

Analysis of law in the EU pertaining to cross-border disaster relief  
(EU IDRL study)  
Country report by the French Red Cross

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## Table of acronyms and abbreviations

<b>CEE:</b>	Communauté Economique Européenne / European Economic Community
<b>CDSCRM:</b>	Conseil Départemental desécurité civile et des Risques Majeurs / Departmental Civil Security and Major Risk Advisory Service
<b>CODIS :</b>	Centre Opérationnel d'Incendie et de Secours / Fire and Emergency Operations Centre
<b>COGIC :</b>	Centre Opérationnel de Gestion Interministérielle de Crise / Interministerial Crisis Management Operations Centre
<b>CRF :</b>	Croix-Rouge française / French Red Cross
<b>COS :</b>	Commandement des Opérations de Secours / Emergency Operations Control
<b>DAU :</b>	Document Administratif Unique / Single Administration Document
<b>DSC :</b>	Direction de la Civil protection / Civil protection Directorate
<b>DOS :</b>	Directeur des Opérations de Secours / Emergency Operations Director
<b>DUS:</b>	Emergency and Assistance Directorate
<b>EMZ:</b>	Zone Headquarters
<b>INHES :</b>	Institut National des Hautes Etudes de Sécurité / National Institute for Higher Security Studies
<b>MAEE :</b>	Ministère des Affaires étrangères et européennes / Foreign Ministry
<b>MIC:</b>	Monitoring and Information Center
<b>ONG/NGO :</b>	Organisation(s) Non Gouvernementale(s) / Non-Government Organisation(s)
<b>OR.SEC :</b>	Organisation des Secours / Assistance Organisation
<b>ORSEC :</b>	Organisation de la Réponse de Civil protection / Civil protection Response Organization
<b>PAC :</b>	Politique Agricole Commune / Common Agriculture Policy
<b>PCS :</b>	Plan Communal de Sauvegarde / Municipal Back-up Plan
<b>PPI :</b>	Plan Particulier d'Intervention / Special Intervention Plan
<b>PSS :</b>	Plan de Secours Spécialisé / Specialist Intervention Plan

- TIR :** Transit International Routier
- SDACR :** Schéma Départemental d'Analyse et de Couverture des Risques /  
Departmental Risk Analysis and Cover Scheme
- SDIS :** Service Départemental d'Incendie et de Secours / Departmental Fire  
and Assistance Service
- SGDN :** Secrétariat Général de la Défense Nationale / General Secretariat for  
National Defence
- SIDPC :** Service Interministériel de Défense et Civil protection / Interministerial  
Defence and Civil Protection Service

## **Introduction**

No country is protected against disasters and all may one day have to call on international aid in order to back up national resources which could prove to be inadequate given the extent to the disaster.

By their very nature, disasters require urgent action and international support must be deployed as quickly as possible. However, legal obstacles (such as border crossings) and administrative barriers (customs procedures) can delay the arrival of reinforcements on the scene of the catastrophe.

That is why, in 2001, the International Federation of Red Cross and Red Crescent Societies initiated its International Disaster Response Laws, Rules and Principles (IDRL<sup>1</sup>) programme. The purpose of this programme consists in analyzing the role played by law in international emergency interventions deployed in the event of a disaster.

In 2007, after a global negotiation process spearheaded by the Federation, the 30<sup>th</sup> International Conference unanimously approved the «Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance».<sup>2</sup> The Conference also encouraged the Federation and the National Societies to make joint efforts designed to identify those areas where gaps exist and to set out recommendations that could address these issues<sup>3</sup>.

The International Conference is the highest deliberation body of the International Red Cross and Red Crescent Movement. It brings together all the Movement's protagonists and all the Governments that have signed up to the Geneva Conventions<sup>4</sup>.

During this Conference, the Member States of the European Union committed<sup>5</sup> to supporting the aims pursued by the Federation<sup>6</sup> disseminating guidelines, identifying gaps and weaknesses in statutory structures on national, regional and international levels, and promoting exchanges with a view to reaching legal solutions).

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International Disaster Response Law

<sup>2</sup> <http://www.ifrc.org/Docs/pubs/idrl/guidelines/introduction-guidelines-fr.pdf>.

<sup>3</sup> <http://www.ifrc.org/Docs/pubs/idrl/idrl-eneews-9-fr.pdf>

<sup>4</sup> <http://www.ifrc.org/Docs/pubs/idrl/idrl-eneews-9-fr.pdf>

<sup>5</sup> <http://www.ifrc.org/Docs/pubs/idrl/guidelines/model-pledge-en.pdf>

<sup>6</sup> <http://www.ifrc.org/fr/what/disasters/idrl/programme/objectives.asp>

Thus, the French Red Cross (CRF) undertook to collaborate with the French authorities in order to achieve the targets set by the project. (This includes other studies in other European countries)

The writing of this report constitutes one of the project's objectives, that is to say, it provides an overview of French regulations on international assistance interventions on its territory. It also lists both the gaps and good practices to be found in the existing system.

On this occasion, we met with the parties concerned in civil protection (Ministry for the Interior, Departmental Fire and Assistance Services, NGOs and civil protection associations) and listed bilateral agreements signed by the Government of the French Republic and other countries on aid provided in the event of a technological or natural disaster in order to better understand the workings of international cooperation should France suffer a disaster.

However, we were unfortunately unable to reach all of the key stakeholders when preparing this report and this has left some gaps in the analysis we have been able to develop.

Before addressing the core of the subject, we believe it would be advisable to make a brief presentation on France. In particular, we would like to remind the reader of the country's geographical position, its territory and institutional organization and also the type of disaster it has faced or could face. This will allow us to understand the impact made by a disaster and also how such disasters are dealt with in France and how the decision is taken on whether or not to call on international assistance.

