical or administrative agreements. The state may object to the conclusion of such agreements if it believes that they adversely affect Italian foreign policy. Otherwise the state will grant the region full powers to sign the agreement, which will become binding on the entire state once it is signed.

³ On 22 October 2014 the Italian Constitutional Court rendered a landmark judgment (No 238/2014) holding that the fundamental principles of the Italian Constitution, as well as the fundamental human rights principles, constitute a limit to the reception of generally recognized international rules. An English-language short summary by Francesco Messineo, is available at <http://www.qil-qdi.org/?p=856> (last accessed 5 November 2014).

⁴ These considerations do not apply to EU treaties, whose effects are addressed in the next section.

An international agreement does not have the same rank as the internal act that executes it: It rather has an intermediate rank between the Constitution and the laws. On the one hand, Art. 117 of the Constitution requires that the state and the regions exercise their legislative powers consistently with international obligations. If an Italian court doubts whether a national law is consistent with an international agreement, it should therefore request that the Constitutional Court subject it to constitutional review. On the other hand, international agreements are subordinated to the Constitution. Where a national court doubts whether an international agreement is constitutional, it should likewise submit a request for constitutional review.

Even if the Constitution contains no explicit provision to that effect, it would seem that *any* international agreement may be deemed an ‘intermediate’ source: this would thereby include the agreements ratified by the president of the Republic after the approval by Parliament and those concluded in ‘simplified form,’ i.e., agreements that produce legal effects directly upon being signed by the government or by a region. Two considerations are in order in this regard. First, the government or the regions may conclude agreements in simplified form only when they concern matters that do not require parliamentary approval. Pursuant to Art. 80 of the Constitution, such approval is necessary with respect to: (a) political agreements and agreements that: (b) provide for arbitration or other legal settlements, (c) make territorial changes, (d) create financial burdens, (e) or entail legislative changes. Second, even agreements that do not require parliamentary approval, and are thus validly concluded in simplified form, always require an order of execution in order to be capable of producing legal effects in the Italian system.

Finally, we still need to consider how the binding acts of international organizations come into the Italian legal system.⁵ This happens, in principle, according to the rules applicable to the treaties on which the international organizations in question are based. It is therefore necessary to adopt an internal instrument – i.e., a law or regulation – through which the international act is given execution internally. Once the instrument has been adopted, the act becomes an ‘intermediate’ source of law and it therefore overrides ordinary law.

3. European Union Law in the Italian Legal Order

Although EU law is based on international agreements (the EU treaties), and these have been implemented in Italy via an ordinary law, its relation to Italian rules is regulated by norms different from those described above. The relation between Italian law and European Union law is governed by three principles: direct effect, consistent interpretation, and primacy.

Direct effect is the ability of EU rules to create rights and obligations binding on the subjects of national legal orders, regardless of the law in force in each member state. Not all EU rules have direct effect. The main sources of EU Law are: (i) the Treaties, namely, the Treaty on European Union (TEU), the Treaty on the Functioning of the European Union (TFEU), and the Treaty establishing the European Atomic Energy Community; (ii) other primary law instruments (protocols and the EU Charter of Fundamental Rights); (iii) regulations; (iv) directives; (v) decisions; (vi) international agreements concluded by the European Union; and (vii) the sources set forth in these agreements. EU Regula-

⁵ This analysis does not concern EU acts, which are addressed in the next section.

tions, which are binding acts of general application, are directly applicable in the Member States' legal systems. In general, they are likely to create rights and obligations for individuals. This is also a feature of the decisions aimed at specific individuals. The direct effect of Treaties, directives, and international agreements, on the contrary, is merely contingent. The rules contained in the Treaties have direct effect if they are clear, precise, and unconditional and require no subsequent adoption of implementing measures, either by the EU or by its Member States. Directives are acts directed at the Member States and bind them to the result to be achieved. They may have a direct effect on three conditions: (a) the deadline given to the member states for implementing the directive must have expired; (b) the directive is intended to individual right, corresponding to which are obligations of the states; and (c) the directive must be clear, precise, and unconditional. Finally, international agreements concluded by the EU may have direct effect, subject to three conditions: (a) they must bind the EU, and so also its Member States; (b) they must be aimed at creating individual rights and obligations; and (c) they must contain clear, precise, and unconditional rules.

The second relevant principle is that of consistent interpretation, under which the Member States' internal bodies, including the judiciary, must interpret national law, so far as possible, in conformity with EU law. Where such interpretation is not possible, because of a divergence between domestic and European Union law, the third principle comes into play, that of primacy. According to the settled case law of the Court of Justice of the EU, Member States cannot adopt unilateral acts incompatible with EU law. The Italian Constitutional Court reached a similar conclusion in the 1980s, arguing that the rules of EU law that have direct effect prevent national rules covering the same subject matter from producing legal effects. Therefore, Italian laws in conflict with EU law cannot be applied: they are not unconstitutional but simply inapplicable in framing legal relations. All Italian judges should consequently not apply domestic laws inconsistent with EU law.

If there is uncertainty about the interpretation of the law, national courts may refer the matter to the Court of Justice of the European Union for a preliminary ruling on the proper interpretation of EU law. Such a ruling may indirectly point out an inconsistency between Italian and EU law. There are only two cases in which the Italian Constitutional Court may subject to constitutional review an Italian law that contradicts EU law: first, when the domestic norm conflicts with a EU rule alleged to contradict the fundamental principles of the Italian legal order. Second, when domestic rules are overtly aimed at preventing compliance with the EU treaties.

4. Separation of Powers at the State Level

Italy is a parliamentary republic based on an imperfect separation of powers. Legislative power is exercised mainly by Parliament, which is composed of two houses: the Senate (*Senato*) and the Chamber of Deputies (*Camera dei Deputati*). The two Houses are elected by universal suffrage for five years. They have similar powers: The approval of both houses is necessary for enacting laws, making delegations of legislative power to the executive, and transforming DLs into ordinary laws. It is worth specifying that Parliament shares legislative power with the government, which adopts DLs and DLs.

Executive power belongs mainly to the government, which is officially termed the Council of Ministers and is composed of the President of the Council and of the Ministers. The President of the Council differs from the Ministers mainly because he or she sets the government's overall policy, maintains the unity of the political and administrative structure, and promotes and coordinates the Ministers' activities. The government is appointed by the President of the Republic but must obtain approval of the two chambers of Parliament. If a chamber does not grant approval initially or subsequently revokes it, the government must resign. The Council of Ministers is a collegial body that answers collectively to Parliament. At the same time, the Council of Ministers consists of ministers individually responsible for the acts of their administrations.

Judicial power belongs to the judiciary and is exercised through different jurisdictions. Constitutional jurisdiction rests with the Constitutional Court, which is composed of 15 justices, one-third of whom are nominated by the president of the republic, another third by Parliament, and the remaining third by regular and administrative supreme courts. A request for constitutional review can be introduced by the state, the regions, and the autonomous provinces, as well as by judges, when they doubt the constitutionality of a law that needs to be applied in a given case.

The civil and criminal jurisdiction is exercised by so-called ordinary magistrates, that is, magistrates whose activities are regulated by the norms of the judiciary. These judges are independent and are subject only to the power of a self-governing body, the Superior Council of the Judiciary. In both the civil and the criminal areas there are two degrees of judgment and the possibility of a further appeal for cassation (*cassazione*). It should be noted that public prosecutors are in most cases required to pursue all the criminal offences brought before them (with the exception of certain offences listed in the Criminal Code, such as threat, injury, and fraud).

The Constitution also provides for special courts. This is true, in particular, of administrative jurisdiction, which rests with organs separate from the ordinary courts: These are the regional administrative courts (*tribunali amministrativi regionali*), which function as courts of first instance, and the Council of State, a court of second instance (i.e., an appellate court). An appeal in administrative justice seeks the annulment of an administrative act alleged to be flawed on the ground that the act is unlawful or that the administrative body in question was incompetent or committed abuse of power.

The institutional picture is made complete by the president of the republic, who acts as head of state; is elected by the two chambers in joint session, together with the representatives of the regions; and remains in office for seven years. The president of the republic participates indirectly in the exercise of the three powers. As noted, he or she appoints the government and is the commander-in-chief of the armed forces. Furthermore, he or she participates in the legislative function, having the power to promulgate the laws passed by Parliament, to ratify international agreements, and to dissolve Parliament and call for new elections. Finally, the president of the republic has a part in the exercise of judicial power, by appointing a third of the Constitutional Court and presiding over the Superior Council of the Judiciary.

5. Distribution of Competences between the State and Territorial Authorities

Italy is composed of the state and of several territorial authorities, each having its own statutes, powers, and functions. The basic local authority is the municipality (*comune*), whose territorial limits generally correspond to villages, towns, or cities. There are about 8,000 Italian municipalities.⁶ The legislative function at the municipal level is exercised by an assembly – the council of the municipality, or city council (*consiglio comunale*) – elected by universal suffrage by the residents of the municipality itself. Executive power rests with the municipal government (*giunta comunale*), which is chaired by the mayor. The municipality carries out a variety of tasks, including some relevant to the present analysis, such as managing the local police and local transportation, as well local emergency planning and coordinating first aid.

At a higher level is the province, a local authority with jurisdiction over a number of municipalities. The legal framework for provinces is complex. Two provinces – Bolzano and Trento – are special, since they have particular autonomy and power, similar to those of regions; any reference to regions contained in this report will consequently apply to these provinces as well.⁷ The other 108 Italian provinces are currently undergoing a reform process; their institutional framework and powers are therefore still unclear.⁸ As of this writing, provinces are organized like municipalities, each having a provincial council, a provincial government, and a president of the province. If the current reform is carried out, the provinces will have a slightly changed institutional design, with an executive organ (the president of the province), a policy steering organ (the provincial council), and a consultative organ composed of the mayors of the municipalities within each province's territory. Moreover, in January 2015, ten provinces will be replaced with new entities called metropolitan cities (*città metropolitane*):⁹ These institutional entities that will integrate the ten major Italian cities with the municipalities within their province, and their institutional design will be similar to that of the new provinces.¹⁰ The provinces currently have significant powers in the civil protection area: These are likely to be retained by the new provinces (and the metropolitan cities) and will accordingly include environmental protection, emergency planning, public transportation, and the building of schools.¹¹

Finally, there are the regions, which are territorial authorities with jurisdiction over two or more provinces.¹² There are currently twenty regions. The Constitution confers a special status on five regions: Friuli-Venezia Giulia, Sardinia, Sicily, Trentino-Alto Adige, and Valle d'Aosta. These regions' charters, adopted under constitutional law, grant them a greater degree of decision-making and financial autonomy.¹³ The other 15 regions, which have les-

⁶ See the National Institute of Statistics website at <http://www.istat.it/it/archivio/6789> (last accessed 14 July 2014).

⁷ This point also applies to arrangements governing civil protection. Although these provinces have their own institutional arrangements for civil protection, they are substantially similar to those applicable to the regions. See the provincial laws of Trento 9/2011 and Bolzano 15/2002.

⁸ See the recent L 56/2014.

⁹ This will apply to the provinces of Bari, Bologna, Florence, Genoa, Milan, Naples, Turin, Reggio Calabria, Rome, and Venice. It is worth noting here that Rome already has broad autonomy, which it will retain in the future.

¹⁰ The details about these organizational frameworks will depend on acts of the state, the provinces, and the new metropolitan cities.

¹¹ L 56/2014, Art. 1, subsections 44 and 85(a), (b), and (e).

¹² There is only one region composed of a single province, namely, Valle d'Aosta.

¹³ The scope of the powers ascribed to the five regions with special status varies with each of those regions, and so there is no all-encompassing account that can be offered in that regard.

ser autonomy, are Abruzzo, Basilicata, Calabria, Campania, Emilia-Romagna, Lazio, Liguria, Lombardy, Marche, Molise, Piedmont, Apulia, Tuscany, Umbria, and Veneto. The division of powers between the state and the regions is notoriously complex and controversial and will be presented here only in outline. Under the constitutional reform of 2001, only three types of competences are recognized. In the first place, there are the competences of the state, explicitly listed in Art. 117 of the Constitution. These competences include foreign policy, defence, immigration, the state's administration, state security, and customs. Then there are so-called 'concurrent competences,' also listed in Art. 117 of the Constitution. In the areas falling within concurrent competence the legislative power is conferred on the regions, except for the fundamental policy guidelines, which are set by the law of the state. Concurrent competences are exercised in the following areas, among others: the regions' international relations, external trade, health protection, ports and civilian airports, energy distribution, and, above all, civil protection. Subject areas not designated as falling within the scope of either state or concurrent competences fall within the remit of the regions. It is worth noting that although Art. 117 of the Constitution allocates competences in an apparently rigid way, the Constitutional Court has accepted a rather flexible delimitation of competences, which allows lawmakers, and especially at the state level, to exercise powers pertaining to the other levels of government. The consequences of this flexibility are considered in Chapter 3.1, when dealing with civil protection competences.

THE ITALIAN CIVIL PROTECTION SERVICE

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Italian civil protection is a complex system made of several organizations run by the state and the territorial authorities, as well as by the private sector. This is a peculiar feature of Italian disaster response, which differentiates it from other systems, where this activity is managed in a centralized manner. Because of the complexity of the Civil Protection Service, only its general features are presented here. We begin by looking at the division of powers between the state and the territorial authorities (Section 1). Then (2) we will consider the operational organizations through which the service is delivered, focusing in particular on (3) the Red Cross and (4) private organizations.

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1. Civil Protection Competences of the State and of the Territorial Authorities
2. Operational Structures of the Civil Protection System
3. The Italian Red Cross
4. The Participation of Private Organizations in the Civil Protection Service

1. Civil Protection Competences of the State and of the Territorial Authorities

To understand the current structure of the Italian civil protection system, we have to look at its history. In an initial period (1861-1926) there was no coherent structure for civil protection, which was limited to emergency activity. A 1926 royal decree-law set up the rescue of populations affected by disaster, entrusting that function to the Ministry of Public Works. This solution, however, was not always followed in practice, since the Ministry of Home Affairs played a pivotal role in the civil protection system. This practice was formalized under Law 966/70, which together with DPR 66/1981 and DL 57/1982 redefined the civil protection design, giving it three main features: first, civil protection activities had to be managed centrally by the state; second, control over civil protection activities was shared among the President of the Council, the Minister of Home Affairs, and the Minister of Civil Protection, making for an unclear control scheme; and third, there was no systematic coordination between public and private initiatives. That scheme was significantly changed by L 225/1992, which transformed civil protection into a network of organizations, a characteristic maintained by the current system. Under the 1992 reform, civil protection has become a service (Servizio della Protezione Civile) and is delivered by organizations and institutions, both national and local, both public and private. The system was further de-centralized under DLgs 112/1998 and the constitutional reform of 2001. Subsequent changes of the law (most recently under L 100/2012 and L 119/2013) completed the framework defined by L 225/1992.

As previously noted in Chapter 2.5, Art. 117 of the Italian Constitution now lists civil protection among the concurrent competences, with legislative power being conferred on the regions, except for the fundamental policy principles, which are set by the law of the state. It is also worth noting that under Art. 118 of the Constitution, all administrative functions are entrusted to municipalities, unless those functions need to maintain a unitary character, in which case they will be entrusted to provinces, the metropolitan cities, the regions, or the state. It is evident, therefore, that the Constitution sets up a civil protection system based on subsidiarity, the principle that intervention at a higher level is possible only where the lower level is unable to address the problem at hand.

The subsidiarity principle is clearly a basic inspiration for the Civil Protection Service. The service involves state administrations, regions, provinces, and municipalities. The president of the council adopts (a) the operational guidelines for predicting and preventing risks, (b) national rescue programmes, and (c) the plans for implementing emergency measures. The details of those programmes are defined by the territorial authorities (municipalities, provinces, and regions), each at its own level of authority. The regions also adopt organizational arrangements for managing emergency through their resources, as well as for designing provincial and municipal emergency plans. These emergency cover all the activities and procedures to be carried out to deal with a disaster expected to strike a given area, the goal being to ensure an effective and immediate use of the resources needed to deal with the emergency and return to normal living conditions.

Local and regional authorities play a central role in disaster response, too. This role is defined on the basis of the severity of the disaster and of the public authorities' ability to respond. L 225/1992 identifies three types of events at Art. 2(1).

The first type – defined at subsection (a) of Art. 2(1), hence its name: a 'type A event' – encompasses natural and manmade events that can be managed through the resources of a single administration. The administration mainly responsible for events of this type is the municipality.

The second type of event – called 'type B event' – encompasses disasters that cannot be managed with the resources of a single municipality, thus requiring different authorities to coordinate. The framework for managing these events is very complex,¹ since the reforms of Italian civil protection have given similar and partly overlapping powers to three different entities: the province, the prefecture, and the region. The province has the least problematic role, being mainly responsible for setting up the services that must be provided in the event of a disaster. More significant powers are assigned to the prefect (the state's representative in every province), since he or she directs all the emergency services at provincial level.² The prefect carries out this role in coordination with the region. Indeed, the latter has extensive disaster response powers (which seem to overlap with those of the prefect), implementing urgent interventions in the event of crisis by relying on firefighters,³ among other services, as well as on volunteers (see Chapter 3.4 below).

Finally, disasters that can only be tackled through 'extraordinary' measures are classed as 'type C events,' and the response in this case is centrally coordinated by the state. When a type C event takes place or is about to take place, the Council of Ministers may decide to declare a 'state of emergency' (including at the urging of a region), defining its extent in space and time. A state of emergency, at any rate, cannot last for more than 360 days.⁴ If the emergency is particularly severe, the President of the Council may mobilize national civil protection resources even before a state of emergency is declared.⁵

In case of type C events, the response will be directed by the presidency of the council of ministers through decentralized organs – the prefects – and a central authority, the Civil Protection Department (DPC), an administrative body under the authority of the President of the Council. The declaration of a state of emergency may confer extraordinary powers on the head of the DPC – on a delegation from the President of the Council of Ministers – or the prefects,⁶ and it may also define limits and conditions to which those powers are subject. The head of the DPC and the prefects exercise those powers through orders that during a state of emergency may derogate from any law,⁷ though not from any constitutional provisions or from any international or EU rules directly applicable in Italy. Through these orders, the head of the DPC can also make sure that emergency services are properly set up and carried out, that the functionality of public services is restored, that measures for minimizing residual risk are implemented, and that the requirements for restoring facilities and the infrastructure are recognized. The head of the DPC entrusts the implementation of his or her orders to the bodies making up the civil protection system, and so also to the resource-

¹ *Circolare della Presidenza del Consiglio*, 30 September 2002, 'Ripartizione delle competenze amministrative in materia di protezione civile,' section 1.

² L 225/1992, Art. 14(2)(b).

³ DLgs 112/1998, Art. 108(1)(a)(2).

⁴ L 225/1882, Art. 5(1bis).

⁵ Art. 3 DL 245/2002.

⁶ L 225/1992, Art. 14(3).

⁷ L 225/1992, Art. 5(2).

es managed by territorial authorities and private entities. The head of the DPC also delimits the powers of the various components of the Civil Protection Service but is generally bound to respect the division of powers and competences set forth in the law.

It is worth noting that in a disaster situation similar orders may also be imparted by anyone authorized by the head of the DPC, as well as by different entities identified by acts having the force of law. So, for example, Art. 1(4) DL 74/2012, adopted following the earthquake that struck Emilia-Romagna, Veneto and Lombardy in May 2012, conferred extraordinary powers on the presidents of the regions affected.

The operational response to type C disasters is coordinated by a designated organ, namely, the Operational Civil Protection Committee.⁸ This organ is chaired by the head of the DPC and is composed by representatives of the main bodies involved in the Civil Protection Service,⁹ including the DPC, firefighters, the army, police forces, maritime authorities (*capitanerie di porto*), the Red Cross, the National Health Service, volunteer organizations, the Alpine Search and Rescue Corps (*Corpo Nazionale Soccorso Alpino e Speleologico*), and research institutions.¹⁰ Also sitting on the committee are two representatives of the regions. Because the committee is comprehensive in its makeup, it is in a position to evaluate the news, data, and requests coming in from the areas affected by the emergency, and it can also set out intervention strategies and coordinate the actions of all the administrations and entities participating in relief activities.

2. Operational Structures of the Civil Protection System

The Italian civil protection system is based not only on a separation of policy-making powers (as described in the last section) but also on a division of operational responsibilities. Numerous entities are indeed involved in disaster relief. Art. 11 L 225/1992 enumerates the operational bodies participating in civil protection: the National Firefighters Corps (*Vigili del Fuoco*, or ‘VVF’, for short), the armed forces, police forces, the Forest Guards, the National Health Service, science and research groups, the Alpine Search and Rescue Corps, the Red Cross, and volunteer organizations.

Firefighters are the main component of the Civil Protection Service and are described in L 225/1992 as ‘the fundamental civil protection component.’ The VVF are a civilian state body under the Ministry of Home Affairs: It is responsible for relief in the event of calamities, among other things, and it provides technical expertise and resources in the event of disasters.¹¹ The VVF have central administration that coordinates with decentralized bodies, especially regional directorates and provincial offices. The decentralized presence of the VVF throughout the territory contributes to the operational flexibility of the Civil Protection Service.¹²

⁸ The committee is currently regulated under the DPCM of 8 August 2013.

⁹ On the role of operational bodies in the civil protection service, see Sections 2, 3, and 4 below.

¹⁰ These institutions include the Istituto Superiore per la Protezione e la Ricerca Ambientale, <http://www.isprambiente.gov.it>; the Istituto Nazionale di Geofisica e Vulcanologia, <http://www.ingv.it>; the Consiglio Nazionale delle Ricerche, www.cnr.it; and the Agenzia Nazionale per le Nuove Tecnologie, l’Energia e lo Sviluppo Economico Sostenibile, www.enea.it (last accessed 10 July 2014).

¹¹ See DLgs 139/2006, Art. 24.