## 1. Presentation of France

### a. Area and administrative breakdown

A Western Europe State, France is bounded to the north-west by the North Sea and the English Channel, to the west by the Atlantic Ocean and to the south by the Mediterranean Sea (in all: 3. 427 km of maritime frontiers); to the north-east, France shares 620 km of borders with Belgium, 73 km of borders with Luxembourg and 451 km of borders with Germany. To the east, it has borders with Switzerland (573 km of shared borders), to the south-east with Italy (488 km) and Monaco (4.4 km). To the south-west, France has frontiers with Spain (623 km) and with Andorra (56.6 km)<sup>7</sup>.

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<sup>7</sup> <http://www.europa-planet.com/france/geographie.htm>

Mainland France covers 550,000 km<sup>2</sup> in addition to 120,000 km<sup>2</sup> of overseas territories<sup>8</sup>. Should France suffer a disaster, the country is surrounded by several countries that are equipped to deal with various events.

France comprises 22 regions (from 250,000 to 10 million inhabitants<sup>9</sup>), subdivided into 96 departments (from 100,000 to 2.5 million inhabitants). These are in turn divided into 3,808 cantons comprising 36,861 municipalities (of which 20% have over 1,000 inhabitants). France also has overseas territories, representing the last traces of an ancient colonial Empire that enjoy varying administrative statuses. First of all, there are 4 overseas regions and departments (DOM and ROM), each forming a single department region. To these, we have to add 4 regional authorities<sup>10</sup>, a *sui generis*<sup>11</sup> overseas municipality and, finally, an overseas territory (TOM)<sup>12</sup>.

The French power structure is traditionally the centralized type. In 1981, the government of President F. Mitterrand introduced decentralization, creating regional councils with extended powers. In each Region, regional councils elect a regional executive chaired by a Region president. Departments are divided into cantons that elect general councillors, and into over 3,600 municipalities that are governed by municipal councils comprising 10 to 36 members elected for a 5-year term. Each municipal council elects a mayor. The departmental or regional prefects<sup>13</sup> represent the State within the municipalities.

Cross border cooperation benefited from this decentralisation.

#### b. Population

In January 2007, France had an estimated population of 63.4 million inhabitants, placing the country second in European Union countries and twenty-first in the world. Between 1946 and 2006, the French population rose from 40.5 million inhabitants to

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<sup>8</sup>[http://www.europeinternational.developpementdurable.gouv.fr/IMG/pdf/plaquette\\_ministere\\_francais\\_cle5951b7.pdf](http://www.europeinternational.developpementdurable.gouv.fr/IMG/pdf/plaquette_ministere_francais_cle5951b7.pdf)

<sup>9</sup>[http://www.europeinternational.developpementdurable.gouv.fr/IMG/pdf/plaquette\\_ministere\\_francais\\_cle5951b7.pdf](http://www.europeinternational.developpementdurable.gouv.fr/IMG/pdf/plaquette_ministere_francais_cle5951b7.pdf)

<sup>10</sup> Mayotte, Saint-Pierre-et-Miquelon, Wallis & Futuna, French Polynesia.

<sup>11</sup> New Caledonia.

<sup>12</sup> French Southern and Antarctic Lands.

<sup>13</sup> France (population et société) Encyclopédie Microsoft® Encarta® en ligne 2009

<http://fr.encarta.msn.com> © 1997-2009 Microsoft Corporation. All rights reserved.

63.4 million, an increase of more than 45% over 50 years. Population density reached 100 inhabitants per km<sup>2</sup><sup>14</sup>. Urban development levels in France are high with approximately 73% of the French population living in a conurbation of more than 2,000 inhabitants. Paris, the capital city had 2,153,600 inhabitants in 2005 and the total for the Paris conurbation was 9.79 million inhabitants, making Paris and its suburbs the largest city in Western Europe.

The secularization of French society has led to a significant drop in religious practices. Catholicism is the leading religion in France in terms of population, accounting for 75% of the French. Catholicism is followed by Islam, Protestantism and then Judaism.

c. The institutional structure of the 5<sup>th</sup> Republic

The institutional structure of the 5<sup>th</sup> Republic has broken away from the earlier structure by allocating a more powerful position to the executive body in the 1958 Constitution.

The executive body has two leaders<sup>15</sup> and this means that it has a President of the Republic and a Government. The President, elected by universal suffrage since 1962, is only accountable to the people. The Head of the Government is appointed by the President in whom this power is vested. The President of the Republic selects the ministers making up the Government on a proposal from the Prime Minister. The Government must have the trust of the National Assembly and reports to this body.

Parliament is a twin chamber system: the National Assembly and the Senate. This is a non egalitarian twin chamber system because the National Assembly has prerogatives that are not available to the Senate<sup>16</sup>.

Both assemblies are elected by universal suffrage: all the French contribute through their votes to the appointment of the members of these assemblies. There are 577 deputies (including 22 elected overseas) and 346 senators (of whom 15 are elected overseas and 12 by French expatriats).

The French all take part directly in the election of National Assembly deputies during the legislative elections. With regard to the Senate, senators are elected by special

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<sup>14</sup> France (population et société) Encyclopédie Microsoft® Encarta® en ligne 2009

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<sup>15</sup> P. Ardant- *Institutions politiques et droit constitutionnel*- LGDJ, 14<sup>th</sup> edition (2002), p.443, § 386

<sup>16</sup> P. Ardant- *Ibid.*- p.534, §465.

electoral colleges made up of members who are themselves elected by universal suffrage (regional councilors, general councilors, and municipal council officers etc., sometimes known as «presidential electors»)<sup>17</sup>.

The National Assembly and the Senate participate in Parliament's two main constitutional missions: voting laws and controlling Government actions.