¹² See, e.g., the description of the firefighters’ response to CBRN disasters in Bonfanti et al., *CBRN Integrated Response Italy: Enhancing On-site Cooperation between Safety and Security Organisations* (CBRN Response, 2014), pp. 52-57.

The armed forces have an important role in disaster response, since they provide personnel and structures for other administrations participating in civil protection. Moreover, the armed forces help to route road traffic and transport goods (using military vehicles); they also support firefighting activities and the effort to prevent water pollution.¹³

Police forces comprise the state police, the *Carabinieri*, and the Revenue and Customs Police,¹⁴ the Coast Guard, State Corrections Police,¹⁵ the Forest Guards,¹⁶ and the Municipal Police. These forces all participate in civil protection activities in situations that affect security of persons. The role of each police force depends on its resources, expertise, and competences. In general, they manage road traffic, favour the access of rescue operators and evacuation operations, by ensuring public order and security. The Forest Guards also contribute to firefighting on wood- and forestland, support search and rescue operations, and transport food and water in the event of emergency.

The National Health Service has an obvious role in the Civil Protection scheme by ensuring citizens' health, especially by relying on its extensive network of hospitals. Like the Civil Protection Service, the National Health Service is a system and not a single body, so it is made up of both state and regional entities.

The Civil Protection Service relies not only on state bodies but also on other institutions. Scientific research centres, in particular, contribute to risk prevention and the development of monitoring technology. Another non-state contribution comes from the National Alpine Search and Rescue Corps,¹⁷ an organization devoted to rescuing persons in distress in caves, mountains, and other impervious areas. Finally, the Civil Protection Service is composed of the Red Cross and volunteer organizations. The contribution of these components is particularly important and raises significant issues for international cooperation. It must therefore be addressed in detail in Sections 3 and 4.

3. The Italian Red Cross

The Italian Red Cross Society is currently undergoing reform. The organization known as the Italian Red Cross (*Croce Rossa Italiana*, or 'CRI') – officially termed the Italian Red Cross Association (*Associazione Italiana della Croce Rossa*) – is a legal person established under public law: It was founded in 1864 and will be in operation until the end of 2014. In January 2015 it will be substituted by the new Association of the Italian Red Cross (*Associazione della Croce Rossa Italiana*), which by contrast will be set up as an organization under private law, but it will work in the public interest by supporting public authorities in the humanitarian sector. Both the CRI and the newborn Red Cross Association rely on the work of employees and volunteers. The purposes of the CRI and of the new Red Cross Association are defined by legislative acts.¹⁸ These purposes consist in carrying out institutional the activities of national societies of the International Red Cross and Red Crescent Movement, as well as in social and charitable activities and activities complementing the work of the Italian Armed Forces in Italy and abroad in peacetime, and taking part in international

¹³ Art. 92(2) DLgs 66/2010.

¹⁴ Guardia di Finanza, <http://www.gdf.gov.it/GdF/it/Home> (last accessed 14 July 2014).

¹⁵ Polizia Penitenziaria, <http://www.polizia-penitenziaria.it/> (last accessed 14 July 2014).

¹⁶ Corpo Forestale dello Stato, www.corpoforestale.it (last accessed 14 July 2014).

¹⁷ Corpo Nazionale Soccorso Alpino e Speleologico, <http://www.cnsas.it/> (last accessed 14 July 2014).

¹⁸ The CRI by DPCM 97/2005; the newborn Red Cross Association by DLgs 178/2012.

missions within operational scenarios, in international assistance (during emergencies and through development cooperation), and in the performance of civil protection activities.

During disaster response, the CRI carries out numerous tasks that will also be carried out by the new Red Cross Association.¹⁹ Immediately after a disaster, the Red Cross must contribute to assessing the event, verifying the availability of resources with which to respond to the disaster, and supporting assistance to the wounded. During the first 12 hours after a disaster, the Red Cross must continue such support and also help to set up camps and temporary housing for the populations hit by the disaster. The Red Cross must also deploy its unique resources, such as special transportation facilities. And during the first 24 hours after the disaster, the Red Cross must make sure that food and water are distributed to both victims and disaster relief personnel.

The Red Cross play such a pivotal role in civil protection that its representatives are involved in the operational civil protection committee, which is composed of the representatives of civil protection components and coordinates emergency activities (see Chapter 3.1 above). Given how important territorial authorities are for civil protection, it would be logical for the Red Cross to also be involved in operational coordination at the regional level. It would seem, however, that regional laws rarely ensure the full participation of the Red Cross in organs that provide operational coordination at the regional level.²⁰ In most cases, such participation is merely contingent,²¹ or it may be implicitly ruled out.²²

4. The Participation of Private Organizations in the Civil Protection Service

Under Art. 118 of the Italian Constitution, the state, the regions, the metropolitan cities, the provinces, and the municipalities are required to promote the spontaneous initiatives of citizens, individually or in groups, aimed at providing activities in the public interest. In other words, the action of public authorities should be complementary to that of private entities. This principle is generally referred to as horizontal subsidiarity.

This form of subsidiarity characterises the service of civil protection in an evident manner. Under Law 225/1992, the civil protection initiatives may be performed by ‘any institution or organization, including private ones.’²³ These entities can enter into arrangements with public authorities in order to regulate their participation in the Civil Protection Service. A particular class of private organizations contributing to civil protection is that of public

¹⁹ See the operational instructions for emergency management contained in the directives of the president of the Council of Ministers of 8 December 2008.

²⁰ It would seem that only two regions foresee the automatic CRI participation in regional operation coordination organs: Piedmont (under Art. 17 LR 7/2003) and Apulia (under Art. 9 LR 7/2014).

²¹ Provisions in this sense may be found in the laws of Basilicata (Art. 20 LR 25/1998), Friuli-Venezia Giulia (Art. 15 LR 64/1986), Lazio (Art. 29 L.R. 2/2014), Marche (Art. 10 LR 32/2001), Sardinia (Art. 8 LR 3/1989), Umbria (Art. 12 LR 26/1988), Val d’Aosta (Arts. 4 and 5, LR 5/2001), and Veneto (Art. 7 LR 17/1998). It may be hypothesized that CRI participation in contingent operational coordination organs at the regional level is possible, albeit not necessary, in the Campania, Lombardy, and Tuscany, which do not seem to have set up such organs through a regional law.

²² The letter of regional laws seems to exclude the CRI involvement in regional operational coordination organs in Abruzzo (Art. 13 LR 72/1993), Calabria (Art. 10 LR 4/1997), Emilia-Romagna (Art. 23 LR 11/2005), Liguria (Art. 14 LR 9/2000), and Molise (art. 12 LR 10/2000), as well as in the autonomous provinces of Bolzano (Art. 5 LP 15/2002) and Trento (Art. 33 LP 1/2011).

²³ Art. 6(1).

utility companies, which includes companies managing the highways, the railways, the telephone lines, television, the postal service, and electric energy.

Law 225/1992 subsequently specifies that volunteer organizations²⁴ may also participate in the activities of the Civil Protection Service. These organizations are in fact a fundamental operational part of the service. In order to qualify as a volunteer civil protection organization, a body must (a) be formed by persons who voluntarily decide to join it; (b) be non-profit; (c) rely mainly on the activity of volunteers, rather than on that employees;²⁵ and (d) carry out or promote activities linked to prediction, prevention, and response to natural and manmade disasters.²⁶

In order to contribute to the activities of the Civil Protection Service, volunteer organizations must first join the national register of civil protection volunteer organizations: This register aggregates the ‘territorial’ registers (managed by the regions) and the ‘central’ register (managed by the DPC). Organizations wishing to take part in regional activities must join a local register. The procedures for registering are governed by regional law, but organizations must always be locally based or have local chapters in the region whose register they join.²⁷ Organizations that operate only at the national level may join the DPC’s central register. The registration procedures are set by the DPC, but this is generally possible only for organizations coordinating local organizations and for organizations with expertise in specialized sectors the DPC considers particularly important. Joining either a territorial register or the central register is a necessary and sufficient condition for participating in civil protection activities. This means that the moment an organization is listed in a territorial register or in the central register, it can be mobilized by public authorities. Territorial authorities can mobilize territorial organizations listed in regional registers, while the DPC can mobilize organizations listed in the central register, though it can also act through the regions so as to call in organizations listed in a territorial register.²⁸

Joining a territorial register or the central register also brings advantages. The DPC provides benefits to organizations and volunteers that take part in the activities of disaster forecasting, prevention, and relief where the impact of the disaster in question is national, meaning that extraordinary powers are needed in dealing with the situation. For individual volunteers, these benefits mainly consist in the DPC devoting its funds to help their employers maintain the workplace, pay salaries and payroll taxes for pensions, and buy insurance coverage in the event of an accident. For organizations the benefits consist mainly in reimbursement of the expenses incurred while carrying out civil protection activities, and in the financial support to training activities. The benefits just mentioned are also guaranteed for local or regional organizations and volunteers, but in this case it is the region, and not the DPC, that funds training and activities.

²⁴ It is worth stressing that the Italian Red Cross has a specific status under Italian law and is not considered as a volunteer organization, even if it is also composed of volunteers, see Chapter 3.3 above.

²⁵ Volunteer organizations can employ persons only within the limits necessary for their ordinary functioning or to improve the activities they carry out: see Art. 3 L 166/1991.

²⁶ DPR 1/194, Art. 1(2).

²⁷ On this topic, see also the second part of this report, esp. Chapter 6.3.

²⁸ See DPR 194/2001, Art. 11(1) and DLgs 112/1998, Art. 108; see also the directive of the President of the Council of Ministers of 9 November 2012, subsection 2.2.

ITALY AND INTERNATIONAL COOPERATION IN DISASTER RESPONSE



Italy often participates in international cooperation in disaster response. This chapter briefly presents the country's cooperation within international organizations (Section 1), within the framework of multilateral (2) and bilateral (3) agreements. The analysis subsequently turns to Italy's role in the Union Civil Protection Mechanism (4) and to Italian civil protection abroad (5).*



* We postpone to a later stage – Part II of the report – a discussion of the legal and practical effects that international cooperation has on civil protection activities, with particular reference to international disaster response.

1. Cooperation within International Organizations other than the EU
2. Cooperation in the Framework of Multilateral Agreements
3. Bilateral Cooperation
4. The Union Civil Protection Mechanism
5. Intervention of the Italian Civil Protection Abroad

1. Cooperation within International Organizations other than the EU

Several international organizations are directly or indirectly involved in disaster response. Italy participates in particular in the coordination activities carried out within the framework of the United Nations (UN) and the North Atlantic Treaty Organization (NATO).

The first significant UN body devoted to disaster response is the Office for the Coordination of Humanitarian Affairs (OCHA). OCHA is mainly engaged in coordinating the different partners involved in humanitarian initiatives. Italy usually works in partnership with OCHA on funding for initiatives to prevent and respond to disasters in countries such as Syria and Somalia.¹ Italy also participates in another UN initiative, the International Search and Rescue Advisory Group (INSARAG), which consists of a network of states and international organizations created in 1991 and administratively supported by OCHA. INSARAG supports coordination in urban search and rescue, serving primarily as a communication hub between the parties involved.² Italy also hosts one of the United Nations' Humanitarian Response Depots, at the San Vito base in Brindisi. The depot is used by the Food and Agriculture Organization, the World Health Organization, and the World Food Program to store material that should be transported within 24 to 48 hours in areas hit by humanitarian crises.³

As a member of NATO, Italy is also involved in the activities of the Euro-Atlantic Disaster Response Coordination Centre (EADRCC). The EADRCC is the main mechanism for emergency response joining the Euro-Atlantic area. It involves all NATO members and 22 partner states and coordinates requests and offers of help in the event of disasters having natural or anthropogenic causes. The EADRCC works in close cooperation with OCHA, whose primary role in coordinating international humanitarian aid is recognized by NATO.⁴

Both the UN and NATO mechanisms are founded on the principles of sovereignty and non-interference. This means, in the first place, that no state is required to offer or provide aid in the event of a disaster. And it implies, in the second place, that a state affected by a disaster may at its discretion choose whether to seek or accept help from third parties and has final responsibility for coordinating national and international aid in its territory.⁵

Finally, it is worth noting that Italy has participated in non-institutional cooperation frameworks – such as the Euro-Mediterranean project Prevention, Preparedness and Response to Natural and Manmade Disasters Programme (PPRD)-South,⁶ the intra-EU project Force

¹ See, for instance, the Italian Ministry of Foreign Affairs website at http://www.esteri.it/mae/it/sala_stampa/archivionotizie/comunicati/2014/04/20140414_siria_ocha.html (last accessed 17 July 2014).

² INSARAG, *The Story of INSARAG 20 Years On*, 2010, http://www.insarag.org/images/stories/INSARAG_booklet_FINAL_VERSION_V3_screen_view.pdf (last accessed 17 July 2014). At the time of the most recent available data (2006), Italy had set up a team of 30 people to participate in INSARAG operations, see the INSARAG website, <http://www.insarag.org/en/directory/usar-directory.html> (last accessed 17 July 2014).

³ See the UNHRD website at http://www.unhrd.org/?page_id=95 (last accessed 14 July 2014).

⁴ See the NATO website at <http://www.nato.int/eadrcc/> (last accessed 17 July 2014).

⁵ This is one of the main issues currently being addressed by the International Law Commission. See <http://www.un.org/law/ilc/>.

⁶ PPRD-South seeks to reinforce Euro-Mediterranean cooperation in civil protection. See <http://www.euromedcp.eu/index.php> (last accessed 8 July 2014).

d'Intervention Rapide Européenne (FIRE),⁷ and the Adriatic Ionian Initiative (AII)⁸ – and is currently involved in international cooperation projects, focusing on the Mediterranean region (Increasing preparedness capacities across the Mediterranean) and on the Western Balkans (IPA Civil Protection Cooperation Programme II e IPA Floods Programme).⁹

2. Cooperation in the Framework of Multilateral Agreements

As is well known, there is no single multilateral agreement that comprehensively governs disaster response. Italy, however, is party to a number of multilateral treaties regulating specific aspects related to disaster response.

These agreements can be sorted into four groups. First, there are the trade agreements, which can facilitate the entry of goods and equipment necessary for disaster response: These are the Agreement on the Temporary Importation, Free of Duty, of Medical, Surgical and Laboratory Equipment for Use on Free Loan in Hospitals and Other Medical Institutions for Purposes of Diagnosis Or Treatment (1960);¹⁰ the International Convention on the Simplification and Harmonization of Custom Procedures (1973);¹¹ and the Convention on Temporary Admission (1990).¹²

Secondly, there are agreements on the immunity of officials affiliated with international subjects potentially involved in disaster response. This group contains the Convention on the Privileges and Immunities of the United Nations (1946),¹³ the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations (1947),¹⁴ and the Vienna Convention on Diplomatic Relations (1961).¹⁵

The third group comprises agreements providing for early warning obligations. This group includes the Convention on Early Notification of a Nuclear Accident (1986);¹⁶ the Basel Convention on the Movement of Hazardous Waste (1989);¹⁷ the Convention on the Transboundary Effects of Industrial Accidents (1992);¹⁸ and the Convention for the Protection of the

⁷ FIRE 5 involves Italy, France, Greece, Portugal, and Spain and operates in the framework of the Union Civil Protection Mechanism. This project sets up common operational standards intended to enable the four partner countries to be more effective in their prevention and response to wildfires and earthquakes. See http://www.protezionecivile.gov.it/jcms/it/view_dossier.wp%3Bjsessionid=E28E1006BB564F83010390CEBD099056?facetNode_1=f2_7&prevPage=dossier&contentId=DOS21028 (last accessed 8 July 2014).

⁸ AII involves eight States: Albania, Bosnia-Herzegovina, Croatia, Greece, Italy, Montenegro, Serbia, and Slovenia. It seeks to favour the development of solutions to common problems by organizing roundtables on environmental protection and firefighting, among other areas. See the web page <http://www.aii-ps.org/index.php/activities/environment-protection-against-fire> (last accessed 8 July 2014).

⁹ Cfr. <http://2.ipacivilprotection.eu/> (last accessed 28 February 2015).

¹⁰ Agreement on the Temporary Importation, Free of Duty, of Medical, Surgical, and Laboratory Equipment for Use on Free Loan in Hospitals and Other Medical Institutions for Purposes of Diagnosis or Treatment (1960). Implemented in Italy under L 1758/1962.

¹¹ International Convention on the Simplification and Harmonization of Custom Procedures (1973). The convention was concluded in simplified form. Italy is also bound by virtue of its ratification, or the one of the EU, by Annexes A1, A2, B1, B3, C1, D1, D2, E1, E3, E5, E6, E8, F1, and F6 to the convention itself.

¹² Convention on Temporary Admission (1990). Implemented under L 479/1995. Italy has also ratified the annexes to this convention.

¹³ Convention on the Privileges and Immunities of the United Nations (1946). Implemented under L 1318/1957.

¹⁴ Convention on the Privileges and Immunities of Specialized Agencies (1947). Implemented under L 1740/1951.

¹⁵ Vienna Convention on Diplomatic Relations (1961). Implemented under L 804/1967.

¹⁶ Convention on Early Notification of a Nuclear Accident (1986). Implemented under L 375/1989.

¹⁷ Basel Convention on Transboundary Movement of Hazardous Waste (1989). Implemented under L 340/1993.

¹⁸ Convention on the Transboundary Effects of Industrial Accidents (1992). Implemented under L 30/1902.

Mediterranean (1976 and amended in 1995).¹⁹ The International Health Regulations, which are a binding instrument adopted by the World Health Organization, also contain early-warning obligations aimed at preventing the international spread of disease.²⁰

In the fourth group are two agreements explicitly aimed at regulating cooperation in the event of an emergency: the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986)²¹ and the Cooperation agreement on the Forecast, Prevention, and Mitigation of Natural and Technological Disasters Concluded with Certain Countries of Central Europe (1992).²²

Italy has also concluded multilateral agreements which are not included in any of these groups, but which can facilitate the deployment of international assistance, examples being the Vienna Convention on Road Traffic (1968),²³ the Convention on the Protection of Transnational Waterways (1992),²⁴ and the Convention on the Prohibition and Destruction of Chemical Weapons (1993).²⁵ Italy is a party to the Council of Europe Framework Convention on Cross-Border Cooperation, under which bordering regions and municipalities may enter into civil protection arrangements (1980).²⁶ Moreover, Italy has entered into an agreement with the Caribbean Community on Scientific Cooperation for Disaster Prevention.²⁷

It is important to note that Italy is not a party to the EUR-OPA Major Hazards Agreement (1987)²⁸ and has signed but not ratified the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (1998).²⁹

In addition to the aforementioned binding agreements, some multilateral soft law instruments may contribute to fostering Italy's ability to cooperate with other international actors in the event of disaster. One of these is UN General Assembly Resolution 46/182 (1991), containing several recommendations that domestic authorities may take into account in drafting and implementing internal law. Under this instrument, disaster-stricken states should be primarily responsible for initiating, organizing, coordinating, and implementing humanitarian assistance within their territories, and they are also called upon to help NGOs in disaster response.

Another significant nonbinding instrument in this field is the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, adopted by the state parties to the Geneva Conventions at the 30th International Con-

¹⁹ Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (1976), as amended in 1995. Implemented under L 30/1979.

²⁰ International Health Regulations (2005), based on Art. 22 of the World Health Organization Constitution, 1946, implemented under L 68/47.

²¹ Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986). Implemented under L 10/98.

²² Cooperation agreement on the forecast, Prevention, and Mitigation of Natural and Technological Disasters among Austria, Croatia, Hungary, Italy, Poland, and Slovenia (1992). Implemented under L 74/1995.

²³ Vienna Convention on Road Traffic (1968). Implemented under L 308/1995.

²⁴ Convention on the Protection and Use of Transboundary Watercourses and International Lakes (1992). Implemented under L 71/1996.

²⁵ Convention on the Prohibition, Development, Production, Stockpiling, and Use of Chemical Weapons and on their Destruction (1993). Implemented under L 496/1995.

²⁶ European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities (1980). Implemented under L 948/1984.

²⁷ Scientific Cooperation Agreement between the Italian Ministry of Foreign Affairs Department of Cooperation for Development and the Caribbean Community on Cooperation in Hydro-Meteorological Monitoring, Natural Disaster Prevention, and Early Warning (2006).

²⁸ See Resolution (87)2 of the Committee of Ministers of the Council of Europe, Setting up a Cooperation Group for the Prevention of, Protection against, and Organisation of Relief in Major Natural and Technological Disasters, 20 March 1987.

²⁹ Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (1998).

ference of the Red Cross and Red Crescent (2007). This instrument builds on the work on International Disaster Response Laws, Rules and Principles done by the International Federation of Red Cross and Red Crescent Societies since 2001. The Guidelines proceed from the assumption that no state can reasonably consider itself immune from the need to one day rely on international assistance, and yet very few governments are adequately prepared for that possibility. The guidelines therefore set out a set of recommendations for governments to follow in designing their disaster laws and plans in view of the common regulatory problems in international disaster relief operations. By implementing the guidelines (through legislation, administrative regulations, or international agreements), states should be able to avoid unnecessary red tape and improve the quality and coordination of international assistance. Several states have already enacted laws and rules drawing inspiration from the IDRL Guidelines (Bhutan, Bosnia & Herzegovina, Burkina Faso, Colombia, Finland, Indonesia, Mexico, Mozambique, Namibia, the Netherlands, New Zealand, Norway, Panama, Peru, the Philippines, Tajikistan, and Vietnam).³⁰

3. Bilateral Cooperation

Italy has entered into international agreements with several countries for the purpose of cooperating in disaster response. Most of these agreements contain provisions specifically aimed at facilitating assistance in various areas, such as the provision of visas and the regulation of immunity.