« Both assemblies jointly exercise legislative power. Within this context, they successively examine draft laws and proposals which are sent backwards and forwards between them until the texts approved are in the same terms»<sup>18</sup>.

#### d. Climate

France enjoys a variety of climates: the oceanic climate (which involves the greatest surface area), the semi-oceanic climate, the continental climate, the Mediterranean climate and the mountain climate<sup>19</sup>. There are also microclimates in various regions of France; however, it does not seem worthwhile listing them above «because there are several hundreds or even thousands» of these<sup>20</sup>.

#### e. Overview of disasters in France

In the report on the 2003 bill on the prevention of technological and natural risks and on damage repair, Senator Yves Détraigne stated that these affect the entire French territory:

*«France is subject to all the natural risks that exist on the planet. These are more intense in the overseas departments than on mainland France because climate based risks are stronger in tropical climates than in temperate or Mediterranean climates and the position of the West Indies is close to overlapping tectonic plates, creating serious seismic and volcanic eruption risks.*

*The overview of natural risk distribution throughout the national territory is based on the departmental major risk dossiers established by the prefects.*

*Today, with varying degrees of severity, 23,500 municipalities are exposed to one or more natural risks: cyclones and storms, floods of different types (flood plain, torrential, rising groundwater or submersion), avalanches, ground movements*

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<sup>17</sup> <http://www.assemblee-nationale.fr>

<sup>18</sup> <http://www.assemblee-nationale.fr>

<sup>19</sup> <http://www.meteorologic.net/climat-francais.php>

<sup>20</sup> <http://www.meteorologic.net/climat-francais.php>

(landslides, falling boulders, underground voids and marl pits, expanding and contracting clay), earthquakes, volcanic eruptions, forest fires. The most frequently occurring risk is that of flooding with 15,700 municipalities exposed at varying levels of severity. This is followed by landslides (5,932 municipalities), earthquakes (5,100 municipalities), seismic (1,400 municipalities) and avalanche (400) risks»<sup>21</sup>.

**The 5 main natural disasters in France since 1900**

Date	Type	Comments
8 <sup>th</sup> May 1902	Volcanic eruption	Montagne Pelée, Martinique ; 28,000 fatalities
30 <sup>th</sup> August 1902	Volcanic eruption	Montagne Pelée, Martinique (Morne-Rouge); 1,000 fatalities
12 <sup>th</sup> September 1928	Hurricane	Guadeloupe; 1 200 fatalities
26 <sup>th</sup> , 27 <sup>th</sup> and 28 <sup>th</sup> December 1999	Storm	92 fatalities for the two storms of the 26 <sup>th</sup> , 27 <sup>th</sup> and 28 <sup>th</sup>
1er-20th August 2003	Heatwave	Approximately 15,000 fatalities (almost 30,000 in Europe)

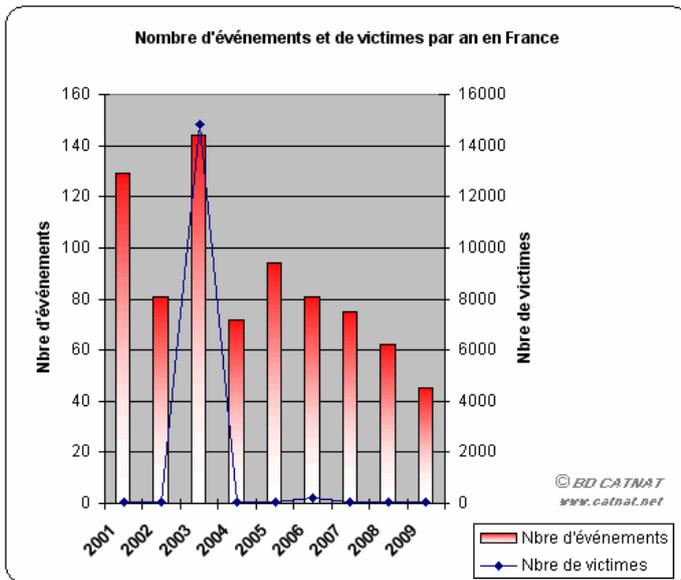
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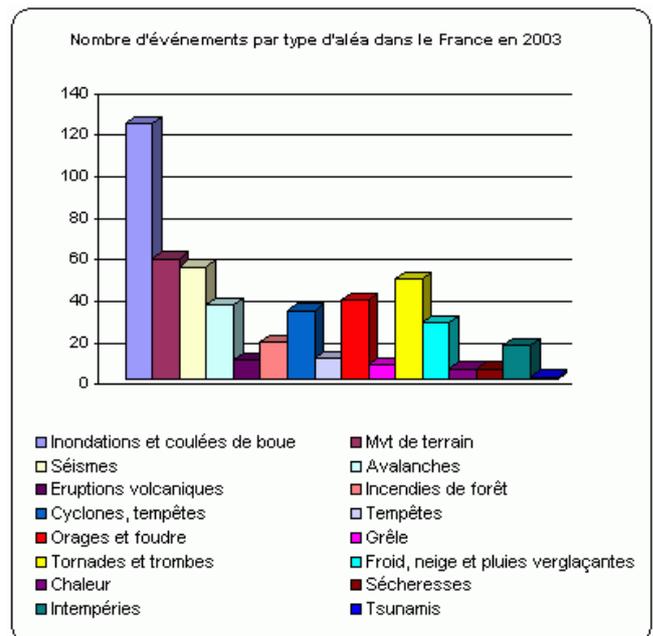
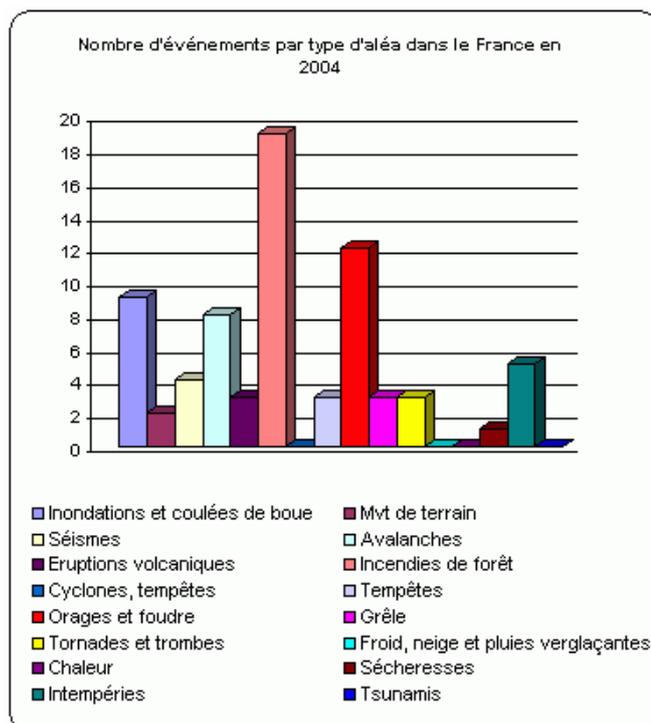
<sup>21</sup> <http://www.ladocumentationfrancaise.fr/dossiers/catastrophes-naturelles/france-pays-expose.shtml>