The agreements concluded with Tunisia (1986),³¹ Argentina (1987),³² France (1992),³³ Russia (1993),³⁴ and Switzerland (1998)³⁵ set forth specific obligations of the states parties. The treaties signed with Malta (1995)³⁶ and Venezuela (2009),³⁷ by contrast, are less detailed and therefore appear less likely to facilitate cooperation in practice. Italy has also entered into an agreement on disaster response with the Republic of San Marino; this agreement, however, only covers events on the territory of San Marino.³⁸ Moreover, Italy has entered

³⁰ See the IFRC website at <http://www.ifrc.org/what-we-do/disaster-law/about-disaster-law/international-disaster-response-laws-rules-and-principles/idrl-guidelines/new-legislation-adopted-on-idrl/> (last accessed 2 November 2014).

³¹ Convention entre la République Italienne et la République Tunisienne relative à la coopération et à l'assistance dans le domaine de la protection civile et des services anti-incendies (1986). Implemented under L 75/1989.

³² Convenzione di cooperazione tra Italia e Argentina per la previsione, la prevenzione e la mutua assistenza in caso di calamità naturali (1987). The convention has been binding on a "provisional" basis since it was signed.

³³ Convenzione tra la Repubblica Italiana e la Repubblica Francese sulla cooperazione nel campo della previsione e della prevenzione dei rischi maggiori e dell'assistenza reciproca in caso di catastrofi naturali o dovute all'attività dell'uomo (1992). Implemented under L 578/1994.

³⁴ Accordo di cooperazione nel campo della protezione civile tra il governo della Repubblica Italiana e il governo della Federazione Russa in materia di previsione e di prevenzione dei rischi maggiori e di assistenza reciproca in caso di catastrofi naturali o tecnologiche (1993). Implemented under L 61/1997.

³⁵ Convenzione tra la Confederazione Svizzera e la Repubblica Italiana sulla cooperazione nel campo della previsione e della prevenzione dei rischi maggiori e dell'assistenza reciproca in caso di catastrofi naturali o dovute all'attività dell'uomo. Implemented under L 87/1998.

³⁶ Accordo di cooperazione per prevedere, prevenire e mitigare le catastrofi naturali e tecnologiche tra il governo della Repubblica Italiana e il governo della Repubblica di Malta. Implemented under L 52/1995.

³⁷ Accordo di cooperazione tra la Repubblica Italiana e la Repubblica Bolivariana del Venezuela nel campo della protezione civile ed amministrazione dei disastri (2009).

³⁸ Exchange of letters between Italy and San Marino, 30 May 2007. There is also a collaboration agreement between San Marino and the region Emilia-Romagna (10 June 2013), which concerns, *inter alia*, civil protection. This instrument, however, contains mostly norms of a programmatic nature, and therefore appears incapable of fostering *per se* cooperation in disaster response.

into an agreement with the Sovereign Military Order of Malta, under which that order will assist Italy during emergencies ‘to the extent that it will consider the undertaking possible.’³⁹ There are two bordering countries with which Italy has not entered into bilateral disaster-related agreements: These are Austria and Slovenia, which are part of the aforementioned Cooperation Agreement on the Forecast, Prevention, and Mitigation of Natural and Technological Disasters. It should be noted, however, that this agreement is not very specific and does not appear likely to facilitate international cooperation in practice.

Some bilateral agreements entered into with bordering states foster cooperation in specific areas. Cooperation with Switzerland is supported by two agreements on the exchange of information in the event of a nuclear accident (1989)⁴⁰ and on the need to fight water pollution (1985).⁴¹ Italy has also entered into two arrangements with France: one on firefighting (2004) and one on emergency rescue in mountainous areas (2007).⁴² Although these instruments are presented as nonbinding, they seem to have specific content and therefore may influence the two states parties’ procedures for disaster response. Under the Council of Europe Framework Convention on Cross-Border Cooperation (Chapter 4.2), Italy has also entered into three framework agreements with Austria (1995),⁴³ France (1995),⁴⁴ and Switzerland (1995)⁴⁵ so as to enable local authorities to cooperate across borders. These agreements do not contain provisions directly capable of facilitating international cooperation, but they do allow local authorities to enter into arrangements functional to this goal. To this day, none of the Italian frontier regions (Liguria, Piedmont, Val d’Aosta, Lombardy, Trentino-Alto Adige, Veneto, and Friuli Venezia-Giulia) have entered into any such arrangement. Italy has also entered into agreements with other European countries so as to cover humanitarian aid transport (Belgium, Germany, the Principality of Monaco, Norway, the Netherlands, Portugal, and Spain) and emergency healthcare transport (Austria).

Finally, the Civil Protection Department has entered into nonbinding disaster-related arrangements with several countries:⁴⁶ Venezuela (2007), Armenia (2008), China (2008), Cyprus (2009), Germany (2009), Bulgaria (2010), Croatia (2011), Belarus (2011), Azerbaijan (2011), Montenegro (2011), Albania (2011), the United Arab Emirates (2012), Algeria (2012), Morocco (2012), Bosnia and Herzegovina (2012), Indonesia (2012), Serbia (2012), and Macedonia (2013). These arrangements are formally nonbinding, and even in substance they do not seem to contain any precise policy commitments. It is therefore fair to say that

³⁹ Accordo tra la Repubblica Italiana e il Sovrano Militare Ordine di Malta in materia di assistenza in caso di gravi emergenze determinate da eventi naturali o dovute all’attività dell’uomo (1991). The order of Malta is a non-territorial entity, whose international legal personality and state-like immunities are recognized by the Italian government and judiciary.

⁴⁰ Accordo tra il governo federale svizzero e il governo della Repubblica Italiana sullo scambio rapido di informazioni in caso di incidente nucleare (1989). This agreement has not been ratified and is therefore binding on a ‘provisional’ basis only.

⁴¹ Accordo fra il Governo Italiano e il Consiglio Federale Svizzero per iniziative comuni a difesa dall’inquinamento delle acque (1985). Implemented under L 97/1990.

⁴² The instruments are available on the DPC website at http://www.protezionecivile.gov.it/jcms/it/accordi_internazionali.wp (last accessed 14 November 2013).

⁴³ Accordo quadro tra la Repubblica Italiana e la Repubblica d’Austria sulla cooperazione transfrontaliera delle collettività territoriali. Implemented under L 76/1995.

⁴⁴ Accordo tra la Repubblica Italiana e la Repubblica Francese sulla cooperazione transfrontaliera delle collettività territoriali. Implemented under L 303/1995.

⁴⁵ Accordo quadro tra la Repubblica Italiana e la Confederazione Svizzera sulla cooperazione transfrontaliera delle collettività territoriali. This agreement can be presumed to have been concluded in simplified form.

⁴⁶ These arrangements are available on the DPC website at http://www.protezionecivile.gov.it/jcms/it/accordi_internazionali.wp (last accessed 14 July 2013).

they are not meant to facilitate collaboration but rather express an intention of the states parties to increase collaboration in the future.

4. The Union Civil Protection Mechanism

EU law contains the most important international cooperation mechanisms Italy is a part of. There is, on the one hand, the solidarity clause. Under Art. 222 TFEU, whenever a EU Member State is struck by a natural or manmade disaster, the Union and the other Member States are required to assist it. This provision has been implemented under the recently adopted Decision 2014/415, whose legal and practical consequences remain unclear, since its language is somewhat vague, and since it has yet to be applied in practice.

Today, the main instrument in this area is the civil protection mechanism set up in 2001 under the name ‘Community Mechanism to Facilitate Reinforced Cooperation in Civil Protection Assistance Interventions.’⁴⁷ The mechanism was subsequently amended under Decision 2007/779, which set up the Community Civil Protection Mechanism,⁴⁸ and which was ultimately replaced with the new Union Civil Protection Mechanism, adopted through Decision 1313/2013. This mechanism concerns not only EU Member States but any state that should request to be included; so far this has been the case with Iceland, Liechtenstein, the former Yugoslav Republic of Macedonia (FYROM), and Norway.

The Union Mechanism is rather broad in scope. It provides for actions relating to natural and manmade disasters affecting people, the environment, and property. These actions regard civil protection in four areas, the first of which is disaster prevention and preparedness. The Member States must identify the risks they are subject to, and can determine in advance the human and material resources they may use in the ambit of the Mechanism. They may also pre-commit response capacities to a voluntary pool (called European Emergency Response Capacity).⁴⁹ The EU and the Member States can also implement a training program for intervention teams.

The second area is early warning in the event of disasters that may affect the territory of plural Member States. A Member State affected by a disaster must immediately notify the European Commission and the Member States that stand to be affected by the emergency. The Commission must then ensure the flow of information among the countries participating in the Union Mechanism, a task entrusted to the Emergency Response Coordination Centre (ERCC), an office of the Directorate-General for Humanitarian Aid and Civil Protection (DG ECHO).

The third area is the coordination of disaster response in the Union and in other countries participating in the Mechanism. As in the case of cooperation within the United Nations and NATO, the Union Mechanism is based on the international principles of sovereignty and non-interference. This means that a state affected by a disaster may request help but is not required to do so. Where assistance is granted, the requesting state is competent to direct assistance interventions within its territory. It may also lay down guidelines for, and if necessary delimit, the tasks covered by the modules, and it may also do the same for other response tasks. Also, an assisting state is given ample discretion. Once it receives a request

⁴⁷ Dec 2001/792.

⁴⁸ Dec 2007/779.

⁴⁹ See Commission Dec 2004/277, as amended by Dec 2008/73 and Dec 2010/481.

for help, it must promptly determine whether it is in a position to provide the assistance required and to inform the requesting Member State, but it may also independently define the scope and terms of any assistance, and it may even deny help.⁵⁰ The intergovernmental nature of the Union Mechanism, however, is tempered by the intervention of the European Commission. The ERCC acts in fact as a hub for communications between states and coordinates assistance at the operational level, if necessary by sending agents on-site who may facilitate coordination between intervention teams and liaise with the competent authorities of the requesting Member State.

The fourth and final area is that of civil protection activities outside the European Union. When a third country requires the assistance of the European Union under the ERCC, such assistance is generally regulated by the procedures applicable to the disaster response within the EU. External assistance, however, requires greater coordination among EU countries, since they have to interact with another state with which they do not share information and procedures, at least not initially. The Union Mechanism consequently confers pivotal role on the European Commission, which is required to maintain a constant dialogue with both the Member States and the third country in all phases of an emergency.

Since 2001, the European Union has monitored more than 300 disasters and received more than 180 aid requests under the Union Mechanism,⁵¹ both from within the EU and from without. The Union Mechanism has also been set in motion for disasters of major importance, such as the tsunami in Southeast Asia (2004), Hurricane Katrina (2005), the earthquake in Haiti (2010), the tsunami in Japan (2011), the fires in Greece (2007, 2012), Typhoon Haiyan in the Philippines (2013), and the outbreak of the Ebola virus disease in West Africa (2014). Figure 1 below lists the occasions on which the Union Mechanism has been used in Italy in the period from 2007 to 2013.

The functioning of the UCPM may be facilitated by the implementation of a soft law instrument, the EU Host Nation Support Guidelines (HNSG)⁵². The HNSG are a nonbinding document prepared by the European Commission staff with the contribution of experts from the Member States,⁵³ and their aim is to assist affected states in receiving international assistance in the most effective manner. They identify key actions to be taken in dealing with emergency planning, emergency management and coordination, logistics, transport, and legal and financial issues. The HNSG are complementary to other international relief-operations documents – including the IDRL Guidelines – and may be used to facilitate assistance by both EU and non-EU countries.

5. Intervention of the Italian Civil Protection Abroad

Italy cooperates with several countries in providing civil protection. Under DL 90/2005 (converted into law with L 152/2005), interventions abroad are regulated as internal actions

⁵⁰ It is worth noting that even though the Civil Protection Mechanism does not introduce any obligation to assist other states, under Article 222(2) TFEU, whenever a EU Member is struck by disaster, the other EU Member States 'shall' assist it.

⁵¹ See the DG ECHO factsheet, http://ec.europa.eu/echo/files/aid/countries/factsheets/thematic/civil_protection_en.pdf (last accessed 24 July 2014).

⁵² SWD(2012) 169 final, available at http://ec.europa.eu/echo/files/about/COMM_PDF_SWD%2020120169_F_EN_.pdf (last accessed 14 July 2014).

⁵³ The HNSG, at any rate, do not represent an official position of the Commission.

necessary to respond to type C disasters. Thus the state is competent to carry out civil protection activities abroad. At the administrative level, intervention abroad is managed centrally through the Italian Civil Protection Department.

The Civil Protection Department may use its resources to respond to disasters abroad in the emergency phase, as well as during recovery and reconstruction. If the disaster occurs in the EU, Italian action is generally coordinated through the Union Civil Protection Mechanism. In the event of disasters outside the EU, Italian action can be carried out in the framework of bilateral or multilateral agreements, or it can be coordinated with other EU Member States through the Union Civil Protection Mechanism.

Italy has often provided assistance to other EU countries, as in the case of the firefighting operations in Greece (2007, 2008, 2009, and 2012) and Portugal (2009 and 2010). Italy also intervened in numerous occasions outside the EU, providing firefighting assistance to Albania (2007 and 2011) and Montenegro (2008), as well as aid to populations affected by floods in Albania (2010), Montenegro (2011), and Bosnia and Herzegovina (2014); by earthquakes in Pakistan (2005), Haiti (2010), and Chile (2010); by the tsunami in Southeast Asia (2004); and by the Typhoon Haiyan in the Philippines (2013).⁵⁴

⁵⁴ For a list of Italian civil protection interventions abroad, see Di Camillo et al., *op. cit.*, pp. 88-89.

Table 1 – Activations of the Union Civil Protection Mechanism in Case of Disasters in Italy from 2007 to 2013

<i>Year</i>	<i>Disaster</i>	<i>Main Form of Cooperation</i>
2007	Forest fire	Monitoring
2007	Forest fire	Canadair from France (2) and Spain (4)
2007	Forest fire	Monitoring
2007	Forest fire	Canadair from France (2)
2008	Adverse meteorological conditions	Monitoring
2008	Floods	Monitoring
2009	Earthquake (L'Aquila)	Dispatching of 8 experts for damage evaluation
2009	Forest fire (Sardinia)	2 Canadair – Pilot Project on combating forest fires ⁵⁶
2011	Floods	Monitoring
2012	Costa Concordia	Dispatching of experts
2012	Adverse meteorological conditions	
2012	Earthquake (Emilia-Romagna)	Dispatching of experts
2012	Earthquake (Calabria)	Monitoring

Source: European Commission⁵⁶

⁵⁵ For further information on the Pilot Project to Step up Cooperation between Member States on Combating Forest Fires, see the DG ECHO website at <http://ec.europa.eu/echo/en/funding-evaluations/public-procurement/call-for-proposal/pilot-project-step-cooperation-between> (last accessed 7 July 2014).

⁵⁶ Source: http://ec.europa.eu/echo/files/policies/disaster_response/EUCPM_activations_since_01012007.pdf (last accessed 7 July 2014).

PART II

MAIN RESULTS OF THE RESEARCH

Intervention of CRI staff in the aftermath of the flood in Genoa, 4 October 2011



INSTITUTIONAL ASPECTS OF INTERNATIONAL AID MANAGEMENT



Italy's complex institutional civil protection framework has direct consequences for international aid. This chapter firstly lays out the situations in which international aid can take place (section 1), then analyzes the potential that states of emergency have in facilitating international aid (2). The investigation subsequently turns to the rules (or lack thereof) on early warning (3) and on requests for international assistance (4). The chapter closes by discussing the termination of international assistance (5).



1. Characterization of Disaster and the Possibility of International Intervention
2. The State of Emergency as a Facilitator of International Assistance
3. International Early Warning
4. Request for International Assistance
5. Termination of International Assistance

1. Characterization of Disaster and the Possibility of International Intervention

As noted in Chapter 3.1, the Italian legal order allocates civil protection powers on the basis of the kind of disaster that needs to be responded to and the response capabilities of public authorities.

The distinction between these types of events also affects international assistance. External aid cannot be provided under type A disasters, since by definition these disasters need to be managed by a single entity, namely, the municipality. It is also clear that international aid is possible in responding to type C events, that is, to disasters whose intensity can only be dealt with through extraordinary powers. It is worth noting, at any rate, that there is very limited practice in this respect.

The most complicated issue is that of international assistance in response to type B events, in which the action of a single entity will not suffice but extraordinary intervention is not necessary. According to the Italian Civil Protection Department, there can be no international assistance in this case.¹ This view appears logical, since the state (under Art. 117 of the Italian Constitution) has the exclusive power to set foreign policy, and hence to manage international aid. However, Parliament has not clearly prohibited the use of international aid in response to type B events. Therefore, it may be theoretically possible for a territorial authority or a decentralized state organ to rely on international assistance, particularly in the event of disasters occurring close to the borders.

In light of the foregoing remarks, the following analysis will focus mostly on type C events. Even so, given the limited practice in this area, taking into account the DPC's position, we will have a fuller picture of the situation if we also consider the problems raised by international assistance in case of type B events.

2. The State of Emergency as a Facilitator of International Assistance

International aid supporting disaster response activities in Italy can only take place in the framework of national civil protection actions, which are usually implemented after a state of crisis, calamity or emergency is declared.

When a disaster is classified as a type B event and a decision is made to deploy regional civil protection resources, this may be done through a specific act. The decree declaring a state of crisis, calamity or emergency (*stato di crisi*, *stato di calamità* or *stato d'emergenza*). Only some regions have introduced procedures for the declaration of the state of crisis, calamity or emergency.² When such act is possible, according to regional law, it may have different effects in different regions. In general, it delimits the duration and territorial extension of the crisis (or calamity or emergency) and may centralize regional civil protection powers in the hands of the president of the regional government (or of a person the president dele-

¹ Communication sent on 19 February 2014 on the basis of a questionnaire prepared by the author: See Annex II.

² The state of crisis, calamity, or emergency is regulated in Emilia-Romagna (Art. 8 LR 1/2005), Lazio (Art. 15 LR 2/2014), Lombardy (Art. 8 LR 16/2004), Apulia (Art. 10 LR 7/2014), Tuscany (Arts. 27-18 LR 67/2003), Val d'Aosta (Art. 12 LR 5/2001), and Veneto (Art. 106 LR 11/2001), as well as in the autonomous provinces of Bolzano (Art. 8 LP 15/2002) and Trento (Art. 34 LP 9/2011).

gates). The decree declaring a state of crisis (or calamity or emergency) may also authorize the adoption of acts derogating from regional laws.

When a disaster can only be addressed through so-called extraordinary measures, and so when a type C event takes place, the Council of Ministers – on a proposal from its president and with the agreement of the affected region or regions – may declare a national state of emergency (*stato di emergenza*). Such a declaration may authorize the head of the DPC and the prefect to issue orders derogating from any law, though not from any of the general principles of Italian law or from EU and international norms directly applicable in Italy. These orders can only be adopted during a state of emergency – which cannot last for more than 360 days³ – and may be subject to further limitations specified by the Council of Ministers in its declaration.

This brief presentation of the state of crisis or emergency leads to two conclusions about international assistance. In case of type B events, international action may be called in once a state of *crisis* (or calamity or emergency) is declared, if such state is foreseen in regional law; in this case, international action must follow the instructions and procedures specified in that declaration. In the case of type C events, on the other hand, international assistance can proceed only once a state of *emergency* is declared, and such a declaration may allow for orders to be issued in derogation of most Italian rules. These orders can thus be useful, at least in theory, in bypassing the obstacles created by existing laws (which obstacles are described in the rest of the report), and in this way they can facilitate international assistance. Although the head of the DPC has never issued orders for this purpose, the DPC does not rule out the possibility of such a course of action in the future.⁴

3. International Early Warning

Italian law does not explicitly require that other international entities be given early warning after a disaster, and it does not regulate the procedure for giving such early warning. This void is filled in part by some international agreements requiring Italy to alert other states and international organizations once a disaster occurs. This goes in the first place for nuclear accidents. Italy is party to the Convention on Early Notification of a Nuclear Accident (1986), and it has entered into a bilateral agreement with Switzerland in this regard (1989).⁵ Then, too, under Art. 10 of the Convention on the Transboundary Effects of Industrial Accidents (1992), when industrial accidents occur having transnational effects, Italy must notify the states that may be potentially involved, in which case Italy must also inform the European Commission.⁶ Under Art. 9(2) of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (1976, amended in 1995) and Art. 8 of its third protocol, Italy must alert the Mediterranean states in the event of disasters that may pollute the sea. Moreover, under Art. 13(3)(f) of the Basel Convention on Transboundary Movement of Hazardous Waste (1989), Italy has an early warning obligation in the event of disasters related to the movement of hazardous waste. Finally, Italy must notify the World

³ L 225/1992, Art. 5(1bis).

⁴ DPC communication to the author, 19 February 2014.

⁵ See also Dir 2013/59, art. 99.

⁶ See also art. 18 of Dir 2012/18.

Health Organization of all events that may constitute a public health emergency of international concern within its territory.⁷

Although Italy is not bound to alert non-EU countries in regard to areas not covered by any of the aforementioned instruments, it may still be required to provide early warning across the EU. Indeed, under Art. 14 of Decision 2013/1313, EU Member States are required to inform one another whenever a disaster with transnational effects has taken place or is about to take place. States that are or may be affected by particularly significant disasters must also alert the European Commission so as to facilitate coordination at the EU level, especially when they intend to activate the Union Civil Protection Mechanism.

4. Request for International Assistance

It is unclear whether international law requires disaster-stricken states to seek international assistance.⁸ It would seem, at any rate, that Italy has never explicitly committed itself to requesting assistance in the event of disasters. Domestic law does not regulate requests for international assistance in much detail, either. From a substantive point of view, Italy may request or accept international assistance, though neither is a requirement. Italian law does not specify any timetable for submitting requests, and Italian authorities can consequently seek assistance depending on the way events unfold.⁹

From a procedural point of view, the lack of any norms specifically regulating the request and acceptance of international assistance means that the distribution of competences and powers in this area is quite obscure. This problem is not particularly relevant to requests for aid directed at other international entities, i.e., EU Member States under the Union Civil Protection Mechanism, other states, and international organizations. In case of type C events, it is evident that only at the state level should international assistance be requested or, if offered, accepted. Since all civil protection activities are coordinated by the government and the Italian Civil Protection Department, territorial authorities cannot interfere in disaster response operations by requesting the intervention of other international entities. Even in case of type B events it would seem that the request should be made at the state level, since Art. 117 of the Italian Constitution gives exclusive competence to the state in foreign policy and international relations.