<sup>22</sup> Source : Natural events capable of causing damage and occurring in France and throughout the world in 2003, Ministry for the environment and sustainable development, 2004.

## Overview of disasters in France from 2001 to 2009<sup>23</sup>



Number of events and victims per year in France  
Number of events  
Number of victims

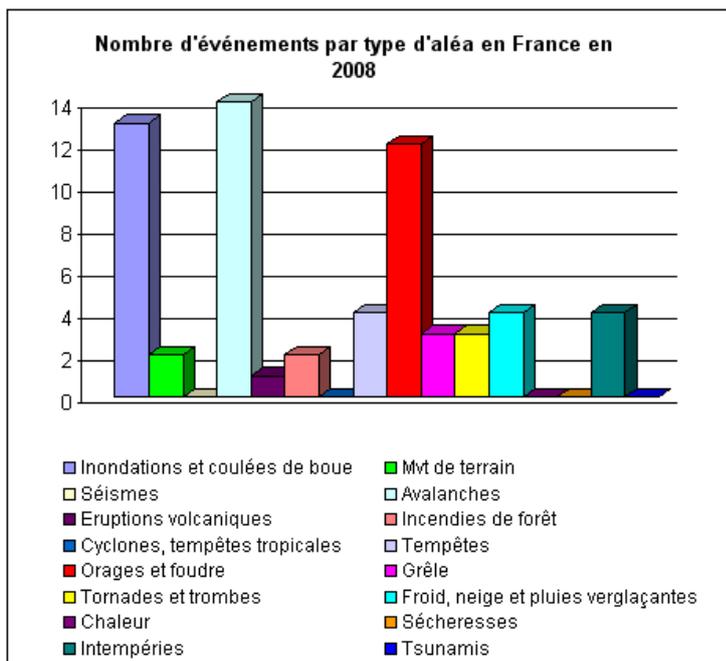


number of events per type of disaster in France in 2004

Overview of disasters in France (2003) Overview of disasters in (2004)<sup>24</sup>

<sup>23</sup><http://www.catnat.net/donneesstats/observatoire/5681-tableau-de-bord-des-catastrophes-naturelles?start=1>

<sup>24</sup><http://www.catnat.net/donneesstats/observatoire/5681-tableau-de-bord-des-catastrophes-naturelles?start=1>



Number of events per type of disaster in France in 2003

Flooding and mud slides	Land slips
Earthquakes	Avalanches
Volcanic eruptions	Forest fires
Cyclones, storms	Storms
Storms and lightening	Hail
Tornadoes and spouts	Cold, snow and black
Heat waves	Droughts
Bad weather	Tsunamis

Number of events per type of disaster in France in 2008  
 Overview of disasters in France (2008)<sup>25</sup>

Type d'aléa	Evts	% evts	Victimes	% victimes
<b>Inondations</b>	8	17.8%	2	4.7%
<b>Mvt de terrain</b>	0	0.0%	0	0.0%
<b>Séismes</b>	0	0.0%	0	0.0%
<b>Avalanches</b>	9	20.0%	22	51.2%
<b>Éruptions</b>	0	0.0%	0	0.0%
<b>Incendies de forêt</b>	8	17.8%	0	0.0%
<b>Cyclones tropicaux</b>	2	4.4%	2	4.7%
<b>Tempêtes tempérées</b>	3	6.7%	12	27.9%
<b>Orages et foudre</b>	6	13.3%	2	4.7%
<b>Grêle</b>	5	11.1%	0	0.0%
<b>Tornades et trombes</b>	0	0.0%	0	0.0%
<b>Froid, neige et verglas</b>	3	6.7%	3	7.0%
<b>Chaleur</b>	0	0.0%	0	0.0%
<b>Sécheresses</b>	0	0.0%	0	0.0%
<b>Intempéries</b>	1	2.2%	0	0.0%
<b>TOTAUX</b>	<b>45</b>	<b>100%</b>	<b>43</b>	<b>100%</b>

Type of catastrophe-No. of events-  
 % Events-Victims- % victims

Flooding	8	17.8%	2	4.7%
Land slips	0	0.0%	0	0.0%
Earthquakes	0	0.0%	0	0.0%
Avalanches	9	20.0%	22	51.2%
Volcanic eruptions	0	0.0%	0	0.0%
Forest fires	8	17.8%	0	0.0%
Tropical storms	2	4.4%	2	4.7%
Temperate storms	3	6.7%	12	27.9%
Storms and lightening	6	13.3%	2	4.7%
Hail	5	11.1%	0	0.0%
Tornadoes and spouts	0	0.0%	0	0.0%
Cold, snow and black ice	3	6.7%	3	7.0%
Heat waves	0	0.0%	0	0.0%
Droughts	0	0.0%	0	0.0%
Bad weather	1	2.2%	0	0.0%
<b>TOTAL</b>	<b>45</b>	<b>100%</b>	<b>43</b>	<b>100%</b>