Requests for international aid are evaluated by the Civil Protection Operational Committee (Chapter 3.1). Probably it is the DPC that actually relays requests for assistance; indeed, under Art. 21(2)(d) DPCM of 1 October 2012, the DPC is responsible for developing and maintaining relations with all international institutions engaged in civil protection. The DPC will consequently make sure that other states and international organizations are apprised of the Italian position (as defined in the Operational Committee). It is worth noting that in

⁷ Art. 6 of the International Health Regulations (2005). See also Dec 1082/2013, Arts. 8-11.

⁸ According to some international subjects, a disaster-stricken state should seek international assistance whenever the catastrophe exceeds its national response capacity. Other international subjects, however, espouse the opposite view. It is unclear, therefore, whether a customary rule on the request of international assistance can be said to exist. See Art. 14 of the draft articles approved by the ILC, in UN General Assembly, 'Text and titles of the draft articles adopted by the Drafting Committee on first reading,' 15 May 2014, Doc. A/CN.4/L.831.

⁹ DPC communication to the author, 19 February 2014.

carrying out drills, the DPC has experimented the use of the templates for requesting international assistance under the Union Civil Protection Mechanism.¹⁰

More complex are requests for NGOs to provide assistance. Under Art. 11(1) DPR 194/2001, when relief operations are underway, volunteer organizations may only intervene at the explicit request of the public authorities competent to coordinate civil protection, that is, the DPC for type C events and the regions affected for type B events.¹¹ This provision, however, only applies to *national* organizations. Therefore, there is a gap as concerns the intervention of foreign organizations, a gap that needs to be filled by looking to other norms. There is a case to be made, by way of analogy, that Art. 11(1) DPR 194/2001 may be applied to foreign organizations, too. This is not problematic with respect to type C events: in these circumstances, the DPC would be competent to coordinate internal activities and thus to request international assistance, and that would not jeopardize the implementation of foreign policy at the state level, since the DPC is part of the state administration.

But type B events are more problematic. Since the regions can, under DPR 194/2001, mobilize internal volunteer organizations, it may be argued, by way of analogy, that they should be able to mobilize international NGOs too. But under the aforementioned Art. 121(2)(d) DPCM of 1 October 2012, the DPC maintains contacts with ‘all’ international civil protection institutions. And this reference to institutions should be interpreted extensively, as to guarantee the protection of the state’s power to set and conduct foreign policy. Indeed, under Art. 117 of the Constitution, this power is vested in the state. Since the intervention of foreign NGOs may interfere with foreign policy, the power to request their assistance should probably rest with the state via the DPC. The regions, on the contrary, should not be so empowered.

This interpretation of the law appears consistent with the position of the DPC, according to which the request for international aid, and its eventual acceptance, should always be evaluated by the Civil Protection Operational Committee.¹²

5. Termination of International Assistance

According to the IDRL Guidelines, a state affected by a disaster should notify the international actors involved in civil protection activities of its intention to terminate disaster response activities. There are limited references to this issue in Italian law.

As a general rule, civil protection activities should take place after a state of emergency (at the national level) or a state of crisis, calamity or emergency (where foreseen at the regional level). These acts specify the duration of the emergency thus defining the disaster response timeframe.¹³ Considering that these acts are published in official sources put out by the state (*Gazzetta Ufficiale*) and the regions (*bollettini regionali*), any actor involved in civil pro-

¹⁰ The templates are annexed to the Staff Working Document—EU Host Nation Support Guidelines, SWD(2012) 169 final.

¹¹ See Art. 11(1) DPR 194/2001, as well as Art. 108(1)(a)(2) DLgs 112/1998.

¹² DPC communication to the author, 19 February 2014.

¹³ It is worth stressing that there is no standard timeframe for a state of crisis, calamity, or emergency. Art. 5(1bis) of L 225/1992 sets a maximum emergency duration of 360 days; in practice, emergencies may last anywhere from a few weeks to several months, depending on the circumstances. See the website of the Italian Civil Protection Department, http://www.protezionecivile.gov.it/jcms/it/stati_di_emergenza.wp (last accessed 13 July 2014).

tection activities should be aware of the duration of the emergency. It is important to note, however, that the Council of Ministers may revoke the state of emergency, this by carrying out the procedure applicable to its declaration.

INTERNATIONAL ACTORS IN THE ITALIAN SYSTEM



The position of international actors providing assistance in the Italian system can be problematic. This is not due to their status under Italian law, since international actors should be able to enter into legal commitments in Italy (Section 1). Rather, the problem lies in foreign organizations' operational participation in the civil protection system. Legal texts do not explicitly include international actors among the entities participating in civil protection. This chapter seeks to clarify the position of foreign public bodies in the Italian disaster response structure (2) and then turns to the position of foreign NGOs (3). Finally, the investigation focuses on the coordination of international actors (4) and on the exchange of information between these actors and Italian institutions (5).



1. International Actors as Subjects of the Italian Legal Order
2. Foreign Public Authorities in Italian Civil Protection
3. Foreign NGOs in Italian Civil Protection
4. The Coordination of International Aid
5. The Exchange of Information between International Actors and Civil Protection Authorities

1. International Actors as Subjects of the Italian Legal Order

The intervention of international actors in Italian civil protection activities raises the issue of their legal capacity in the Italian legal system. This problem is not really relevant for international subjects, in that states and international organizations recognized under Italian law have the capacity to be subject to rights and obligations, and they enjoy the immunities provided for in international law.¹

The situation of foreign NGOs is more complicated. In general, private entities having legal personality under the law of another country also have personality under Italian law. The limits of the legal capacity of foreign legal persons are set out in Art. 16 of the so-called *preleggi*,² stating that such persons are recognized as having civil rights if their state likewise recognizes the legal capacity of Italian legal persons.³ No such reciprocity needs to be ascertained for EU Members, Iceland, Liechtenstein, and Norway. In general, foreign NGOs may have property, enter into contacts, hire personnel, open bank accounts, and bring proceedings in Italy. These activities must obviously be carried out in keeping with Italian law, and so also with its fiscal provisions.⁴

In this respect, the status of foreign NGOs might be of some relevance, at least in theory. Italian law recognizes privileges for national volunteer organizations, mainly in the form of exemptions from the Value Added Tax for the sale of goods and for the services the organizations themselves provide. Also not subject to tax are the proceeds these organizations earn from the sale of goods and the membership fees paid by volunteers. These benefits, however, cannot as yet be extended to foreign NGOs, since (as is explained in Section 3 below), they cannot join DPC registers.

2. Foreign Public Authorities in Italian Civil Protection

As is well known, the relationship between Italy and foreign public authorities (i.e., states and international organizations) is governed under international law, which sets out rules covering some aspects of international disaster response, such as the privileges and immunities granted to agents of foreign states. These aspects will be addressed later in this report, in Chapter 7.2.

Before we can address these issues, we need to consider the capacity in which foreign public bodies can take part in civil protection activities in Italy. Italian law does not explicitly regulate the position of foreign public bodies in the civil protection system. It seems

¹ As is well known, states fall outside the jurisdiction of other states in regard to actions carried out in exercising sovereign functions (*jure imperii*). International organizations enjoy the immunities set forth in their founding instruments. It is worth mentioning that on 22 October 2014 the Italian Constitutional Court rendered a judgment (No 238/2014) holding that the fundamental principles of the Italian Constitution, as well as the fundamental human rights principles, constitute a limit to the reception of generally recognized international rules. In the case at issue, the Court held that the Italian legal order contains no customary international rule securing the state's immunity from *jure imperii* actions qualified as war crimes or as crimes against humanity, since that rule comes into conflict with the basic principles of that order. An English-language short summary by Francesco Messineo, is available at <http://www.qil-qdi.org/?p=856> (last accessed 5 November 2014).

² 'Disposizioni sulla legge in generale', Regio Decreto 262/1942.

³ The website maintained by the Italian Ministry of Foreign Affairs lists the agreements Italy has concluded in this area at http://www.esteri.it/MAE/IT/Ministero/Servizi/Stranieri/Elenco_Paesi.htm (last accessed 14 July 2014).

⁴ In this regard, see in particular http://www.volontariato.lazio.it/documentazione/documenti/RetiSolidali_3_08_AgevolazioniFiscaliOdV.pdf (last accessed 17 July 2014).

clear, however, that since these bodies bear an analogy to national institutions, they should be able to contribute to disaster response activities in Italy. Under Art. 6(1) L 225/1992, civil protection activities are entrusted to state administrations, the regions, the provinces, and the municipalities; public bodies (*enti pubblici*, literally ‘public entities,’ meaning government or state agencies) and ‘any other institution or organization, including private ones’ may contribute to those activities. This provision therefore seems to be geared toward greater inclusion: the law is intended to enable *any* entity, public and private alike, to take part in the Civil Protection Service. It would be illogical to interpret that provision restrictively as excluding other states and international organizations from the class ‘public entity,’ ‘institution,’ or ‘organization.’ The broad reading of Art. 6 is warranted by the need to make it consistent with Art. 1bis of the same L 225/1992, under which the President of the Council of Ministers is responsible for coordinating the activities of the state and of territorial bodies, as well as those of national public entities and ‘any other institution and public or private organization present on the national territory’ (‘ogni altra istituzione e organizzazione pubblica e privata presente sul territorio nazionale’). This means that the range to entities eligible to participate in civil protection in Italy is not restricted to *national* entities, but includes any organization on Italian soil.

The practice supporting this interpretation of the law is limited, to be sure, but it is nonetheless meaningful. Acting through the Union Civil Protection Mechanism, Italy requested the dispatch of water bombers in 2007 and 2009, and these were provided by Spain and France. Italy activated the Union Mechanism again in 2009 after the L’Aquila earthquake, requesting a team of technical experts for damage assessment, and these experts were provided by different countries. At the same time, Germany bilaterally offered the assistance of its own Federal Civil Protection Agency (*Technisches Hilfswerk*, or THW), sending in 68 operators who worked in cooperation with the Italian authorities to rebuild houses and repair water mains, the sewage system, and the power grid.⁵ Similarly, the Vatican firefighters intervened in the Abruzzo region in 2009, where they brought material and provided assistance to the population.⁶ So it seems logical to assume, in light of the letter of L 225/1992, that both the operators sent in through the Union Mechanism and those entering Italy on a bilateral basis figure as *sui generis* components of the Italian Civil Protection Service and may thus contribute to civil protection activities.

3. Foreign NGOs in Italian Civil Protection

While the position of foreign public entities in Italy does not seem exceedingly problematic, the status of foreign NGOs in Italian civil protection is quite complicated and requires a detailed analysis.

Since, under Art. 6 L 225/1992, ‘any institution and organization’ may take part in civil protection activities, and since these institutions and organizations may also be private, foreign NGOs may *in principle* contribute to Italian civil protection. Their precise status in the Civil Protection Service, however, is unclear.

⁵ See the THW website at http://www.thw.de/SharedDocs/Meldungen/EN/Einsaetze/international/2009/08/meldung_001_abschluss_onna.html?nn=926556.

⁶ See Vatican Radio, “La preghiera del Papa per i terremotati: Vigili del Fuoco del Vaticano a Onna,” 8 April 2009, http://it.radiovaticana.va/storico/2009/04/08/la_preghiera_del_papa_per_i_terremotati._vigili_del_fuoco_de/iti-278714 (last accessed 14 July 2014).

Italian law attributes much importance to a specific class of private organizations, namely, volunteer organizations, which qualify as operational organizations within the Civil Protection Service. Yet it is difficult to say that foreign NGOs may be included in Italian civil protection under the rules applicable to national volunteer organizations,⁷ this for two reasons. In the first place, a foreign organization needs to be deemed a volunteer organization. It should consequently (a) be operated by persons who voluntarily decide to join it; (b) be non-profit; (c) rely mainly on the activity of volunteers, rather than on that of employees; and (d) perform or promote activities related to predicting, preventing, and responding to natural and manmade disasters.⁸ The voluntary-participation requirement may pose a problem for international NGOs, which are not chartered to operate in Italy and are consequently unlikely to comply with the requirements of Italian law. It is possible, in other words, for a foreign NGO to be mainly staffed by paid employees, and this would be sufficient to exclude it from the class ‘volunteer organization’ as defined in Law 225/1992.⁹

There is also a second, and more important, reason why foreign NGOs may find it difficult to take part in civil protection in Italy. As noted in the first part of the report, volunteer organizations must join with the national civil protection register, which combines the territorial registers managed by the regions with the central register maintained by the Italian Civil Protection Department. Under the directive of the President of the Council of 9 November 2012, volunteer organizations seeking to take part in civil protection activities at the local level (i.e., in responding to type A and type B events), must be listed in a territorial register; similarly, volunteer organizations seeking to take part in civil protection activities at the national level must be listed in the central register, and may only intervene on request by the DPC itself. Under the same directive, access to territorial registers is restricted to *local* volunteer organizations, while the central register is exclusively composed of ‘national bodies’ entrusted with coordinating local organizations or organizations having special expertise. The requirement for organizations to be either local or national excludes foreign organizations from the register, and thus from taking part in civil protection activities. The DPC itself confirms that foreign NGOs cannot have the same status as national volunteer organizations.¹⁰

Hence, foreign NGOs may take part in disaster response only in a generic capacity as ‘private organizations,’ whose contribution to civil protection in Italy is governed by Art. 6 L 225/1992. One may speculate that this was the capacity in which Humedica Internationale Hilfe – a German NGO – participated in rescue operations following the L’Aquila earthquake in 2009. To the best of the author’s knowledge, this was the first, and so far the only, foreign NGO to have ever contributed to disaster response in Italy. Humedica sent in two physicians, a nurse, and a coordinator on the field, all transported by a private jet.¹¹ Although the organization was not mobilized by Italian authorities but intervened autonomously, it says that it exchanged information with Italian institutions and worked with Italian doctors. Therefore, it would seem to have contributed to the activities of the Italian Civil Protection Service, but did so in an unusual way, in its capacity as a ‘private organization.’

⁷ On these rules, see Chapter 3.4 above.

⁸ DPR 1/194, Art. 1(2).

⁹ Although volunteer organizations may hire employees and rely on the services of independent contractors in carrying out their activities, they must be prevalently staffed by volunteers: see Art. 3 L 166/1991.

¹⁰ DPC communication to the author, 19 February 2014.

¹¹ Humedica e-mail to the author, 25 February 2014.

Although the situation of foreign NGOs has not yet proved problematic as a practical matter, it may give rise to difficulties in the future: While the relation between volunteer organizations and civil protection is regulated in detail, there are no rules specifically addressing the situation of *other* private organizations. This gap in the law does not prevent foreign NGOs from operating in Italy (they may do so in their capacity as ‘institutions’ or ‘organizations’), but it may make for practical shortcomings, since it might give rise to uncertainties in identifying the public authority competent to mobilize and coordinate foreign NGOs. This state of affairs, moreover, does not make foreign NGOs any more accountable: since they may not be listed in Italian civil protection registers, they cannot be threatened with delisting. A national volunteer organization can be delisted and thus excluded from civil protection activities;¹² a foreign NGO, by contrast, cannot be delisted, since its intervention in Italy is regulated by *ad hoc* measures, if any. Finally, foreign NGOs do not enjoy the benefits accorded to national volunteer organizations: They are not represented in the operational committees that coordinate civil protection, cannot receive funds from the DPC, do not benefit from tax exemptions, and cannot use sirens or flashlights.¹³

In light of the gaps in the law regulating the participation of foreign NGOs in Italian civil protection, it is well to explore the possibility of alternative ways in which they might be able to intervene in Italy. Let us consider four in particular.

First, foreign NGOs may send goods or money to Italy.¹⁴ The DPC says that the donation of money is subject to control procedures, and these vary depending on the entity that manages the donations in each case.¹⁵ Donations can be made, in particular, in favour of Italian NGOs. For instance, after the 2009 earthquake in the Abruzzo region, the Italian Red Cross received material from other European Red Cross societies,¹⁶ which it used for civil protection activities. The Red Cross did not experience any problem importing and using these goods. Alternatively, foreign NGOs may second their personnel to Italian organizations: Foreign volunteers may register with an Italian NGO, while the workers of foreign NGOs may be seconded to an Italian NGO under an agreement between the two organizations.¹⁷

Second, under Art. 6 L 225/1992, foreign NGOs may enter into an arrangement with Italian authorities, and in particular with the DPC. Under this provision, national and local public authorities may enter into arrangements with public and private bodies in order to regulate the implementation of civil protection activities. Although these arrangements are not strictly necessary, from a legal standpoint, they clarify the operational and administrative aspects of the cooperation between private bodies and Italian public authorities, and in this sense they are useful to both parties. It is evident, however, that such arrangements should be firmed up *before* emergencies occur, since it is reasonable to assume that public authorities will have different priorities in responding to disasters. There appear to be no arrangements between Italian public authorities and foreign NGOs at present.

¹² On registration in civil protection registers, Chapter 3.4 above.

¹³ See Chapter 3.1 and 3.4, as well as Chapter 9.4.

¹⁴ For instance, donations were made after the 2009 earthquake. See <http://www.regione.abruzzo.it/gestioneTerremoto/index.asp?modello=articolo&servizio=xList&stileDiv=mono&b=mnnotizie16155&tom=6155> (last accessed 14 February 2014).

¹⁵ DPC communication to the author, cit., *supra*.

¹⁶ More precisely, it received heaters from the German Red Cross and camp kitchens from the Luxembourg Red Cross and the Swiss Red Cross. CRI Communication to the author, 8 January 2014.

¹⁷ In that case, the worker would remain contractually bound to his or her original organization and would also be bound by the social security rules of the country where that organization is based. See Art. 13 of Regulation 883/2004, as interpreted by the Italian National Institute for Social Security (INPS), http://www.inps.it/circularizip/circulariare%20numero%20105%20del%2003-08-2010_allegato%20n%201.pdf (last accessed 16 July 2014).

Third, foreign NGOs may be assimilated to Italian volunteer organizations through an emergency order issued by the head of the DPC. Such orders, which may derogate from Italian laws, may enable foreign NGOs to join territorial civil protection registers or the central register, albeit only for the period of the state of emergency. This solution may be effective, but it has a shortcoming: Emergency orders can be issued only once a disaster has taken place (or is about to take place), and so at times when public authorities are likely to be taken up with more pressing priorities.

And fourth, the existing rules on NGOs may be modified. It would perhaps be advisable to revise the aforementioned directive of the President of the Council (9 November 2012). Such a modification may be enough to allow foreign *volunteer* organizations to join the central DPC register, since this directive is the only impediment preventing these organizations from registering in Italy. Indeed, under Italian law there is no rule requiring organizations to be nationally-based in order to register.¹⁸ It may not suffice, however, to simply change the directive, since not all foreign NGOs may qualify as volunteer organizations under Italian law. So if we are to enable foreign NGOs to have a greater part in civil protection in Italy, we should amend Law 225/1992 by explicitly integrating all foreign NGOs within the Civil Protection Service in regulating their interaction with Italian authorities, as by equating them with national volunteer organizations.¹⁹

4. The Coordination of International Aid

The coordination of international aid raises two kinds of problems. In the first place, international law does not always allocate coordination powers in a clear manner. Although it is generally accepted that the affected state is primarily responsible for disaster response,²⁰ international law does not clarify to what extent that state may exercise its authority on external actors providing relief.

Italy is certainly responsible for coordinating aid through the Union Civil Protection Mechanism, under which affected states may, within their territory, define intervention guidelines.²¹ This rule also applies to cooperation with states that have entered into bilateral agreements with Italy, as is provided in the agreements themselves. Italy's cooperation agreement with Switzerland (1995), in particular, clarifies the content of the power to carry out relief operations by asserting that the state affected by the disaster will initially identify the tasks it intends to entrust to the teams of the assisting state and will issue directives to the heads of the assisting state's teams, who will subsequently provide disaster relief workers with operating instructions. The interviews done in writing this report and the direct observation of the Twist exercise suggest that this division of labour between Italy and assisting

¹⁸ See Art. 3 L 266/1991 and Art. 1(1) DPR 194/2001.

¹⁹ The reason why this modification is necessary is that the statute itself (Art. 18 Law 225/1992) requires volunteer organizations operating in civil protection to comply with most of the criteria applicable to volunteer organizations in other sectors, as is provided for by L 266/1991.

²⁰ It should be noted here that in the process of drawing up the draft articles on the Protection of Persons in the Event of Disasters, the International Law Commission has provisionally approved Art. 12, which simply states the following: '1. The affected State, by virtue of its sovereignty, has the duty to ensure the protection of persons and provision of disaster relief and assistance on its territory. 2. The affected State has the primary role in the direction, control, coordination and supervision of such relief and assistance.' See UN General Assembly, 'Text and titles of the draft articles adopted by the Drafting Committee on first reading,' 15 May 2014, Doc. A/CN.4/L.831.

²¹ Dec 2013/1313, Art. 15(5).

parties is standard practice and that the approach need not be confined to cooperation with states bound by bilateral agreements with Italy.

Secondly, the distribution of the power to coordinate international aid may be problematic internally. Although it is clear that the coordination of *internal* actors is mainly decentralized for type B events and centralized at the national level for type C events, there is no provision regulating the coordination of *international* aid.²² This is a gap that for the time being must be filled by legal interpretation, thus giving rise to the same sorts of problems previously addressed with respect to the request of international aid. There are no legal difficulties that come up in coordinating other states and international organizations, since the task is in any event entrusted to the DPC. This is evident with respect to type C events, which are managed by the state. The DPC certainly has a role as an international coordinator even in dealing with type B events, given the powers entrusted to the state in foreign affairs.

The problem lies, again, in the relation between public authorities and NGOs. Given the absence of a meaningful practice in this area and the scarce clarity of the law, one can at best speculate about what rules might apply. Coordination of national volunteer organizations under DPR 194/2001 is carried out by the DPC for type C events and by the regions for type B events.²³ In case of type C events, we can easily apply DPR 194/2001 by analogical reasoning, and international coordination must consequently be ensured by the DPC. But in case of type B events there is an additional tension between DPR 194/2001 and Art. 21(2) (d) DPCM of 1 October 2012.²⁴ An extensive interpretation of that DPCM appears warranted in light of Art. 117 of the Italian Constitution. Hence, it is the DPC, and not the regions, that should be primarily responsible for coordinating foreign aid. It is important to recall, however, that regions coordinate national volunteer organizations in the response to type B events. Given the functional similarity between national volunteer organizations and foreign NGOs, and in light of the coordinating role of regions in type B situations, it may be presumed that regional authorities may cooperate with the DPC in coordinating international NGOs.

²² It is true that art. 57 of DPR 66/1981 (which has never been explicitly repealed) affirms that the coordination of the aid coming from abroad is performed by the Ministry of Foreign Affairs, in collaboration with the Ministry of Home Affairs. However, one should note that, following the reforms of the civil protection system (see above, Chapter 3), the institutional framework of disaster management has significantly changed. The responsibility for internal coordination, which used to belong to the Ministry of Home Affairs, is now conferred on the DPC and the territorial administrations. Moreover, the management of the relations with foreign institutional actors in the field of civil protection has been entrusted to the DPC (art. 21(2)(d) of DPCM 1 October 2012). One may reasonably conclude, therefore, that the DPR 66/1981, thereby including art. 57, has been implicitly repealed by following enactments. It would indeed be illogical to argue that the Ministry of Home Affairs – which does not have any responsibility for the coordination of national civil protection – should manage *international* aid. Similarly, the role of coordination of the Ministry of Foreign Affairs in respect of international assistance, provided for in the DPR 66/1981, does not seem reasonable at this stage, since the DPC maintains the relationships with international bodies dealing with civil protection issues.

²³ See also Art. 108 DLgs 112/1998, referred to in Art. 11(1) DPR 194/2001.

²⁴ A previous example of this tension relates to the request of international assistance, Chapter 5.4 above.

5. The Exchange of Information between International Actors and Civil Protection Authorities

In general, there are no legal provisions concerning the transfer of information from the centre to the periphery of the system, and particularly to entities that are not part of the state's administration. It is logical, however, that information functional to the relief effort should be transferred by the organs empowered to give operational instructions, i.e., the DPC (for type C events) and the regions and the prefects (for type B events). The DPC, in particular, manages an office called Sistema, composed of representatives of the operating bodies of the Civil Protection Service (e.g., firefighters and the Red Cross): The office runs twenty-four hours a day, seven days a week, and gathers, verifies, and disseminates information on civil protection, alerting and activating emergency agencies.

The transmission of information from the periphery to the centre, on the contrary, is regulated directly by Art. 6 L 225/1992, under which any administration, entity, institution, organization (including private ones) that is part of, or contributes to, the Civil Protection Service, must provide the DPC with "information." Considering that international actors involved in civil protection may be considered as "institutions" or "organizations" (Chapter 6.2, 6.3) it is possible to infer that they should relay disaster response information to the DPC.

PERSONNEL



Another reason why the participation of foreign entities in Italian civil protection may be problematic has to do with the rules applicable to the personnel staffing those entities. This chapter starts out by defining the capacity in which natural persons operating on behalf of foreign actors may participate in Italian disaster response (Section 1) and then discusses their privileges and immunities (2). The discussion subsequently turns to the entry of international personnel (3) and the formalities linked to their stay in Italy (4). The final part of the chapter evaluates the way Italian labour law affects the activity of international organizations (5) and analyzes the rule relating to the recognition of foreign professional qualifications (6).



1. International Operators as 'Public Services Providers'
2. Privileges and Immunities of International Operators
3. The Entry of International Personnel
4. Residence Formalities
5. International Operators and Italian Labour Law
6. Recognition of Professional Qualifications

1. International Operators as ‘Public Services Providers’

Having discussed the position of international actors, it is now necessary to turn to the status of their personnel. This issue is of particular importance in the context of criminal law, since this legal framework offers special protection and imposes greater obligations on persons performing so-called activities of public interest.

These persons are sorted into two groups. The first is that of public officials (*pubblici ufficiali*), that is, persons who serve a public legislative, judicial, or administrative function. Under Art. 357 of the Italian Criminal Code, this function is public if (i) regulated by public law and if (ii) expresses the will of the public administration, or is implemented through authoritative or certification powers. Some of the persons who take part in civil protection activities in Italy are deemed public officials: this goes for firefighters and the *Carabinieri*.

Since by definition the employees and volunteers of foreign states, international organizations, and NGOs are not Italian public servants, they are not ‘public officials.’ Even so, there exists under Italian law a category that is close to, but separate from, the public official: this is the public services provider (*incaricato di pubblico servizio*). Under Art. 358 of the Criminal Code, ‘in criminal law, public service providers are defined as those who in any capacity provide a public service.’ This provision defines a public service as an activity that is regulated by public law, but which is not implemented through the powers that are typical of the public function. At any rate, activities that entail the performance of merely menial tasks cannot be considered as public service.

Although this issue is controversial and there is limited guidance from the practice, it can theoretically be argued that civil protection and Red Cross volunteers ought to be deemed public service providers while on duty. In fact, civil protection activities amount to a public service to the extent that they are governed by public law and do not consist in the performance of menial tasks but require judgment, in that they involve extensive decision-making autonomy.¹

There is an argument to be made that even the personnel of international actors (other states, international organizations, and private organizations) should be deemed providers of public services. Under the above-mentioned Art. 6 L 225/1992, public bodies and ‘all other institutions and organizations, including private ones’ may contribute to the performance of civil protection activities. Since international actors may be deemed ‘public bodies’ or other ‘institutions’ or ‘organizations’ (see Chapter 6.2, 6.3 above), their employees and volunteers can be said to participate in the performance of civil protection activities, that is, in the provision of a public service.

The possible qualification of international operators as providers of public services entails some consequences of certain relevance. In the first place, providers of public services enjoy particular protection. Under Criminal Code, whoever threatens or uses violence on providers of public services in order to force them to do acts contrary to their duties (or to omit acts they are bound by duty to do) is punishable with up to five years of imprisonment. If the threat of violence is used to force a provider to perform his or her own public function or to influence that performance, the punishment is imprisonment of up to three years. Similarly,

¹ Numerous persons are qualified as providers of public services (public school janitors, for example, fall into this category), and the criterion is that the work they do must (a) require a knowledge of norms and (b) complement the activity of public officers. This was a holding of the Court of Cassation, sect. VI, 11 May 1993, no. 4814, in *Cassazione Penale* 1995, p. 288.

anyone who should use through threats or violence to hinder a provider of public services in the act of performing a public function is punishable with up to five years in prison.²

There are also certain activities that providers of public services are specifically prohibited from engaging in. Let us mention three areas in this regard. First, international operators as providers of public services may be charged with nonfeasance (*omissione di atti d'ufficio*). Indeed, providers of public services who refuse to perform acts which are part of their function and which must be performed without delay for reasons of public security or health are punished with up to two years in prison.³ Therefore, it is possible to assume that a foreign firefighter operating in Italy and requested by Italian authorities to rescue a disaster victim cannot refuse the request.⁴ Second, international operators may be punishable for 'corruption.' Italian law specifies various forms of corruption, and they are not always easy to distinguish. As a general rule, international operators cannot obtain undue benefits through the performance or non-performance of their public function. They cannot appropriate goods they have come into possession of in providing a public service. Moreover, they can neither request nor obtain benefits from other persons in order to do acts consistent with or contrary to their duties. The punishment for these crimes varies from two to ten years in prison, depending on the specific circumstances.⁵ And third, international operators may be responsible for failing to report a crime to judicial authorities. Whenever a provider of public services becomes aware of a crime, he or she must report it in writing to the judiciary. This rule also applies to crimes whose perpetrator is unknown. The stiffest penalty for lack of reporting is a 103 EUR fine. Health operators are under a further obligation to report facts they become aware of through their professional activities if there is reason to believe that they might be linked to the performance of a crime.⁶ Failure to report a crime is punished with a fine of up to EUR 516.⁷ However, this obligation does not apply when the person assisted by the health operator may be charged because of the report itself; that is, health operators are not required to report the persons they assist.

In sum, if the view that international personnel may be deemed providers of public services is supported in the practice, this qualification seems capable of favouring the protection of foreign operators and discouraging them from engaging in unprofessional conduct.

2. Privileges and Immunities of International Operators

Apart from the rules applicable to providers of public services (as explained in the previous Section 1), Italian law does not grant specific privileges and immunities to international operators involved in civil protection activities. This question is therefore governed by the rules *generally* applicable to situations in which privileges and immunities may be granted. Considering that under Art. 10 of the Italian Constitution, international customs, and so also customs on immunities, are implemented directly, and that Italy is party to several conven-

² See Arts. 336-337 of the Italian Criminal Code.

³ Art. 328 of the Italian Criminal Code.

⁴ On the coordination of international aid, see Chapter 6.4 above.

⁵ See Arts. 314, 316, 318, and 320 of the Italian Criminal Code.

⁶ This rule applies only to crimes the judiciary is required to pursue under mandatory jurisdiction. On this topic, see Chapter 2.4 above.

⁷ Art. 365 of the Italian Criminal Code.

tions in this area, three classes of persons can be identified as having privileges and immunities in Italy.

First, there are diplomatic representatives of states and high-level officers of international organizations that have entered into specific agreements with Italy have full diplomatic privileges and immunities.⁸ As is well known, these agreements grant immunity from prosecution and from the execution of criminal judgments, as well as immunity from civil jurisdiction (with some exceptions provided for in international law). The United Nations' 'experts on mission'⁹ also have similar immunities.

Second, the agents of other states and international organizations (with the exception of those who fall in the first group) have so-called functional immunities. They are accordingly immune from Italian jurisdiction for the acts they do in their official capacity, but not for those they do as private citizens.¹⁰ At least two international agreements entered into by Italy explicitly recognize such functional immunity.¹¹ Some bilateral instruments also specify that any damage caused by the teams sent into Italy by other states will be compensated by the Italian Republic.¹²

And, third, there are the volunteers and employees of foreign NGOs, of the IFRC and of foreign Red Cross societies: international civil protection workers in this third class have no immunities, since Italy generally does not confer privileges and immunities on non-state actors (other than international organizations) or on their personnel, with the single exception of the Sovereign Military Order of Malta and the Holy See.¹³

3. The Entry of International Personnel

The ability of foreign governmental personnel contributing to civil protection to enter into Italy is explicitly regulated by some bilateral agreements concluded with France, Switzerland, Argentina, and Russia. The agreements with France and Switzerland are not particularly relevant at present, since both of these countries participate in the Schengen Area.¹⁴ Also scarcely relevant is the agreement with Argentina, since it has never been implemented internally, and it consequently cannot affect Italian rules on immigration. The agreement with Russia (1993) seems therefore the only bilateral instrument capable of directly regulating the entry of foreign operators into Italian territory. Under Art. 6 of this agreement, Italy must reduce border formalities 'to a minimum.' It is therefore sufficient for Russian opera-

⁸ This applies in particular to the United Nations and the organizations connected to it.

⁹ Their procedural immunity, however, is limited to the acts done in performing their function.

¹⁰ For further information, see A. Cassese, *International Law* (Oxford, 2005, p. 109ff.), and D. Akande and S. Shah, *Immunities of State Officials, International Crimes, and Foreign Domestic Courts*, 21 *European Journal of International Law* (2011): 815-52, at pp. 825-27. As the Italian Court of Cassation found in the *Calipari* case (judgment no. 31171, 24 July 2008), this principle always applies except in case of international crimes.

¹¹ See Arts. 8 and 10 of the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986) and Art. XIX of the cooperation agreement with Argentina (1987).

¹² See Arts. 9 and 10 of the cooperation agreement with Tunisia (1985), Art. XVIII of the cooperation agreement with Argentina (1987), Art. 10(3) of the cooperation agreement with Russia (1993), Art. 12 of the cooperation agreement with France (1993), and Art. 12 of the cooperation agreement with Switzerland (1995).

¹³ In an e-mail of March 5, 2014, the Italian Ministry of Foreign Affairs confirmed that Italy does not recognize the international personality and the immunity of international NGOs. It is nonetheless possible for Italy to grant NGOs privileges *ex gratia*.

¹⁴ It is worth stressing that, following a recent referendum on immigration, Switzerland's participation in the Schengen Area may be in question.

tors to have a passport and present Italian authorities with a document issued by the government of Russia certifying the purpose of their mission and the list of persons that make up the team.

Aside from the provisions contained in these agreements, Italian law does not have any specific rules on the entry of international operators in the event of disasters. In such circumstances, it is therefore necessary to implement norms generally applicable to aliens, who fall in three classes: EU citizens, family members of EU citizens, and other aliens.

EU citizens – as well as the citizens of Iceland, Liechtenstein, Norway, and Switzerland – do not need a visa to enter Italy. For this purpose, an identity card will suffice. Italy does not run systematic controls on the entry of persons coming from countries in the Schengen Area, which comprises Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Latvia, Lithuania, Liechtenstein, Luxembourg, Malta, Norway, the Netherlands, Poland, Portugal, the Czech Republic, Slovakia, Slovenia, Spain, Sweden, Switzerland, and Hungary.

Persons not holding EU citizenship but who are first-degree relatives of a Union citizen must have a passport. In general, they must also apply for a visa with Italian authorities, and the visa will be issued free of charge and through an expedited priority procedure. If a relative of the EU citizen has a residence permit issued by another Schengen state or already has a residence permit issued by Italian authorities for a period of at least three months, the visa requirement is waived.¹⁵

The situation of non-EU citizens who are not relatives of Union citizens is more complex. If they (i) reside in another Schengen country or are citizens of a country listed in Annex I of Regulation 539/2001 and (ii) intend to stay in Italy for up to 90 days (over a 180-day period), they will not need a visa.¹⁶ If, on the contrary, they (i) do not reside in another Schengen country and are not citizens of a country listed in the aforementioned Annex I, or (ii) intend to stay in Italy for more than 90 days, they will have to apply for a visa.¹⁷

Italian law does not issue any visa specific to disaster response.¹⁸ It is presumable that international personnel may apply for a ‘mission visa’ (*visto per missione*), which allows entry into Italy for reasons linked to political, governmental, or ‘public interest functions’ (*funzioni di pubblica utilità*).¹⁹ This visa may be issued for either short or long stays but not for an indefinite stay. It is clear that this visa can be granted to persons who operate on behalf of other states or of international organizations, since the mission visa is explicitly designed for aliens ‘who work for public administrations, for public authorities or for international organizations, and are sent to Italy to perform their functions.’²⁰ Similar considerations should probably be extended to the employees and volunteers of foreign NGOs, since the mission visa is also meant for private citizens whose activities are in the public interest,

¹⁵ Arts. 5 and 10 DLgs 30/2007.

¹⁶ The list is as follows: Albania, Andorra, Antigua and Barbuda, Argentina, Australia, the Bahamas, Barbados, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Canada, Chile, South Korea, Costa Rica, El Salvador, the former Yugoslav Republic of Macedonia, Japan, Guatemala, Honduras, Hong Kong, Israel, Macao, Malaysia, Mauritius, Mexico, Monaco, Montenegro, Nicaragua, New Zealand, Panama, Paraguay, Saint Christopher (Saint Kitts) and Nevis, San Marino, the Holy See, Serbia, Seychelles, Singapore, Taiwan, the United States, Uruguay, and Venezuela.

¹⁷ Art. 4(1)(c) of Regulation 539/2001 allows EU Member States to provide for exceptions to the visa requirement for helpers in the event of disaster, but it seems that Italy has not used this opportunity so far.

¹⁸ Under Art. 5(3) DPR 394/1999, the different types of visa and their application requirements are the competence of the Italian Ministry of Foreign Affairs, which sets them out in instructions, currently contained in DIM 850/2011.

¹⁹ DIM 850/2011.

²⁰ *Ibid.*

because they benefit the relations between their state and Italy.²¹ This interpretation of the law has been confirmed by the Italian Ministry of Home Affairs.²²

Foreign operators will at any rate have to be sponsored by a public body that requests the visa on their behalf and attests to the purpose of their stay in Italy. If the assistance is provided by international organizations or by other states, the visa request must come from them directly. If the assistance is provided by an NGO, the visa request must come from the Italian authority responsible for coordinating disaster response.²³

The visa application procedures are simple, but they take time and are costly. In general, a visa application must include a passport-size picture, a passport, and documents testifying to the purpose of the mission. Civil protection operators must also show they have sufficient economic resources and lodging arrangements in Italy.²⁴ The short-term visa (a maximum of 90 days) costs EUR 60 and is issued in 15 to 30 days. Visas for longer periods cost EUR 116 and are issued in 90 days.²⁵

Nothing prevents diplomatic representations from issuing visas more rapidly for disaster response. Procedural streamlining can be envisaged on a case-by-case basis depending on the needs of the requesting persons and the bodies on whose behalf they operate. The visa may sometimes be issued on the very day it is requested. In the most urgent situations (when it proves impossible to obtain a visa before the departure), operators may request a visa directly at the border.²⁶ At any rate, there are no rules in Italy explicitly designed to expedite the issuing of visas in when disaster strikes. It goes without saying that long waits in this area may significantly hinder the provision of international assistance.

It should be noted that the mission visa is not only appropriate from a legal perspective but also makes practical sense for international operators, who have no interest in applying for any other kind of visa, since that would entail bureaucratic burdens. For instance, operators might apply for a tourist visa, but in that case they would have to show they have accommodations, adequate financial resources, a return ticket, and health insurance.²⁷ A tourist visa, moreover, may take a comparatively long time to issue, since the state's administration may not be able to appreciate the real need to expedite the visa-issuing process.

4. Residence Formalities

In certain cases, foreign nationals staying in Italy are required to be listed in the register of residents or acquire a residence permit. Existing laws do not have rules specific to international civil protection workers. The following analysis therefore presents the generally applicable rules.

Citizens of other EU countries are allowed stay in Italy for three months. They have the option of having their name listed in the register of residents of the municipality they live in, but that is not a requirement. If they wish to stay in Italy for a longer period, they must

²¹ Ibid.

²² Communication of 19 February 2014 to the author.

²³ Communication of the Italian Ministry of Foreign Affairs to the author, 5 March 2014.

²⁴ Further information is available on the Italian State Police website at <http://www.poliziadistato.it/articolo/view/227/> and on the Ministry of Foreign Affairs website at <http://www.esteri.it/visti/index.asp>. (Last accessed 20 July 2014.)

²⁵ See the Italian Ministry of Foreign Affairs website at <http://www.esteri.it/visti/costi.asp> (last accessed 20 July 2014).

²⁶ Communication of the Italian Ministry of Foreign Affairs, 5 March 2014.

²⁷ DIM 850/2011.

register with the municipality where they reside. This application requires that documents be produced certifying that the alien is working in Italy or has sufficient economic resources and health insurance.²⁸

Non-EU citizens holding a residence permit in another Schengen country are simply required to declare their presence in Italy to the provincial police headquarters (*questura*) of their place of residence no later than eight of their entry into Italian territory,²⁹ after which the alien is liable to pay a fine up to EUR 310. If the delay is more than 60 days, the alien may be expelled.

Under Regulation 539/2001 (see the previous section 3), non-EU citizens who do not live in the Schengen Area, and who come into Italy without a visa, are not required to apply for a residence permit. If they need to apply for a visa, they must also apply for a residence permit not later than eight days of their entry in Italy.³⁰ The residence permit is a document that allows aliens to remain in Italy for a definite period corresponding to the period specified in the visa. International operators may thus remain in Italy for the period necessary for disaster response, as long as this is stated in the visa.³¹ Operators who have obtained a residence permit have the option of requesting to be listed in their municipality's register of residents, but that is not a requirement. Operators may freely choose their domicile, but the prefect may deny aliens the possibility of residing in military security areas.³²

Operators seeking a residence permit must apply with the police headquarters (*questura*) of the province where they are living, filling in a form where they are asked to provide personal data, indicate the place where they intend to live, and specify the reasons for their stay. The application must be accompanied by a passport, a photocopy of the passport, four passport-size photos, and a 16 EUR stamp-duty stamp. Applicants are also required to pay a fee ranging from EUR 126 to EUR 273.50 depending on the duration of the permit.³³

Applicants intending to stay in Italy for fewer than 30 days will immediately receive from the police a receipt serving as a residence permit. In other cases, the police will issue a permit. According to the police, issuance takes 60 days on average.³⁴ There is no provision requiring or denying a faster issuance of the permit.³⁵ In the period from application to issuance of a residence permit, international operators may stay in Italy and carry out their activities.³⁶

Aliens may apply for a renewal of their residence permit for a period of validity no greater than that of the original permit. This new application must be made at least 60 days before

²⁸ By sufficient economic resources is meant, at present, at least EUR 5,818.93 for singles and at least EUR 11,637.86 for married citizens. See the European Commission Guidelines COM(2009) 313.

²⁹ Art. 5(7) DLgs 286/1998.

³⁰ In Law 68/2007 this obligation comes under an exception that covers travel for business, tourism, and study but does not also include disaster response.

³¹ Art. 5(3)(e) DLgs 226/1998.

³² See Art. 6(6) DLgs 226/1998 and the State Police website at <http://www.poliziadistato.it/articolo/217/> (last accessed 16 January 2014). There are cases in which these documents are not necessary, but they do not include disaster response: see Art. 9(6) DPR 394/1999.

³³ There are some exceptions to this obligation, but they do not concern international disaster response operators, see Art. 5(2ter) DLgs 286/1998.