Overview of disasters in France (2009)<sup>26</sup>

<sup>25</sup> <http://www.catnat.net/donneesstats/observatoire/9178-les-catastrophes-naturelles-en-2008>

<sup>26</sup> <http://www.catnat.net/donneesstats/observatoire/5681-tableau-de-bord-des-catastrophes-naturelles?start=1>

## 2. The French civil protection mechanism

### a. Background and presentation

France has experienced a number of natural or industrial disasters such as the 1999 storms, the 2003 summer fires, the AZF industrial accident in 2001 as well as floods in 2001, 2002 and 2003. In a report written by the civil protection directorate, the Ministry for the Interior stated that «despite technological progress, we remain exposed to many hazards whose effects can be heightened by the way in which our society works due to its heavy dependence on electrical power, communication networks, means of communication etc. »<sup>27</sup>

In order to cope with these events, public powers rely on a planning mechanism that has developed:

The « OR.SEC.<sup>28</sup> departmental plan was put in place in 1952 and placed under the authority of the prefect. In 1987, the OR.SEC. zone plans were set up to complement the 1952 plan; these are defence zone level plans<sup>29</sup> and emergency plans for each department, comprising:

- ❖ The Plans Particuliers d'Intervention (PPI) applicable to fixed hazardous installations ;
- ❖ The Plans de Secours Spécialisés (PSS) for other technological risks and those of natural origins ;
- ❖ The «red plans» designed to provide relief when there are many victims.

On the 13<sup>th</sup> August 2004, the civil protection modernization law<sup>30</sup> known as the ORSEC (which now stands for Organisation de la Réponse de Sécurité Civile) plan was passed. This now becomes the «only organisation responsible for managing all emergency situations, involving the entire society, under a single authority (the prefect) and which is empowered to use an operational mechanism for mobilizing

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<sup>27</sup> Note on the Organisation de la Réponse de Sécurité Civile, for the general protection of the populations, Directorate of civil protection, Ministry for the Interior, for Overseas Territories and for regional and local authorities.

<sup>28</sup> ORganisation des SECours.

<sup>29</sup> France is divided into 7 defence zones (Bordeaux, Lille, Lyon, Marseilles, Metz, Paris and Rennes) which were established in France by the order of the 7th January 1959.

<sup>30</sup> Loi n°2004-811, Publication au JO, 17 août 2004, édition 0190.

many resources, according to the risks identified and subject to ongoing adaptation<sup>31</sup>».

«At the national level, the Direction de la Défense et de la Sécurité (hereinafter the DDSC) attached to the Ministry for the Interior, is the central structure responsible for managing risks in France whether these entail accidents occurring in daily life or major disasters. »<sup>32</sup>

b. Civil protection organization at mainland level

In the interests of proximity, the local authority is the first level of the organization deployed to deal with an event and, consequently, the mayor is responsible for managing the disaster within the boundaries of the municipality and he also keeps the prefect regularly informed. The 2004 modernisation law set up the Plan Communal de Sauvegarde (PCS). This plan is a «working tool»<sup>33</sup> available to the mayor in the event of a crisis. It identifies immediate conservation and protection measures and sets the methods used to broadcast warnings and safety instructions<sup>34</sup>.

Article 30 of the law on modernization also created the municipal civil protection reserve; this is a «civic mobilisation» tool whose primary object consists in providing populations with support and assistance. The municipal reserve provides the mayor with support both during a crisis situation and throughout the actions designed to prepare and inform the population. Placed under the mayor's authority, the municipal civil protection reserve relies on volunteers and non profit making organizations. The reserve is open to all those who have the abilities and skills appropriate to the tasks entrusted to them.

Therefore, when municipal means prove to be inadequate for the purpose of responding to the crisis or when the extent and consequences of a disaster are too great, the working mechanism will be placed under the authority of the department

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<sup>31</sup> Note on the Organisation de la Réponse de Sécurité Civile, for the general protection of the populations, Directorate of civil protection, Ministry for the Interior, for Overseas Territories and for regional and local authorities.

<sup>32</sup> *La France à la loupe, la civil protection en France*, Ministère des Affaires Etrangères et Européennes, January 2008, infoSYNTHESE, pp.5.

<sup>33</sup> *La France à la loupe, la civil protection en France, Ibid.*

<sup>34</sup> Decree n°2005-1156, 13th September 2005.

prefect who becomes the Directeur des Opérations de Secours (DOS), assisted by a Commandant des Opérations de Secours (COS) who can be a fireman, a policeman or a CRS. He will coordinate all the services involved including external partners and businesses requisitioned exclusively as part of the relief operation.

Should the event exceed the department's response capacities, the defence zone, through the Centre Opérationnel de Zone (COZ) provides back-up resources and coordinates actions. When «zone» resources prove to be inadequate, «national» crisis management resources can be placed at the disposal of the prefect on a decision of the Centre Opérationnel de Gestion Interministériel de Crise (COGIC)<sup>35</sup>.

*«Disaster response requires the speedy mobilisation of all public and private means and their effective coordination by a single directorate. In this respect, France enjoys a proven legal tradition which vests extensive powers during a crisis situation in mayors and prefects and in the general police and which authorizes zone prefects and even the Government, to intervene in running operations when this is required<sup>36</sup>».*

#### c. Public actors in the field of civil protection

The public means are the Services Départementaux d'Incendie et de Secours (SDIS) and the Service d'Aide Médicale d'Urgence (SAMU), « *available as a matter of routine to deal with most requests for assistance* »<sup>37</sup>.