³⁴ See the State Police website at <http://www.poliziadistato.it/articolo/view/225/>.

³⁵ Art. 5(2) DLgs 286/1998 allows for the adoption of regulations by which to fast-track the process for issuing residence permits in some circumstances, but these do not include disaster response. In a communication sent to the author on 19 February 2014, the Ministry of Home Affairs says that although there are no specific *legal* fast tracks for disaster response, procedural fast tracks may be introduced *ad hoc*.

³⁶ See Art. 5(9bis) DLgs 286/1998. Although this provision applies to workers, and not operators on a 'mission,' it would seem logical to apply it to the latter by analogy.

the original permit expires and in keeping with the rules applicable to the issuance of that permit.

5. International Operators and Italian Labour Law

Once the foreign operators have come into Italy and are authorized to live in the country, a further problem emerges, that of their position under Italian labour law.

The first issue with labour law is the authorization to work. It would seem that international disaster relief operators do not need a work permit to carry out their activity. Under EU law, EU citizens and their relatives do not need such a permit. Non-EU citizens do not seem to need a permit, either, since the Italian norms requiring foreigners to apply for a permit are addressed only to persons who come into Italy for the purpose of working in the country. Considering that foreign operators would enter Italy with a ‘mission’ visa,³⁷ they should not need a work permit.³⁸ This conclusion is confirmed by an international agreement recently entered into between Italy and the Bureau International des Expositions.³⁹ This agreement regulates the position of certain persons who will participate in the Milan’s Expo 2015, and by so doing it indirectly elucidates the relation between mission visas and work permits. Under Art. 6(4) of the agreement, the issuing of visas is fast-tracked on the basis of the laws currently in force. The same provision also clarifies the content of such laws, specifying that the issuing of mission visas exempts personnel from applying for work permits. This means that it is the mission visa as such, and not the agreement *per se*, that lifts the work permit requirement.

A second labour law issue relevant for disaster response is social security. The agents of other states are exempt from social security obligations in Italy. More generally, as the Italian Ministry of Foreign Affairs has confirmed, operators holding a mission visa in Italy are not subject to the social security requirement, since they are not staying in the country for work purposes.⁴⁰ More complex is the situation of NGO employees who do not need a visa. When such NGOs are based in the EU, their employees are subject to the social security rules in force in the country where they are based.⁴¹ If the NGO is based outside the EU, Italian rules will apply.⁴² It is also worth evaluating the possibility of seconding the employees of foreign NGOs to Italian organizations. When an NGO is based in another EU country, or when it is based in a country with which Italy has entered into an agreement governing this matter,⁴³ the rules of the country of origin will apply. Otherwise, Italian rules will apply.

³⁷ Cf. Art. 27 DLgs 286/1998 and Art. 40 DPR 394/1999.

³⁸ Communication of the Ministry of Foreign Affairs, 5 March 2014.

³⁹ The agreement was implemented under Law 3/2013, to which it is annexed.

⁴⁰ Communication to the author, 5 March 2014.

⁴¹ See the judgment of the Court of Justice of the European Union, Case C-272/94 *Guiot and Climatec SA* [1996] ECR I-1905, subsections 14-20.

⁴² There is a plethora of Italian laws regulating this matter, and it is not possible to describe them all in detail here. For an overview, see A. De Matteis, P. Accardo, G. Mammone, *National Labour Law Profile: Italy (17 June 2011)*, available at http://www.ilo.org/ifpdial/information-resources/national-labour-law-profiles/WCMS_158903/lang--en/index.htm (last accessed 5 November 2014).

⁴³ These countries are Argentina, Australia, Bosnia and Herzegovina, Brazil, Canada, Cape Verde, the Holy See, Israel, the former Yugoslav Republic of Macedonia, Monaco, Montenegro, Serbia, Slovenia, Switzerland, Tunisia, the United States, Uruguay, and Venezuela. See the INPS website at <http://www.inps.it/portale/default.aspx?itemdir=6211> (last accessed 21 April 2015).

6. Recognition of Professional Qualifications

Certain civil protection activities carried out by international operators are typical of some professions that are subject to safety or health regulations. This is true, in particular, of architects and healthcare professionals. The competences of the international operators working in these sectors must consequently be recognized by Italian authorities. In the absence of such recognition, the exercise of a profession requiring a licence may lead to six-months' imprisonment and a fine of up to EUR 516.⁴⁴ A foreign operator who exercises such a profession without a proper licence would moreover be unable to take out a liability insurance policy (*responsabilità civile*).

This issue is not particularly troublesome for operators having EU citizenship and a qualification acquired in a Union country. The position of such persons is regulated by Directive 2005/36, which was transposed in Italy by DLgs 206/2007, and which is applicable to architects and healthcare providers (e.g., doctors, general care nurses, dental practitioners, veterinary surgeons, midwives, and pharmacists). When it comes to performing services – including temporary and emergency interventions – the aforementioned legal provisions enable professionals to operate in a country different from their own without any explicit recognition. They are simply required to notify their intention to carry out an activity in Italy.⁴⁵ Such notification must normally take place at least 30 days before starting the activity, unless the activity is in response to an 'emergency case.' This suggests that the notification may be given at the time of entry into Italy.⁴⁶ In practice, it would seem that the German Humedica physicians who operated in Abruzzo in 2009 were not required to respect this procedure.⁴⁷

The notification must be sent to the Italian Ministry of Education, University, and Research (for architects) and to the Ministry of Health (for healthcare professionals).⁴⁸ The notification consists of (a) a written statement containing information on the service to be provided and (b) insurance coverage or other means for personal or collective protection against professional liability. The notification must be accompanied by (i) a document certifying the operator's nationality; (ii) a document certifying that the person is established in another EU state and can exercise his or her profession in that state; and (iii) either a document certifying the possession of professional qualifications or, if the profession is not regulated in the state of establishment, evidence that the person has exercised the profession for at least two of the previous ten years.

More complicated is recognition of a qualification obtained outside the EU or by non-EU citizens. This issue is regulated bilaterally under Art. 7 of Italy's cooperation agreement with

⁴⁴ Art. 348 Criminal Code.

⁴⁵ The European Commission is currently considering the adoption of rules concerning the 'European Professional Card', a document that may be requested, *inter alia*, by architects and healthcare providers and which certifies their qualifications. The holders of the European Professional Card will not have to notify the authorities of the state where they intend to provide a service (in the present case, Italy) of their intention to do so. See Art. 4(a)(1) and (4) of Dir 2005/36, as amended by Dir 2013/55.

⁴⁶ According to the Italian Ministry of Health, this is a case where it would still be necessary for the ministry itself issue an emergency order (*ordinanza contingibile ed urgente*). On these orders, see Chapter 8.3 below.

⁴⁷ According to what the NGO itself reported, its physicians arrived in Italy in the shortest time possible and immediately informed Italian authorities of their intention to cooperate, without applying for permits and without encountering bureaucratic hindrances. Humedica communication of 24 February 2014.

⁴⁸ Art. 5 DLgs 206/2007.

Russia (1993), which implicitly allows Russian doctors to operate in Italy.⁴⁹ Apart from this agreement, Italian law does not have rules facilitating the recognition of non-EU qualifications in the event of disaster.⁵⁰ This may be problematic, since the rules generally applicable to the recognition of professional qualifications entail burdensome and time-consuming procedures. A person requesting recognition must in fact provide Italian authorities (the Ministry of Education or the Ministry of Health) with a translation of all his or her diplomas, which must be certified by Italian diplomatic or consular authorities. The professional qualification is subsequently recognized via a decree, within three months after the original request.⁵¹ The absence of precise timeframes may be problematic for international assistance, especially because the aforementioned decree can only be adopted through a procedure that involves consultation with different public administrations.⁵²

⁴⁹ As previously noted (in Chapter 2.2), international agreements concluded by Italy trump conflicting domestic rules. Similar provisions can be found in Art. XVII of the cooperation agreement with Argentina (1987), but as previously noted, this agreement was not implemented internally, so it cannot introduce exceptions to existing rules.

⁵⁰ In a communication sent to the author on 19 February 2014, the Italian Ministry of Health confirmed that there is no exception from the aforementioned rules.

⁵¹ See Art. 49(2) DPR 394/199 and Arts. 60(3) and 16 DLgs 206/2007. In fact, this procedure is applicable to establishment and not to the provision of medical services. On the other hand, if there is no notification procedure or if non-EU citizens or EU citizens with a non-EU qualification are in the country but not providing services, it would seem by analogy logical to apply the norms on establishment.

⁵² In a communication of 19 February 2014, the Italian Ministry of Health confirms that it is impossible to define timeframes *ex ante*.

GOODS AND EQUIPMENT



This chapter seeks to assess the obstacles that Italian legislation imposes to importing and exporting goods and equipment needed for disaster response. The analysis begins with an evaluation of the barriers applicable to the import of all goods and equipment (Section 1). The second part of the chapter focuses on the obstacles for the import of specific goods, and in particular food (2), medicines (3), animals (4), dual use items (5), currency (6), and telecommunication devices (7). The final section presents the rules applicable to the re-exportation of unused humanitarian goods (8).



1. Import Barriers
2. The Importation of Food
3. The Importation of Medicines
4. The Importation of Animals
5. The Importation of Dual Use Goods
6. The Importation of Currency
7. The Importation of Telecommunications Devices
8. Rules on Unused Humanitarian Goods

1. Import Barriers

Like all other EU Member States, Italy has conferred on the Union the power to regulate external trade. Goods originating from the European Economic Area (comprising the EU countries, plus Liechtenstein, Iceland, and Norway) are exempt from custom duties, taxes equivalent to custom duties, quantitative restrictions, and discriminatory taxes. The goods coming in from states with which the EU has entered into free trade agreements are generally exempt from customs duties.¹

The entry of goods originating from non-EU countries can in theory be subject to restrictions contained in EU law. In practice, however, the European Union is party to the Convention on Temporary Admission (1990), including its Annex B.9, concerning goods imported for humanitarian purposes.² This means that ‘relief consignments,’ that is, vehicles, blankets, tents, prefabricated houses, and other basic necessities, may enter Italy in exemption from customs duties. More generally, the EU will allow disaster relief goods to be imported free of duty, on the twofold condition that they be imported by a state-controlled entity or by a not-for-profit private subject and that they be distributed to the victims of the disaster or be used by relief operators for their own needs.³

The rules facilitating the entry of goods functional to disaster response do not, however, allow anything in without limits. In the first place, these goods must be solely functional to disaster *response*, and cannot be devoted to reconstruction. In the second place, the exemption from customs duties does not come by default but requires the go-ahead of the European Commission. It is true that the affected Member States may decide to apply the exemption before the Commission makes its decision, but in that case the importers must be prepared to pay customs duties if the Commission should subsequently deny the exemption. In the third place, import procedures may entail delays affecting the entry of goods and equipment, since there are no rules for streamlining formalities in the event of disaster.⁴ We should recall, at any rate, that some bilateral agreements Italy has entered into require state parties to reduce or eliminate border checks on goods for disaster response.⁵ And, in the fourth place, the importation of ‘special’ goods is subject to further restrictions, which are discussed in the following sections.

2. The Importation of Food

The distribution of food in Italy is regulated under both EU and national law, but there are no rules specifically designed to make it easier to import food for disaster response. The main EU provisions in this area consist of two regulations. The first of these is Regulation 178/2002, on food safety, and directly applicable across the entire Union. It defines food

¹ A list of EU free trade agreements is available on the European Commission website at <http://ec.europa.eu/trade/policy/countries-and-regions/agreements/> (last accessed 13 July 2014).

² Notice that this Convention was concluded by both Italy and the EU, but save for a few exceptions (which do not cover relief goods), the latter is competent for all matters regulated by the Convention. See Dec 93/329/EEC, Annex III.

³ Art. 74ff. of Regulation 1186/2009. See also Arts. 677 and 678 of Regulation 2454/1993.

⁴ In fact, the EU has not ratified the Protocol on ‘relief consignments’ contained in the Convention on the Simplification and Harmonization of Custom Procedures (1973). See the World Customs Organization website at http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/~/_link.aspx?_id=EC3DBF4147D14CDE8FDD412AFA604551&_z=z (last accessed 15 December 2014).

⁵ Cooperation agreements with Russia (1993) and Argentina (1987).

extensively as any substance or product meant to, or at least likely to, be eaten by human beings. Under this regulation, food cannot enter the market if it poses a health danger or is not fit for human consumption. Public authorities may decide to prohibit the distribution of food whenever they suspect that such food may be dangerous. A Member State's authorities must, however, operate on a presumption that food is safe if it complies with EU law or if it is already on the market in another EU Member State in accordance with the law of the latter. The regulation contains rules directed not only at public authorities but also at food companies, that is, any public or private entity, for profit or not, that produces, transforms, or distributes food. This means that the regulation also applies to entities that distribute aid in disaster response operations.

EU law also regulates food hygiene. Hence the second of the two EU provisions just mentioned, namely, Regulation 852/2004, requiring any operator in the food industry to ensure the hygiene of food products, as by preserving the cold chain and satisfying the European Commission's criteria on microbiological proliferation. Operators must also identify the risks for their activity and must demonstrate to public authorities that they have taken all the necessary measures to address those risks. The sale of food of animal origin is subject to further restrictions, principally requiring that food products originate in certified facilities.⁶

Italian law puts substantive limits on the distribution of food. It forbids, in particular, the distribution of food that (a) is deprived of its nutritional components, (b) is soiled, (c) contains parasites, (d) is dangerous, (e) has been treated to conceal preexistent alterations, (f) contains unauthorized additives, or (g) contains chemical residues dangerous for humans.⁷ The violation of these norms is punishable with imprisonment of up to one year and a fine of up to EUR 46,481.

Food originating from other EU countries is not subject to systematic inspections. Food originating from non-EU States, on the contrary, must be inspected. These inspections are performed by the Italian Bureaus for Sea, Air, and Border Health (*Uffici di Sanità Marittima, Aerea e di Frontiera*), which are part of the Italian Ministry of Health. The fees for food inspections vary depending on weight, with a maximum of EUR 420 per lot.⁸ There are no provisions specific to the food inspections to be used in disaster response. Once food is introduced into Italian territory, public authorities may always inspect it and subsequently control its distribution. Such control may be decided by the state or, if national action is insufficient, by the European Commission.

The controls imposed by Italian laws can be avoided through emergency orders by the head of the Italian Civil Protection Department or through urgent orders (*ordinanze contingibili ed urgenti*) issued by the Ministry of Health,⁹ that is, through administrative acts which can derogate from laws, and which can immediately address exceptional situations. These orders, however, cannot derogate from EU law, thereby including the rules on food safety and hygiene.

⁶ See Regulations 853 and 854/2004.

⁷ Art. 5 L 283/1962.

⁸ See the Ministry of Health website at http://www.salute.gov.it/portale/temi/p2_6.jsp?lingua=italiano&id=1222&area=sicurezzaAlimentare&menu=controlli (last accessed 18 July 2014).

⁹ See Art. 32 L 833/1978 and Art. 117 DLgs 112/1998.

3. The Importation of Medicines

Neither EU law nor Italian rules regulate the distribution of medicines for free. We should therefore proceed by analogy with the rules applicable to commercial distribution. An international actor (like a state, an international organization, or an NGO) that intends to transport some type of medicine into Italy must first determine whether the distribution of that medicine is authorized in the country. Depending on the product at issue, such authorization can come from either the Italian Medicine Agency (*Agenzia Italiana del Farmaco*, or ‘AIFA’, for short)¹⁰ or the European Medicines Agency (EMA).¹¹ If the distribution of the medicine has been authorized, the international actor may freely import the medicine from any other EU Member States. If the distribution has not been authorized by either AIFA or EMA but has been authorized by other EU Member States, the international actor must request AIFA to issue an authorization to distribute the medicine.¹² It is worth noting that, under Directive 2001/83, such an authorization can take up to 210 days after it is requested.¹³

The rules just explained are applicable to medicines in general but not for psychotropic substances with a medical use: these substances can be imported into Italy only after an authorization of the Ministry of Health.¹⁴

At any rate, an international actor must provide some essential information to consumers. For one thing, the packaging must indicate the content, the expiration date, and name of the entity that is distributing the medicine to Italy.¹⁵ And, for another thing, the packaging must contain a slip of paper providing the above information, as well as instructions for using the medicine, its interaction with other medicines, and the side effects.¹⁶ This information must be in Italian (as well as in German if the medicines are used in the autonomous province of Bolzano). AIFA may exempt the importer from the obligation to provide information in Italian (and German) if access to the medicine is seriously undermined,¹⁷ a circumstance that may take place during disaster response.

The consequences for violating these rules can be serious. AIFA has the power to seize non-authorized medicines, as well as medicines whose composition differs from the one that has been authorized.¹⁸ The distributor may be arrested and imprisoned up to one year and may be liable to pay a fine up to EUR 10,000.¹⁹

¹⁰ The website is <http://www.agenziafarmaco.gov.it/it> (last accessed 20 July 2014).

¹¹ The website is <http://www.ema.europa.eu/ema/> (last accessed 20 July 2014). It is worth noting that in case of epidemics, the European Commission may recognize a situation of public health emergency; such recognition makes it easier to grant a marketing authorization for medicines that promise major therapeutic advantages even if no comprehensive preclinical or pharmaceutical data is available. See Dec 1082/2013, Arts. 12-13 and Commission Regulation 507/2006, Arts. 2-5.

¹² See DLgs 219/2006, Art. 43.

¹³ See Art. 28, subsections 2, 4, and 5 combined.

¹⁴ Art. 17 DPR 309/1990. See also Arts. 50-55.

¹⁵ DLgs 219/2006, Art. 73.

¹⁶ *Ibid.*, Art. 77.

¹⁷ *Ibid.*, Art. 80.

¹⁸ *Ibid.*, Art. 144.

¹⁹ *Ibid.*, Art. 147(2).

4. The Importation of Animals

The entry of rescue dogs in Italy is primarily regulated by EU law. There are a very few provisions specific to rescue dogs, but the provisions applicable to their situation may be identified by analogy to those applicable to pets.²⁰

Until December 29, 2014, Regulation 998/2003 will apply, stating that dogs entering an EU Member State are not subject to quarantine. The entry of dogs into a EU Member State is subject to three requirements, regardless of their source (either an EU or a non-EU State) and the purpose of their use. First, dogs must be identified with a transponder under their skin.²¹ Second, they must be vaccinated against rabies and must be accompanied by a certificate prepared by an authorized veterinarian. In addition, if the dog comes from a non-EU country listed in Annex II of Regulation 998/2003, there needs to be an antibody titration validated by information available on either a certificate or a passport accompanying the dog. And, third, the dog must be accompanied by a natural person; there is no limit to the number of dogs any single person may accompany.

Starting December 29, 2014, the movement of pets (including rescue dogs) will be governed by Regulation 576/2013. The criteria for the entry of dogs into Italy will remain similar to those of Regulation 998/2003, with two main innovations. First, the new rules require a single person accompany no more than five dogs. If the dog-to-person ratio is higher than five to one, the rules on commercial movement of animals apply, and these rules provide stringent inspection requirements for the entry of animals. The second innovation is that the new regulation appears to take disaster response into consideration. Under the new provision, dogs that do not comply with EU standards may be authorized for entry by a Member State whenever an owner needs to depart urgently and must take the pet along, including in the event of catastrophes. This objective, however, seems to have been achieved only in part. It is true that Member States will be able to authorize the entry of rescue dogs through points of entry other than those used by their accompanying travellers (a condition generally required for other dogs). However, rescue dogs are still subject to controls and must respect the criteria applicable to pets.²²

It is worth noting that Italian law imposes fines of up to EUR 1,000 for violating the rules on the entry of dogs.²³

5. The Importation of Dual Use Goods

Restrictions may be placed on the import of ‘dual use’ goods, that is, goods that can be used for both military and civil purposes (including disaster response). Regulation 428/2009 lists a number of goods (in Annex IV, part 1), whose intra-EU trade may be subject to authorization. An NGO seeking to export a dual use good listed in Annex IV from a EU country to Italy should request an export permit from the authorities of the exporting EU country.

²⁰ See also the *Analysis of Law in the United Kingdom pertaining to Cross-Border Disaster Relief*, available on the IFRC website at <http://www.ifrc.org/Global/Publications/IDRL/country%20studies/idrl-uk-cross-border-analysis-0810.pdf>, p. 65.

²¹ The characteristics of the transponder are described in the Annex Ia of Regulation 998/2003.

²² See articles 10(3) and 34 of Regulation 576/2013. It is worth noting that Italy has joined international networks like INSARAG (see Chapter 4.1 above), but that does not seem to affect the application of the rules just described.

²³ Art. 5 L 201/2010.

The import of dual use goods from non-EU countries does not seem to be subject to authorization under either Italian or EU law. It may, however, involve similar formalities in the country of origin.

6. The Importation of Currency

There are no limits on the international transportation of currency within the EU or between the EU and other states. However, travellers who enter or exit Italy carrying amounts in excess of EUR 10,000 must inform the Italian Customs Agency (*Agenzia delle Dogane*).²⁴ This notification has no immediate legal consequences, but public security authorities will presumably run subsequent checks on persons carrying large sums of money.

7. The Importation of Telecommunications Devices

The entry of telecommunication devices instrumental to disaster response is not explicitly regulated under Italian law. As noted in the first part of the report, Italy has not ratified the Tampere Convention.²⁵ As a consequence, the movement of telecommunications devices is regulated only under Directive 1999/5, implemented in Italy through DLgs 269/2001. In order for telecommunications equipment to be put into use in Italy, it must satisfy some essential requirements. If devices in this area comply with the harmonized EU rules – published in the *Official Journal of the European Union* (OJEU) – they are presumed to comply with essential requirements. But if a device uses a bandwidth whose application is not harmonized in the EU, the person intending to activate the device in Italy must notify the Ministry of Communications four weeks in advance.²⁶

8. Rules on Unused Humanitarian Goods

In general, the goods imported into a EU Member State may be re-exported to another EU Member State as well as to third states. This rule also applies to humanitarian goods, but some considerations need to be made in regard to dual use goods and goods originating from non-EU countries.

If international actors should import dual use goods listed in Regulation 428/2009 into Italy, they may have to request an authorization with the Ministry of Economic Development in order to re-export them. If the destination of the export is a non-EU country, the authorization is required whenever the good is listed in Annex I of Regulation 428/2009. If the destination of the export is another EU country, the authorization is required only if the good is listed in Annex IV (a subset of Annex I) of Regulation 428/2009.

²⁴ Art. 3 DLgs 195/2008. See also Reg 1889/2005, art. 3.

²⁵ Italy does not seem to have implemented the resolution of the World Radio Communication Conference, offering recommendations for facilitating communications among Red Cross societies, Rev. WRC-2000, http://www.itu.int/dms_pub/itu-s/oth/02/02/So2020000194503PDFE.pdf (last accessed 1 July 2014).

²⁶ Art. 6(4) DLgs 269/2001. It is worth noting that by 12 June 2016 EU Members will have to adopt measures to implement Dir 2014/53, which replaces Dir 1999/05 (the latter will nonetheless remain in force until 13 June 2016).

More generally, the re-export of goods coming from non-EU countries may be subject to further restrictions. Neither EU nor Italian law explicitly requires international actors to maintain goods imported from non-EU countries on Italian or EU territory. Under Regulation 1186/2009, the use of disaster response goods, which are exempt from customs duties, is restricted to non-profit organizations (public and private alike) and is solely for disaster relief purposes. When the assisted population has ceased to benefit from those goods (at the end of an emergency), the importer may transfer possession of those goods, but only to other non-profit entities and only if they use the goods for purposes that justify a customs exemption.²⁷ If those conditions are not met, the importer must pay the customs duty the goods were originally exempt from. Alternatively, under the Convention on Temporary Admission (1990), the importer may re-export the goods not used for disaster response. It is worth specifying that Regulation 1186/2009 does not set any specific time limits for the use of customs-exempt goods.

²⁷ For instance, the importer may donate clothes to non-profit NGOs that intend to distribute them for free, see Arts. 84(2) and 65(1) and (2) of Regulation 1186/2009.

THE CIRCULATION AND TRANSPORTATION OF AID

“Once international actors have entered Italy, they may potentially find it difficult to bring aid to those in need. Here we discuss obstacles they may encounter accessing disaster victims (Section 1), as well as the conditions that apply to the docking of ships (2), the movement of aircraft (3), and the circulation of motor vehicles (4).”

1. Access to Victims
2. Docking of Ships
3. Movement of Aircraft
4. Motor Vehicles

1. Access to Victims

Italian law does not expressly make it easier for international actors to access the disaster victims, with the exception of the rules on providers of public services (as described in Chapter 7.1 above), assuming that that status is recognized for foreign operators. As previously noted, using or threatening to use violence against providers of public services in the course of performing public functions – as by preventing them from reaching disaster victims – is a crime punishable with up to five years in prison. There are nonetheless provisions on the freedom of movement of international aid providers in the bilateral agreement Italy has entered into with Switzerland on water pollution (1992) and the cooperation agreements it has entered into with France (1992) and Russia (1993).

More generally, access to areas hit by disaster is often regulated by emergency orders. After the 2009 quake in Abruzzo, for example, the mayor of L'Aquila blocked off access to certain areas of the city, barring entry to everyone except firefighters, DPC personnel, and 'other personnel authorized by the municipality.'¹ Given the *ad hoc* nature of this practice, it is impossible to offer a general assessment of the impact that such orders have on the ability of international actors to access victims.

2. Docking of Ships

The docking of Italian and foreign ships in Italian ports, as well as their departure, is mainly regulated under Arts. 179-185 of the Italian Navigation Code.² Captains of incoming ships must notify the port authority of their destination, including by electronic means, using the standard forms of the Convention on Facilitation of International Maritime Traffic: These are the cargo declaration, ship's stores declaration, the crew's effects declaration, the crew list, the passenger list, the declaration on dangerous goods, and the maritime health declaration. These forms must reach the port of destination 24 hours before the ship is scheduled to dock or, if the trip is short, at the time of departure. Ships docked in Italian ports may depart freely, but only once they have obtained the authorization of the port's director. There are neither exemptions from statutory requirements nor administrative facilitations for ships carrying disaster-related goods or personnel. The absence of administrative facilitations in Italian law seems to contradict the 1967 Convention on the Facilitation of Maritime Traffic, whose annex states that public authorities must facilitate the arrival and departure of ships involved in response to natural disasters.³ At any rate, the Italian ministry of transportation notes that international actors may negotiate directly with the port's director so as to obtain favourable docking conditions.⁴

¹ Order available at http://www.comune.laquila.gov.it/moduli/downloadFile.php?file=oggetto_atti_publici/11841203370O__OTotale%20dal%206%20aprile%20fino%20al%20settembre.pdf (last accessed 24 July 2014).

² See also Directive 2010/65.

³ See Section 5, Letter F. That Letter F was added to the Convention with an amendment adopted in 1977, which came into force on 31 July 1978 under Art. VII(3) of the same Convention.

⁴ Communication of the Italian Ministry of Transportation, 19 March 2014.

3. Movement of Aircraft

There is no provision in Italian law facilitating the entry of foreign aircraft involved in disaster response. This appears to contradict Annex 9 of the 1949 ICAO Convention, whose Section 8(8) states 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 organizations recognized by the UN or by or on behalf of States themselves.’

Where disaster relief is concerned, the most relevant Italian provisions are those relating to taxes and security. Italian law explicitly regulates the position of some international actors with respect to taxes linked to aircraft landing and takeoff. Under the decree of the Ministry of Transportation of 28 December 2007,⁵ *military* flights on aircraft belonging to foreign *states* are exempted from overflight and landing taxes,⁶ under conditions of reciprocity and in compliance with international law. In other cases (i.e., non-state aircrafts and non-military aircrafts) taxes are likely to be leviable. At any rate, after a disaster, the Ministry of Transportation may issue a decree equating the aircraft of foreign actors with the aircraft of Italian state authorities (which are tax-exempt).⁷

In point of fact, however, the payment of such taxes may not be an established practice. It is not clear that they were paid, for example, when French and Spanish water bombers (civilian aircraft belonging to a foreign state) intervened in 2007 and 2009 under the Union Civil Protection Mechanism (see Figure 1 above).

The provisions relating to air safety applicable in Italy are mostly contained in Regulation 216/2008. Since this regulation is directly applicable across the entire EU, aircraft registered in other EU Member States are likely to comply with EU (and so also with Italian) safety standards. As for third-country aircraft, Art. 9 of the same regulation stipulates that they must comply with either ICAO safety standards or the standards applicable to aircraft registered in the EU.

4. Motor Vehicles

Vehicles registered in other EU Member States are not subject to customs duties and need not be registered in Italy within the first year of entering the country. After that period, such vehicles must be registered in Italy,⁸ but it would seem that authorities may find it difficult to enforce this rule, since Italy does not systematically check the entry of vehicles coming in from other Schengen states (that is, from any of the countries sharing a terrestrial border with Italy).

Vehicles registered in non-EU States are exempt from customs duties if they stay in the EU (which includes Italy) for a period shorter than six months. Such vehicles must be regis-

⁵ ‘Nuovo regime delle esenzioni tariffarie di rotta e di terminale ai sensi dell’articolo 9 del regolamento comunitario n. 1794 della Commissione europea del 6 dicembre 2006.’

⁶ See in this respect Regulation 1794/2006 (Annexes IV and V).

⁷ See Arts. 744 and 746 of Royal Decree 327/1942, as amended by DLgs 151/2006.

⁸ Art. 132 DLgs 285/1992.

tered in Italy one year after they have entered the country.⁹ The penalty for failure to register is in all cases a 335 EUR fine.¹⁰

In order to circulate in Italy, all vehicles must be insured. Only vehicles registered in Italy may obtain insurance from a company based in the country. Vehicles registered in other EU Member States and insured by a company recognized by the Italian institute charged with overseeing insurance (IVASS) are not required to obtain an Italian insurance policy.¹¹ Similarly, vehicles registered and insured in Albania, Belarus, Bosnia, Iran, Israel, Macedonia, Morocco, Moldova, Montenegro, Russia, Tunisia, Turkey, or Ukraine are not required to obtain further insurance if the owner of the vehicle has a so-called green card issued by the insurance company. In all other cases, vehicles must be insured by an Italian agency called *Ufficio Centrale Italia* (UCI)¹² before entering into Italian territory. The UCI is also competent to settle all claims connected with accidents caused by vehicles insured abroad (or at UCI).

If a vehicle entering into Italy is meant for transport, there may be further compliance requirements. International transport within the EU is generally possible only once the vehicle's owner has obtained a transport licence from a EU Member State. This requisite does not apply, however, if (a) the vehicle's owner is not mainly in the business of transporting or delivering goods, (b) the goods being transported belong to the owner itself, and (c) the vehicle is driven by a person working for the owner.¹³ So international actors taking part in Italian civil protection do not need a transport licence, as long as they are transporting their own goods. And even when their goods are entrusted to another carrier, the latter does not need a transport licence if it is only transporting emergency medical supplies.¹⁴

Drivers of vehicles entering Italy are also subject to specific driver's licence requirements. Drivers with a licence issued by another EU Member State may operate in Italy. Those who have a non-EU licence may drive in Italy as long as that licence was issued in conformity with the standards contained in an international convention ratified by Italy (Geneva 1949, Vienna 1968). If drivers register with Italian municipalities (for the purpose of residence), they must convert their driver's licence into an Italian one or obtain an Italian licence within a year of registering.¹⁵

It is worth noting that vehicles taking part in civil protection benefit from certain exceptions from generally applicable rules. First, transport or delivery vehicles are not required

⁹ See Art. 132 DLgs 285/1992. In order to register a vehicle in Italy it is necessary to first (a) apply for registration (called *immatricolazione*, literally 'matriculation') with a provincial motor vehicles administration (*motorizzazione civile*), and then, once the registration is approved, and no later than 60 days of said approval, (b) register the vehicle with the public register of motor vehicles (*Pubblico Registro Automobilistico*). Further practical information is available in Italian on Italian Automobile Club website at <http://www.aci.it/i-servizi/guide-utili/guida-pratiche-auto/importare-un-veicolo.html> (last accessed 18 July 2014).

¹⁰ Art. 132(5) of the Italian Traffic Code.

¹¹ http://www.ivass.it/ivass_cms/docs/F8458/ELENCHI%20IMPRESE%20ESTERE%20OPERANTI%20NELLA%20R.C.AUTO%20E%20NATANTI%20OBBLIGATORIA.pdf (last accessed 16 July 2014).

¹² On the Web at <http://www.ucimi.it/> (last accessed 18 July 2014).

¹³ Art. 1(5)(d) of Regulation 1072/2009.

¹⁴ Art. 1(5)(e) of Regulation 1072/2009.

¹⁵ It is possible to convert a foreign driver's licence if it was issued by a country with which Italy has an agreement. At the moment, these comprise Albania, Algeria, Argentina, Austria, Belgium, Bulgaria, Cyprus, Croatia, Denmark, El Salvador, Ecuador, Estonia, the Philippines, Finland, France, Germany, Japan, Great Britain, Greece, Ireland, Israel, Iceland, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Moldova, Morocco, Norway, the Netherlands, Poland, Portugal, Monaco, the Czech Republic, the Republic of Korea, the Slovak Republic, Romania, San Marino, Serbia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Tunisia, Turkey, Hungary, and Uruguay. See the Ministry of Transportation circular letter of 5 November 2013, available on the website maintained by the ministry's Northwest Directorate General at <http://www.dgtnordovest.it/> (last accessed 21 July 2014).

to have devices that record their drivers' working hours, since vehicles that take part in civil protection (this presumably includes the vehicles used by international actors) are not subject to that obligation.¹⁶ Second, the vehicles of international actors taking part in disaster response may receive a government authorization exempting them from the size requirements applicable to all other vehicles.¹⁷ And, third, if a vehicle with 'an Italian or foreign licence plate' (*a*) belongs to an entity or organization recognized by its own state, (*b*) has a certificate issued by its national authorities and (*c*) is transporting disaster relief goods, then it is exempted from the payment of highway tolls.¹⁸ It follows that foreign NGOs recognized by the state where they are established – and, *a fortiori*, foreign public authorities – should not be required to pay such tolls.

In general, the vehicles taking part in civil protection may use acoustic alarm devices (or sirens) and visual signalling devices with a blue flashing light in responding to an emergency. When these devices are turned on, drivers are not required to follow the rules of the road (apart from the directions of law enforcement officers and traffic guards).¹⁹ However, under Italian law, only vehicles of *Italian* public authorities and organizations listed in territorial and DPC registers are allowed to use such devices.²⁰ Hence international actors must respect the rules of the road even in response to an emergency.

¹⁶ See Reg 3821/1985 (Art. 3(1)), replaced by Reg 165/2014 since 2 March 2016, as well as Reg 561/2006 (art. 3(c) e (d)).

¹⁷ Cf. Art. 4(3) of Dir 96/53 and DM 6 April 1998.

¹⁸ Art. 373(2)(i) DPR 495/1992.

¹⁹ See Arts. 177(1) and (2) of the Italian Traffic Code.

²⁰ See Art. 3 of the 5 October 2009 decree issued by the Italian Transportation Minister.

Conclusions

As a country frequently struck by catastrophes, Italy has developed advanced and flexible disaster response mechanisms. Italy's participation in international cooperation arrangements, and in particular the Union Civil Protection Mechanism, reinforces the country's capacities and preparedness. So far Italy has seldom relied on external assistance, and when it did, international cooperation did not prove problematic. In fact, it would seem that Italian law is generally in line with the recommendations contained in the IDRL Guidelines and the Host Nation Support Guidelines, especially as concerns the assistance originating from other EU countries.

The interviews conducted for this report suggest that national authorities do not intend to rely heavily on foreign assistance in the future. However, there are some issues that Italy – and the EU – may want to address looking forward. For one thing, the increasing frequency of disasters and the likelihood of major catastrophes on Italian territory suggest that Italy is likely to need external aid at some point in the future. And, for another thing, the growth of transnational cooperation between local authorities and NGOs makes it possible that international assistance may come into Italy even when national resources are adequate on paper. If the main problems identified in the foregoing analysis can be addressed, then international assistance can be made more effective and reliable.

The law applicable to international disaster response in Italy suffers from three shortcomings. In the first place, the institutional framework is fragmented. Numerous organs with different resources and powers intervene in response to disasters. This enables a flexible response to catastrophes, but it may cause problems in practice, since the division of labour between government bodies is not always clear. International actors may thus be unable to identify the right interlocutor and may not receive coherent instructions. This problem would be exacerbated if conflicts of competence erupted in the very process of responding to a disaster, something that has already happened in other countries in the past.

In the second place, it is not always easy to say which rules apply. There is a multiplicity of sources of law that govern disaster response directly, and these are accompanied by a number of laws affecting disaster response indirectly. Even when an interpreter manages to retrieve those sources, it may not be easy to interpret them. Certain rules are framed in generic terms, and they sometimes contradict each other, presenting a puzzle proper as to which provision ought to be applied in practice. This problem is reinforced by the dearth of Italian and European rules directly concerned with international cooperation in disaster response. In most cases, the rules that apply to incoming aid are designed for other situations which are entirely domestic or which are unrelated to disaster response. Interpreters must therefore put a considerable effort into reconstructing the rules that apply to the situation at hand. Then, too, their interpretation of the law may wind up being challenged by Italian authorities, including the judiciary. This problem is particularly serious for international actors, since most Italian laws are not available in English.

And, in the third place, certain rules may hinder incoming aid, especially when it comes from non-EU countries. Because so few provisions are specifically concerned with international cooperation, the governing law contains no more than a few exceptions from generally applicable rules, coupled with only a few rules concerning specifically the situation at hand. As a consequence, international NGOs may be prevented from intervening in the country,

goods that are safe but do not meet technical standards may be barred from importation, international personnel may be denied visas or residence permits, and the vehicles of international actors may not circulate in the country. Even when the law does not block incoming aid, it sometimes imposes burdensome procedures and taxes, thus discouraging the intervention of international actors, especially the smallest ones.

It would not be advisable to work around these problems by interpreting existing rules in a 'flexible' manner or simply by not applying them at all: an arbitrary application of the law may lead to a situation where rules that actually promote the delivery of effective aid wind up being unapplied. The use of emergency orders, which may derogate from most Italian laws, may be a more logical solution, at least from a practical point of view. But emergency orders are not entirely effective, since they cannot be used to derogate from EU law and are subject to procedural, substantive, and temporal limits. Moreover, an extensive use of emergency orders may lead to abuse, given the ample discretion enjoyed by the organs that issue them. A somewhat more effective alternative would be to enter into bilateral or multilateral agreements with third countries. The agreements Italy has already entered into make it possible to avoid some of the problems posed by internal legislation and may thus serve as a model in the future. However, it is unclear whether other countries potentially interested in cooperating with Italy are willing to enter into further arrangements. In addition, international agreements can hardly address all the details covered by internal legislation and would not make it possible to address all the obstacles created by internal law.

So if we are to have an effective solution to these problems, we will have to address the flaws identified in this report, by clarifying existing law, repealing outdated provisions, and introducing rules specifically designed to regulate and facilitate international cooperation. To this end, we suggest that competent authorities consider implementing the recommendations contained in the next section.

Recommendations

On the basis of the findings of this report, we recommend that Italian and EU authorities consider implementing the following recommendations.

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

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

Annex 1 – Sources

Listed in what follows are sources of law consulted in preparing this report, ordered by type of source and chronologically within each type. All sources are indicated in abbreviated form (as explained at the outset in methodological note and in the list of acronyms). The acts mentioned in the report (including the text and the footnotes) are set in bold type. The first section lists international sources of law, the second one lists EU legal provisions, and the third lists Italian statutory and administrative enactments.

1. International Law

Listed in this section are the multilateral and the bilateral civil protection arrangements Italy has entered into. References to agreements are complemented with the internal laws of ratification and implementation, where available. If an agreement has been concluded by both Italy and the EU, both ratification instruments are included.¹

Multilateral arrangements

- **Convention on the Privileges and Immunities of the United Nations (1946)**
 - L 1318/1957
- **Convention on the privileges and immunities of specialized agencies (1947)**
 - L 1740/1951
- **Geneva Convention on Road Traffic (1949)**
 - L 308/1995
- Customs Convention on the Temporary Importation of Private Road Vehicles (1956)
 - Dec 110/1994
 - L 1553/1961
- **Agreement on the temporary importation, free of duty, of medical, surgical and laboratory equipment for use on free loan in hospitals and other medical institutions for purposes of diagnosis or treatment (1960)**
 - Dec 181/1986
 - L 1758/1962
- **Vienna Convention on diplomatic relations (1961)**
 - L 804/1967
- Vienna Convention on consular relations (1963)
 - L 804/1967
- **Convention on Facilitation of International Maritime Traffic (1965)**
 - L 831/1971
- **Vienna Convention on Road Traffic (1968)**
 - L 308/1995
- **International Convention on the Simplification and Harmonization of Custom Procedures (1973)**
 - Dec 199/1975
 - Not ratified by Italy
- **European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (1980)**
 - L 948/1984
- **Convention on Early Notification of a Nuclear Accident (1986)**
 - Dec 844/2005/Euratom
 - L 375/1989

¹ The list includes a few multilateral agreements Italy has signed but not ratified. As is known, under Art. 18 of the 1969 Vienna Convention on the Law of the Treaties, Italy is not bound by these agreements but is nonetheless obligated to refrain from acts that would defeat their object and purpose.