The decree of the 22<sup>nd</sup> May 1955<sup>38</sup> was to bring about a radical change in the organization of relief services<sup>39</sup>. Whereas in earlier days, each local authority had its own fire and emergency service, thanks to the mayor's policing powers, this decree would allow resources to be pooled by creating the SDIS; each department was required to set up this service which was placed under the authority of the prefect who was responsible for ensuring a consistent emergency service within the same department. While previously, the local authorities only funded their own fire and

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<sup>35</sup> *La France à la loupe, la civil protection en France*, Ibid.

<sup>36</sup> [http://www.interieur.gouv.fr/sections/a\\_l\\_interieur/defense\\_et\\_securite\\_civiles/autres\\_acteurs/associations-securite-civile/asso-sc-presentation/](http://www.interieur.gouv.fr/sections/a_l_interieur/defense_et_securite_civiles/autres_acteurs/associations-securite-civile/asso-sc-presentation/)

<sup>37</sup> [http://www.interieur.gouv.fr/sections/a\\_l\\_interieur/defense\\_et\\_securite\\_civiles/autres\\_acteurs/associations-securite-civile/asso-sc-presentation/](http://www.interieur.gouv.fr/sections/a_l_interieur/defense_et_securite_civiles/autres_acteurs/associations-securite-civile/asso-sc-presentation/)

<sup>38</sup> Decree n° 55-612 of the 22nd May 1955.

<sup>39</sup> The law of the 3rd May 1996 would actually put this firefighting and emergency service unit in place.

emergency services, they would now be required to finance all emergency services found in the department via the SDIS. *«The SDIS are empowered under general law to manage all manpower, equipment and financial resources allocated by the local authorities, public inter-municipal establishments and the department and for their operational deployment. Therefore, the SDIS occupies a central role in the territorial organisation mechanism responsible for fire fighting and emergency services. This organisation takes into account the Schéma Départemental d'Analyse et de Couverture des Risques (SDACR)<sup>40</sup>». «The SDACR is prepared under the authority of the prefect by the SDIS and confirms that relief resources are compatible with the reality of the risks. In fact, he prepares an inventory of the risks applicable to the department and which have to be dealt with by the SDIS and establishes this service's targets in relation to risk coverage<sup>41</sup> ».*

Each SDIS has a Centre Opérationnel d'Incendie et de Secours (CODIS) responsible for coordinating service operations at a departmental level.

The SDIS missions cover the entire civil protection field as defined by the law n°87-565 of the 23<sup>rd</sup> July 1987 which can be summarized under four headings:

- Civil protection risk prevention and assessment;
- Preparing back-up measures and organizing relief resources;
- Protecting individuals, property and the environment;
- Providing emergency aid to and evacuating<sup>42</sup> victims of accidents, events or disasters.

France has anticipated the possibility of calling not only on the assistance of its European neighbours in the event of its territory being affected by a disaster but also on countries with which it has had relations for a long time. The type of cooperation sought in the event of a disaster will vary on the extent and type of the catastrophe. Therefore, France has a series of legal instruments that govern reciprocal aid in the event of a disaster (Title I).

The national civic protection legal framework recognizes that efficient disaster response is conditional on the diversity of the parties involved in civil protection and,

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<sup>40</sup> <http://www.anena.org/jurisque/thesaurus/texte/SDIS.htm>

<sup>41</sup> <http://www.anena.org/jurisque/thesaurus/texte/SDIS.htm>

<sup>42</sup> <http://www.anena.org/jurisque/thesaurus/texte/SDIS.htm>

therefore, allocates a major role to associations contributing to civil protection. This framework also smoothes the path for administrative and legal procedures applicable to those involved in civil protection when their skills are required in a country that has been the victim of a disaster (Title II).

At the beginning of each section we will indicate the provisions of the corresponding guidelines to allow for their comparison with the French regulatory framework.

## **Title I: The European and international framework applicable to relief operations**

There are different types of assistance provided in the event of a disaster and the type of cooperation will depend on the nature of the disaster. Exceptional measures will be required in the case of disasters generating exceptional consequences. It is up to the European States and, in the case in point, France, to choose the best option. France has three options: the European civil protection mechanism (I), cooperation based on a bilateral or multilateral agreement (II) and, finally, cross-border cooperation in the case of disasters that have consequences that are quantified and restricted to a certain zone but that cannot be overlooked (III).

### I- Resorting to the European civil protection mechanism as the result of an exceptional event

#### A- PRESENTATION

Civil protection is first and foremost the responsibility of the State. However, in accordance with the subsidiarity principle, the European Union has taken initiatives in this field. The European civil protection mechanism<sup>43</sup> is the main Community mechanism used to provide disaster relief. This mechanism was put in place in order to improve the coordination of the work carried out by civil protection and relief services in the event of a major emergency. These would be natural, technological, radioactive or environmental disasters (including accidental marine pollution) or an act of terrorism that takes place or is likely to occur either within or outside the European Union (EU)<sup>44</sup>. This mechanism extends to 30 countries (the 27 member States together with Liechtenstein, Iceland and Norway)<sup>45</sup>.

The mechanism's operational unit is a monitoring and information centre (MIC «Monitoring and Information Centre ») based at the European Commission in Brussels. Through the MIC which is available 24/24, the Commission can smooth the

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<sup>43</sup> Council Decision of the 2007/779/CE, Council Euratom of the 8th November 2007 setting up a Community civil protection mechanism.

<sup>44</sup> [http://europa.eu/legislation\\_summaries/environment/tackling\\_climate\\_change/l28003\\_fr.htm](http://europa.eu/legislation_summaries/environment/tackling_climate_change/l28003_fr.htm)

<sup>45</sup> British Institute of International and Comparative Law, Preliminary Review of European Law, June 2009

way for mobilizing member State civil protection resources in the event of an emergency.

Any country affected or likely to be affected by a major disaster – within or outside the EU – may call upon a member State for assistance either directly or through the MIC. In this case, the MIC immediately forwards the request to the national contacts network. The latter informs the MIC whether or not they can provide aid. The MIC then compiles the responses obtained and informs the country asking about relief availability accordingly. The country concerned then selects the type of assistance it requires and contacts the countries offering this assistance<sup>46</sup>.

France has already called on the Community's civil protection mechanism on the occasion of the July 2009 forest fires in Corsica. Two water bomber planes forming part of the European tactical reserve against forest fires were provided. The aircraft were operational within less than three hours.

At the same time as the European civil protection mechanism, France also signed reciprocal assistance agreements with several States (including border States). These agreements will cover assistance not only at national but also at regional level (when the party to the agreement is a border State). The decision to call on the European civil protection mechanism or to deploy the assistance covered by these bilateral agreements will depend on the extent of the disaster.

## B- THE DEBATES

Civil protection in the European Union is firstly a matter of cooperation between Member States, based on geographic proximity.

Bilateral cooperation often comes from States facing the same disasters. For example, the Southern countries cooperate in the case of fighting forest fires. France and Portugal, for example, have agreed on an administrative arrangement for cooperation for preventing and fighting forest fires.

Beyond this notion of proximity, civil protection teams from European countries are sent to other countries, for example Southeast Asia during the tsunami disaster and the earthquake in Pakistan.

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<sup>46</sup> [http://europa.eu/legislation\\_summaries/environment/tackling\\_climate\\_change/l28003\\_fr.htm](http://europa.eu/legislation_summaries/environment/tackling_climate_change/l28003_fr.htm)

Paul Girod mentions the need to reconsider the thinking on civil protection and defence on the scale of Europe<sup>47</sup>. "This thinking, initiated at the beginning of 2005 after the shock of the tsunami in Southeast Asia and the lack of coordination of European emergency aid agencies, should now focus on crises within the European Union"<sup>48</sup>.

We can see some divergences however in the expectations of each of the Member States regarding the role that Europe should play in civil protection.

The Mediterranean countries (Spain, Italy, Portugal, Slovenia, Cyprus and Malta) and also Belgium and Luxembourg, which are subject to common risks, want to create an operational European civil protection force.

The Nordic countries want to limit the initiatives of the European Union in terms of civil protection in favour of a network of experts that would be subject to the provisions of the United Nations<sup>49</sup>.

Lastly, the Netherlands, and, to a lesser extent Great Britain, favour the NATO framework.

Several countries have raised the issue of coordination between the MIC and the Euro-Atlantic response coordination centre in the event of a NATO catastrophe.

There is thus a real split between France, Belgium, Luxembourg and the Mediterranean countries who want the European Union to have real visibility, and other countries such as the Netherlands, who want to enhance their action within the framework of NATO.

We find here again the debate between the countries that traditionally have an Atlantic orientation and those that want to see the development of a stronger European Safety and Defence Policy.

France does not recognise NATO's authority in terms of civil protection except in times of war or an attack with weapons of mass destruction.

As we mentioned, civil protection in Europe involves firstly bilateral cooperation between States. We will now address this issue by examining the reciprocal assistance agreements.

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<sup>47</sup> Paul Girod, former Senator, Information report on behalf of the delegation for the European Union on EU action in terms of civil protection, 3 March 2006.

<sup>48</sup> Paul Girod, *Ibid.*

<sup>49</sup> Paul Girod, *Ibid.*

## II- Bilateral and multilateral reciprocal assistance agreements

France has signed reciprocal disaster assistance agreements with many countries. In addition to neighbouring States, it has signed this type of agreement with countries of the Mediterranean<sup>50</sup>, and also with other countries of the European Union, Croatia and even Malaysia. France is also a member of the Association of Caribbean States, within the framework of which it has signed a multilateral agreement entitled: “Agreement between Member States and Associate Members of the Association of Caribbean States for Regional Cooperation on Natural Disasters.”<sup>51</sup>

These agreements concern international/regional cooperation and the geographic scope extends to the entire French territory while also forming the legal basis for cross border cooperation (in this context, the prefect is responsible for reaching an agreement with his cross border counterpart on the methods used to deploy this cooperation).

Generally speaking, reciprocal assistance agreements contain similar provisions with regard to the legal means granted to relief teams such as those concerning the details submitted in requests. However, there are certain special features depending on the country involved. We shall discuss this in greater depth in the development that follows.

Agreements include the methods used for their deployment, especially through the establishment of an administrative organization. Agreements establish issues that will have to be specified as part of the administrative organizations such as, for instance, references that need to be included in the request for assistance and references for the contact point etc.

It is also common practice for some general reciprocal assistance agreements to be supplemented by agreements or arrangements applicable to a specific disaster.

### Example:

- the administrative organization agreed between the Minister for the Interior

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<sup>50</sup> Algeria and Morocco.

<sup>51</sup> This agreement has not enter into force yet.

and Overseas and local or regional authorities on the one hand and the Minister for Internal Administration of the Republic of Portugal on the other with regard to the prevention and fight against forest fires;

- the administrative arrangement signed with the President of the Council of Ministers of the Italian Republic (Civil Protection Department) on cross border cooperation applicable to emergency relief in mountain areas.

Unlike administrative organizations, agreements are published in the official gazette. Therefore, we have been unable to collate all of these agreements. These agreements do not require enactment decrees (only publication decrees) unlike other international agreements and this system has been implemented in the interest of flexibility<sup>52</sup>. Furthermore, the fact that an organization has not been established does not prevent the agreement from being applied.