- **Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986)**
 - Dec 2005/845
 - L 1998/2010
- **Basel Convention on the control of Transboundary Movement of Hazardous Waste and their disposal (1989)**
 - Dec 98/1993
 - L 340/1993
- **Convention on Temporary Admission (1990)**
 - Dec 329/1993
 - L 479/1995
- **Cooperation agreement on the forecast, prevention and mitigation of natural and technological disasters among Austria, Croatia, Hungary, Italy, Poland and Slovenia (1992)**
 - L 74/1995
- **Convention on the Transboundary Effects of Industrial Accidents (1992)**
 - Dec 685/1998
 - L 30/2002
- **Convention on the Protection and Use of Transboundary Watercourses and International Lakes (1992)**
 - Dec 308/1995
 - L 171/1996
- **Convention on the Prohibition, Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (1993)**
 - L 496/1995
- **Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (1976, emendata nel 1995)**
 - Dec 249/1998
 - L 30/1979
- **Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (1998) (Convenzione di Tampere)**
 - Signed but not ratified by Italy
- **Stockholm Convention on Persistent Organic Pollutants (2001)**
 - Dec 507/2006
 - Signed but not ratified by Italy
- **International Health Regulations (2005) (previste dall'art. 22 della Costituzione della World Health Organization, 1946)**
 - L 68/47
- **Convention on the Rights of Persons with Disabilities (2006)**
 - Dec 2010/48
 - L 18/2009
- **Food Assistance Convention (2012)**
 - Dec 2012/738
 - Signed but not ratified by Italy

Bilateral arrangements

- **Scambio di note tra l'Italia e gli Stati Uniti per l'assistenza alle vittime del terremoto in Friuli [Exchange of notes between Italy and the United States on assistance to the victims of the earthquake in Friuli] (1976)**
 - No ratification (executive agreement)
- **Scambio di lettere con il Regno Unito riguardante i voli umanitari e di emergenza, aerotaxi e aeroambulanze, con annesso [Exchange of letters with the UK on emergency flights] (1983)**
 - No ratification (executive agreement)

- **Accordo con la Norvegia, effettuato mediante scambio di lettere, riguardante voli umanitari e di emergenza** [Agreement with Norway, by exchange of letters, on emergency flights] (1983)
 - No ratification (executive agreement)
- **Air Agreement on Humanitarian, Emergency, Airtaxi and Ambulance Flights between Spain and Italy (1984).**
 - No ratification (executive agreement)
- **Scambio di note in materia di voli umanitari, di emergenza, aerotaxi e aeroambulanzze** [Exchange of notes with Portugal on emergency flights] (1984)
 - No ratification (executive agreement)
- **Scambio di lettere con la Repubblica Federale Tedesca in materia di voli umanitari e di emergenza, aerotaxi e aeroambulanzze (1986)** [Exchange of letters with the German Federal Republic on humanitarian, emergency, airtaxi, and ambulance flights] (1986)
 - No ratification (executive agreement)
- **Convenzione tra la Repubblica Italiana e la Repubblica Tunisina relativa alla cooperazione e all'assistenza nel campo della protezione civile e dei servizi antincendio** [Convention between Italy and Tunisia on cooperation in civil protection and firefighting] (1985)
 - L 75/1989
- **Accordo fra il Governo Italiano e il Consiglio Federale Svizzero per iniziative comuni a difesa dall'inquinamento delle acque** [Agreement between Italy and Switzerland on common initiatives against water pollution] (1985)
 - L 97/1990
- **Accordo con il Belgio sulla liberalizzazione dei voli umanitari e di emergenza, aerotaxi e aeroambulanzze** [Agreement with Belgium on the liberalization of emergency flights] (1986)
 - No ratification (executive agreement)
- **Convenzione di cooperazione tra Italia e Argentina per la previsione, la prevenzione e la mutua assistenza in caso di calamità naturali** [Cooperation Agreement between Italy and Argentina on forecasting, prevention, and mutual assistance in the event of natural calamities] (1987)
 - Signed and 'provisionally' in force
- **Accordo tra il governo federale svizzero e il governo della Repubblica Italiana sullo scambio rapido di informazioni in caso di incidente nucleare** [Agreement between Italy and Switzerland on the rapid exchange of information in case of nuclear accident] (1989)
 - No ratification ('provisional' application)
- **Accordo con l'Austria per la liberalizzazione dei voli di aeroambulanza tra le regioni frontaliere per il trasporto con carattere di urgenza di traumatizzati o ammalati gravi** [Agreement with Austria for the liberalization of emergency ambulance flights] (1989)
 - L 388/1990
- **Accordo con Monaco, concluso mediante scambio di lettere, relativo ai voli umanitari, di soccorso, di aerotaxi e di aeroambulanzze** [Agreement with Monaco, by exchange of letters, on emergency flights] (1989)
 - No ratification (executive agreement)
- **Accordo tra la Repubblica Italiana e il Sovrano Militare Ordine di Malta in materia di assistenza in caso di gravi emergenze determinate da eventi naturali o dovute all'attività dell'uomo** [Agreement between the Italian Republic and the Sovereign Military Order of Malta on assistance in the event of serious emergencies owed to force majeure or to human activity] (1991)
 - No ratification (executive agreement)
- **Convenzione tra la Repubblica Italiana e la Repubblica Francese sulla cooperazione nel campo della previsione e della prevenzione dei rischi maggiori e dell'assistenza reciproca in caso di catastrofi naturali o dovute all'attività dell'uomo** [Convention between Italy and France on cooperation in the matter of forecasting and preventing major risks and on mutual assistance in the event of catastrophes owed to force majeure or to human activity] (1992).
 - L 578/1994

- **Accordo quadro tra la Repubblica Italiana e la Repubblica d’Austria sulla cooperazione transfrontaliera delle collettività territoriali** [Framework agreement between Italy and Austria on transboundary cooperation between local governments] (1993)
 - L 76/1995
- **Accordo tra la Repubblica Italiana e la Repubblica Francese sulla cooperazione transfrontaliera delle collettività territoriali** [Framework agreement between Italy and France on transboundary cooperation between local governments] (1993)
 - L 303/1995
- **Accordo quadro tra la Repubblica Italiana e la Confederazione Svizzera sulla cooperazione transfrontaliera delle collettività territoriali** [Framework agreement between Italy and Switzerland on transboundary cooperation between Local Governments] (1993)
 - No ratification (executive agreement)
- **Accordo di cooperazione nel campo della protezione civile tra il governo della Repubblica Italiana e il governo della Federazione Russa in materia di previsione e di prevenzione dei rischi maggiori e di assistenza reciproca in caso di catastrofi naturali o tecnologiche** [Cooperation agreement between Italy and Russia on civil protection in the face of major risks and on mutual assistance in the event of natural or technological catastrophes] (1993)
 - L 61/1997
- **Accordo di cooperazione per prevedere, prevenire e mitigare le catastrofi naturali e tecnologiche tra il governo della Repubblica Italiana e il governo della Repubblica di Malta** [Cooperation Agreement between Italy and Malta on the forecasting, prevention, and mitigation of natural and technological catastrophes] (1994)
 - L 52/1995
- **Convenzione tra la Confederazione Svizzera e la Repubblica Italiana sulla cooperazione nel campo della previsione e della prevenzione dei rischi maggiori e dell’assistenza reciproca in caso di catastrofi naturali o dovute all’attività dell’uomo** [Convention between Switzerland and Italy regulating cooperation in forecasting and preventing major risks and on mutual assistance in the event of catastrophes owed to force majeure or to human activity] (1995)
 - L 87/1998
- **Accordo integrativo all’accordo con l’Austria del 21 febbraio 1989 per la liberalizzazione dei voli di aeroambulanza tra le regioni frontaliere per il trasporto con carattere d’urgenza di traumatizzati o ammalati gravi** [Addendum to the 21 February 1989 agreement with Austria on the liberalization of emergency ambulance flights] (1996)
 - No ratification [in force since 2002 according to the Italian Ministry of Foreign Affairs]²
- **Intesa amministrativa tra il Dipartimento della Protezione Civile Italiana e la Direzione della Protezione Civile Francese – Ordine di operazioni per l’intervento di mezzi aerei bombardieri d’acqua in caso di mutua assistenza per gli incendi boschivi** [Administrative understanding between Italian and French Civil Protection: Operational guidelines for the intervention of water bombers in case of mutual assistance in response to wildfires] (2004)
 - No ratification (soft law)
- **Scientific Cooperation Agreement between the Italian Ministry of Foreign Affairs Department of Cooperation for Development and the Caribbean Community on Cooperation in Hydro-Meteorological Monitoring, Natural Disaster Prevention and Early Warning (2006)**
 - No ratification (executive agreement)
- **Scambio di lettere in materia di cooperazione nel settore della Cooperazione civile fra Italia e San Marino** [Exchange of letters on civil cooperation between Italy and San Marino] (2007)
 - No ratification (executive agreement)

² According to the database of the international agreements concluded by Italy (on the Web at <http://itra.esteri.it/>), this agreement came into force in August 2002. In April 2005, the Italian House of Deputies was still listing this agreement as not in force. See <http://documenti.camera.it/Leg14/dossier/Testi/es0392.htm>.

- **Accordo di cooperazione tra la Repubblica Italiana e la Repubblica Bolivariana del Venezuela nel campo della protezione civile ed amministrazione dei disastri** [Cooperation agreement between Italy and Venezuela on civil protection and disaster management] (2009)
 - No ratification (presumably an executive agreement)
- **Accordo di cooperazione tra la Repubblica di San Marino e la Regione Emilia-Romagna** [Cooperation agreement between the Republic of San Marino and Emilia-Romagna Region] (2013)
- **Memoranda of understanding between the DPC and:**
 - France (2007)
 - Venezuela (2007)
 - Armenia (2008)
 - China (2008)
 - Cyprus (2009)
 - Germany (2009)
 - Bulgaria (2010)
 - Croatia (2011)
 - Belarus (2011)
 - Azerbaijan (2011)
 - Montenegro (2011)
 - Albania (2011)
 - United Arab Emirates (2012)
 - Algeria (2012)
 - Morocco (2012)
 - Bosnia Herzegovina (2012)
 - Indonesia (2012)
 - Serbia (2012)
 - Macedonia (2013)

2. European Union Law

Institutional framework / initiation and termination

- **Dec 2001/792** (repealed)
- **Dec 2004/277**
- Dec 2007/162 (repealed)
- **Dec 2007/779** (repealed)
- **Dec 2008/73**
- **Dec 2013/1313**
- **Dec 2014/415**

Early warning

- **Dir 2012/18**
- **Dir 2013/59**

Personnel

- **Reg 539/2001**
- Dir 2004/38
- **Reg 883/2004**
- **Dir 2005/36**
- **Dir 2013/55**

Goods

- **Reg 2454/1993**
- Dir 1997/78
- **Reg 178/2002**
- **Reg 853/2004**

- **Reg 854/2004**
- Dir 2006/112
- Dir 2009/132
- **Reg 1186/2009**
- Reg 952/2013

Special Goods

- Dir 1993/42
- **Dir 1999/05** (repealed since 13 June 2016)
- **Dir 2001/83**
- Dir 2002/99
- Dir 2003/94
- **Reg 998/2003** (applied until 29 December 2014)
- Reg 136/2004
- **Reg 852/2004**
- Reg 882/2004
- Dec 2005/387
- **Reg 1889/2005**
- **Reg 428/2009**
- Reg 1099/2009
- Reg 576/2013 (applied since 29 December 2014)
- **Reg 577/2013** (applied since 29 December 2014)
- **Dir 2014/53** (replaces Dir 1999/05)

Transportation

- **Reg 3821/85** (applied until 2 March 2016)
- **Dir 1996/53**
- Reg 2411/1998
- Dir 2006/126
- **Reg 561/2006**
- **Reg 216/2008**
- Reg 1008/2008
- Reg 1071/2009
- **Reg 1072/2009**
- **Dir 2010/65**
- **Reg 165/2014** (applied since 2 March 2016)

3. Italian Law

Institutional framework / initiation and termination of assistance / early warning

National statutory enactments

- **L 996/1970** (partially repealed)
- **DPR 66/1981**
- L 400/1988
- **L 225/1992**
- **DLgs 112/1998**
- L 265/1999
- DLgs 300/1999
- L 246/2000
- L 353/2000
- **DL 343/2001**
- L 401/2001
- **DL 245/2002**
- **DL 90/2005**

- L 152/2005
- **DLgs 139/2006**
- **DLgs 66/2010**
- DL 59/2012
- **DL 74/2012**
- **L 100/2012**
- **DLgs 178/2012**
- DL 93/2013
- **L 119/2013**
- **L 56/2014**

National Administrative enactments

- DPCM 112/1990
- DPCM 429/1998
- Circolare Presidente Consiglio Ministri 30 September 2002
- **DPCM 97/2005**
- **Direttiva Presidente Consiglio Ministri 3 December 2008**
- Decreto Presidenza del Consiglio 18 January 2011
- Direttiva Presidente Consiglio Ministri 28 June 2011
- Direttiva Capo DPC 27 January 2012
- **DPCM 1 ottobre 2012**
- Direttiva Presidente Consiglio Ministri 26 October 2012
- DPCM 7 November 2012
- Direttiva Presidente Consiglio Ministri 15 April 2013
- **DPCM 8 agosto 2013**

Regional laws

- **LP Bolzano 15/2002**
- **LP Trento 9/2011**
- **LR Abruzzo 72/1993**
- **LR Basilicata 25/1998**
- **LR Calabria 4/1997**
- LR Campania 10/2001
- **LR Emilia-Romagna 1/2005**
- **LR Friuli Venezia-Giulia 64/1986**
- **LR Lazio 2/2014**
- **LR Liguria 9/2000**
- **LR Lombardy 16/2004**
- **LR Marche 32/2001**
- **LR Molise 10/2000**
- **LR Piedmont 7/2003**
- **LR Puglia 7/2014**
- **LR Sardinia 3/1989**
- LR Sicily 14/1998
- **LR Tuscany 67/2003**
- **LR Umbria 26/1988**
- **LR Val d'Aosta 5/2001**
- **LR Veneto 17/1998**
- **LR Veneto 11/2001**

Status of international actors

Legislative enactments

- Regio Decreto 262/1942 (civil code, codice civile)
- DPR 600/1973 (partially repealed)
- DPR 917/1986
- **L 166/1991**
- **L 218/1995**

Administrative enactments

- **DPR 194/2001**
- **DLgs 195/2008**
- **Direttive Presidente Consiglio Ministri 9 November 2012**
- Nota del Capo DPC 30 April 2013

Personnel

Legislative enactments

- **Regio Decreto 1398/1930** (codice penale, criminal code, c.p.)
- DPR 447/1988 (codice di procedura penale, code of criminal procedure, c.p.p.)
- **DLgs 286/1998**
- **DLgs 30/2007**
- **L 68/2007**
- **DLgs 206/2007**

Administrative enactments

- **DPR 394/1999**
- **DIM 850, 11 May 2011**

Goods

- **L 283/1962**
- DPR 43/1973
- DLgs 117/2005

Special goods

- **L 833/1978**
- **DPR 309/1990**
- D 11 February 1997
- **DLgs 269/2001**
- **DLgs 219/2006**
- **L 201/2010**

Transportation

- **Regio Decreto 327/1942** (Navigation Code)
- **DLgs 285/1992** (Traffic Code)
- **DPR 495/1992**
- **DLgs 151/2006**

Annex 2

Questionnaire sent to the Italian Red Cross and to State Administrations

Italian Red Cross (Croce Rossa Italiana)

1. What is the role of the Italian Red Cross in the operational committee at the regional and provincial level? It would seem that the CRI's involvement differs in the different frameworks. For instance, the CRI is part of the regional committee in Abruzzo (see LR 93/1972, Art. 11(1)(1)), whereas its participation in the Emilia-Romagna committee appears merely contingent (see LR 1/2005). Does the law align with the practice?
2. Has the CRI previously used resources that belong to foreign organizations?
 - a. In particular, has the CRI used goods or vehicles provided by other national societies?
 - i. Did the CRI encounter problems relating to the entry of goods into Italian territory?
 - ii. If so, how have they been solved?
 - b. Has the CRI employed personnel originating from other countries?
 - i. What status did that personnel have (e.g., volunteers, fixed-term workers)?
 - ii. Did the CRI encounter problems in facilitating the entry of persons from other countries?

Civil Protection Department (Dipartimento della Protezione Civile, or 'DPC')

1. **Early warning**
 - a. Are there norms or procedures relating to international early warning in the event of environmental disaster (with particular reference to water pollution, industrial accidents, CBNR, and the transportation of waste)?
 - b. Are there mechanisms ensuring that early warning is coordinated (presumably by the Ministry for the Environment) and civil protection managed (by the DPC) in the event of disaster?
2. **Request for International Assistance**
 - a. Which state entity is competent to request assistance from international organizations and foreign NGOs?
 - b. Which state organ makes the actual request?
 - c. Is there a procedure for requesting international assistance?
3. **The Participation of Foreign NGOs in Civil Protection Activities in Italy**
 - a. Are foreign volunteer organizations allowed to take part in the Civil Protection system under the same status as Italian volunteer organizations (i.e., under Art. 1 Dpr 194/01)? It would seem that some legal provisions exclude this possibility (see, in particular, the directive of 9 November 2012, para. 1(3)). Is this interpretation correct?
 - b. Are foreign nongovernmental organizations allowed to take part in civil protection activities without being listed in the DPC register?
 - i. If so, do they need to have a particular legal status (e.g., that of a volunteer organization)?
 - ii. Would these organizations benefit from legal or financial facilities (e.g., under Arts. 2 and 10 Dpr 194/01)?
 - c. Are there procedures for punishing NGOs that take part in civil protection activities in an unsatisfactory manner, as by acting unprofessionally?
 - d. What activities, under Art. 11(1) Dpr 194/01, may be performed by NGOs whose participation in civil protection activities is not requested by the DPC?
 - e. Would foreign NGOs participating in civil protection operations in Italy be subject to an obligation to insure their workers and volunteers?
 - f. Have workers and volunteers of foreign NGOs previously participated in civil protection activities in Italy under the supervision of foreign public authorities (e.g., civil protection agencies of other states) or other NGOs (e.g., the CRI)?

4. Information

- a. Are there procedures that (under Art. 6(3) L 225/92) regulate the way information is to be conveyed from NGOs to the DPC in carrying out civil protection activities? What information should NGOs communicate? Are there penalties for failing to communicate essential information?
- b. Are there procedures for relaying information from the DPC to NGOs in carrying out civil protection activities?

5. Rescue Dogs

- a. Are dogs accompanying rescue teams subject to the same requirements and controls applicable to pets, as implicitly prescribed by Regulations 998/2003 and 576/2013?

6. Financial Contributions by Private Parties

- a. Are there procedures for overseeing and ensuring the transparency of donations made by private parties in supporting civil protection activities?

7. Opening Hours

- a. Are there procedures for guaranteeing that public offices supporting civil protection activities stay open beyond regular working hours? Examples would be police departments (for residence permits) or customs agencies (for permitting the entry of goods into Italian territory).

8. Emergency Orders

- a. Have the emergency orders issued by the head of the DPC (under Art. 5(4) L 92-225) been used to derogate from provisions that would have made it difficult for foreign entities to take part in civil protection activities in Italy?
- b. Is it possible for such orders to be used for this purpose in the future?

9. Practice

- a. Have there been cases in which laws or regulations hindering international cooperation have been interpreted in a 'flexible' manner?
- b. On the basis of previous experience, even as concerns drills, is it possible for the different branches of the state's administration to adopt a 'flexible' interpretation of such provisions in the future?

Ministry of Foreign Affairs

1. Status of Foreign NGOs

- a. Does Italy recognize the international legal personality of international NGOs, especially the Red Cross societies and the International Federation of the Red Cross and Red Crescent Societies?
- b. Does Italy grant *de jure* or *de facto* immunities to foreign NGOs involved in civil protection activities in Italy?
- c. Does Italy grant *de jure* or *de facto* immunities to natural persons employed by foreign public or private entities engaged in civil protection activities in Italy?

2. Visas

- a. Which visa may be issued to a non-EU citizen employed by a *foreign* NGO, and who may enter Italy to contribute to civil protection activities?
- b. Which visa may be issued to a non-EU citizen who enters Italian territory in order to work as an employee of an *Italian* NGO (e.g., the CRI) involved in civil protection activities?
- c. In the foregoing cases (a) and (b), would there be different visas for *volunteers* and *employees*?
- d. If foreign disaster relief workers are given a *mission* visa, would they be deemed 'employees' and be subject to provisions on foreign employees, especially as concerns social security?
- e. Is it possible for non-EU citizens acting as volunteers and employees of foreign public and private entities to come into Italy on visas obtained through simplified procedures in the wake of a catastrophe? For instance, could they be exempted from paying visa fees? How long would the issuing process take in these cases?

Ministry of Home Affairs

1. **Visa (See ‘Ministry of Foreign Affairs’ at Section 2 above)**
2. **Residence Permit**
 - a. Are volunteers and employees of foreign entities required to apply for a residence permit even if they have entered Italy to contribute to civil protection activities?
 - b. Are there specific provisions expediting the issuing of such residence permits? Are there exemptions from the obligation to pay a fee for a residence permit?
 - c. Can persons applying for a residence permit in Italy participate in civil protection activities the moment they come into the country, or do they have to wait for the residence permit to be issued? How long does it take to issue such permits?

Ministry of Health

1. **Importing Special Goods**
 - a. Are there norms or administrative practices that introduce exceptions to the requirements on the importation of *food* functional to civil protection activities?
 - b. Are there norms or administrative practices that introduce exceptions to the requirements on the importation of *medicines* functional to civil protection activities?
2. **Recognizing Professional Qualifications**
 - a. **Healthcare Professionals with EU Citizenship and Qualification Valid in the EU**
 - i. When these professionals intend to provide services in Italy, are they required to ‘communicate to the Ministry of Health’ the information indicated on the ministry website (model C1)? Are there further requirements?
 - ii. In cases of urgency, can foreign healthcare professionals send their communication to the Ministry of Health at the same time as they come into Italy?
 - iii. What consequences could there be for foreign professionals if they provide healthcare services in Italy without having previously communicated their intention to do so to the Ministry of Health?
 - b. **Healthcare professionals without EU Citizenship and/or without Qualifications Valid in the EU.** Assuming that foreign healthcare professionals without EU citizenship and/or without qualifications valid in the EU can deliver services in Italy only once their qualification has been recognized
 - i. is the outcome of the recognition process predictable, or are professional qualifications assessed on a case-by-case basis?
 - ii. is it possible to predict how long the recognition process may take?
 - c. **The Recognition Practice**
 - i. Is it possible, in the course of practice, to make exception to the procedure applicable to the recognition of professional qualifications? In particular, is it possible for EU citizens with EU qualifications to be exempted from the requirement to communicate the exercise of their profession? Or, in all other cases, can an application for the recognition of a qualification
 1. be written and/or accompanied by documents in languages other than Italian?
 2. be incomplete, because it lacks, for instance, certain documents or because it is accompanied by documents without an official translation?
 3. be submitted without paying the required fees?

Customs Agency

1. Are there any exemptions from customs duties and restrictions that goods imported from non-EU countries for civil protection benefit from under legal provisions (other than EU Regulations 1186/09 e 2454/93) or by way of standard practices?
2. Is the importation of such goods subject to procedural facilitations?
3. Are the goods imported from non-EU countries exempt from customs duties even when they are subsequently re-exported? Are there procedural facilitations?

Ministry of Transportation

1. Aircraft
Are foreign aircraft contributing to civil protection deemed 'state aircraft' (under Art. 744 of the Navigation Code)? Could they be considered as such in virtue of a decree issued by the Italian Ministry of Transportation (under Art. 746 of the Navigation Code)?
2. Ships
Are there procedural facilitations making it easier for ships carrying civil protection personnel or goods to dock in Italian ports, especially as concerns (a) the requirement to provide information to the port director and the consular authority (under Art. 179 of the Navigation Code) and (b) inspections (Art. 180)?



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Cover photo:
*Italian Red Cross volunteers provide support
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