The decision as to whether or not to resort to international aid depends on a range of factors (A). Once the decision has been made to apply for aid, legal means will be provided in order to ensure that the relief teams requested are deployed within the shortest possible space of time (B).

#### A- CONDITIONAL INTERNATIONAL ASSISTANCE

Consideration will be given to resorting to extra-national reinforcement in exceptional circumstances that are detailed in the agreements (1) based on operational and also political aspects (2).

##### 1. International assistance: conditions regarding form reduced to a minimum

The Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance, drawn up by the FICR, define the notion of disaster as follows: “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.”

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<sup>52</sup> Interview with Colonel Nardin, head of the international mission for the French Defence and civil protection directorate, The Ministry for the Interior, Overseas and regional and local authorities, 8th June 2009.

The civil protection modernization law of the 13<sup>th</sup> August 2004 does not include any definitions of disasters. A definition of the effects of natural catastrophes can be found in the insurance code under article L 125-1, indent 3: « *Are regarded as the effects of natural disasters in the spirit of this chapter, direct material damage that cannot be insured and whose determining cause is the abnormal intensity of a natural phenomenon, when the customary steps to be taken in order to prevent said damage have been unable to prevent its occurrence or could not be deployed. A state of natural disaster is recognized by ministerial order [...].* ».

With regard to technological disasters, article R 128 – 1 of the insurance code states that « *the state of technological disaster is recognized in the event of an accident rendering more than five hundred homes uninhabitable [...] and the state of technological disaster is recognized by a ministerial order.* »

A natural or technological disaster is declared for insurance purposes in order to enable the assured to be covered automatically against damage caused by natural or technological disasters<sup>53</sup>. It is not required for the purpose of deploying international aid.

The definitions of disaster found in the insurance code are fairly restrictive; if a wider definition was agreed in law, this would pose a problem of compatibility between texts.

Bilateral agreements or administrative organizations define the term 'disaster': « *an event that jeopardizes or endangers the life or health of many people, material assets of a considerable importance or the provision of basic necessities to a population in such an unusual manner that the fight against this event requires the intervention of units and equipment that are not constantly available for daily use*<sup>54</sup> ». It can happen that there is no definition and, in this case, the agreement states that « *the nature and*

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<sup>53</sup> Law n°82-600, of the 13th July 1982, published in the Official Gazette of the 14<sup>th</sup> July 1982.

<sup>54</sup> Article 1 of the administrative arrangement between the Minister for the Interior, overseas territories and local and regional authorities of the French Republic and the Federal Minister for the Interior of the German Federal Republic on the application of the agreement of the 3rd February 1977 on reciprocal assistance in the event of a disaster or serious accident of the 6<sup>th</sup> February 2008

*extent of the assistance must be jointly agreed based on type cases defined by the appropriate authorities»<sup>55</sup>.*

2. Call for international solidarity: an exceptional measure

a. The criteria

The IDRL guidelines, Part I, paragraph 3 section 2 states that a State that is affected “that considers that a disaster situation goes beyond the domestic capacity for adaptation should request international and/or regional aid to meet the needs of the people affected.”

In France three criteria apply when considering international aid:

- ❖ The Government has reached a situation where its means have been exceeded;
- ❖ Additional technical facilities appear to be necessary;

Example: during a 1993 flood, France called on the Netherlands because the French relief teams did not have enough pumps.

- ❖ Speed with which the equipment and means arrive.

«The criteria adopted are those of life saving and the speed of deployment<sup>56</sup>».

France is a country where a civil protection culture prevails and the public authorities are familiar with the risks that affect the territory and plan risk management accordingly. It is considered unlikely that a disaster in France would require extra-European means because France is a country that is surrounded by countries that are adequately equipped to deal with disasters likely to befall France.

Accordingly, when the French authorities (and more specifically the COGIC) decide to call for international assistance, this will generally involve a request for specific equipment<sup>57</sup>.

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<sup>55</sup> Article 1 of the agreement between the Government of the French Republic and the Government of Belgium on reciprocal assistance in the event of a disaster or serious accident of the 21<sup>st</sup> April 1981.

<sup>56</sup> Interview with Colonel Nardin, head of the international mission for the French Defence and civil protection directorate, The Ministry for the Interior, Overseas and regional and local authorities, 8th June 2009.

b. The steps

The IDRL guidelines recommend in part III, point 10 :

“1. Initial rescue and aid operations in the event of disasters must only be initiated with the consent of the State affected and, in principle, based on a request. The State affected can decide in due time whether or not to request initial rescue help or aid and promptly announce its decision. [...]”

The action plan defines by the law to respond to a disaster in France varies depending on the nature of the operation. The call for international assistance is launched within 24 hours in the event of a major flood, within half an hour of a forest fire disaster and after an initial appraisal (usually 12 hours) for landslides; «*the operation will prioritise a commitment of means*<sup>58</sup> ».

In terms of risk management, the resources that are mobilized will be those that are the nearest but, above all, French; then, for exceptional events, when the extent of the disaster is really great or when specific equipment is needed, a request will be submitted.

3. The basic conditions applicable to the request

Part III, point 10 of the IDRL, section 2 suggests:

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

a. The focal point of international assistance

The guidelines, part II, point 8, section 2 mention:

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<sup>57</sup> Case of the Danish pumps during the 1993 floods, or the German pumps when the Gard was flooded in 2002.

<sup>58</sup> Interview with Colonel Nardin, head of the international mission for the French Defence and civil protection directorate, The Ministry for the Interior, Overseas and regional and local authorities, 8th June 2009.

« They should [...] clearly designate domestic governmental entities with responsibility and authority in these areas. Consideration should be given to establishing a national focal point to liaise between international and government actors at all levels. ».

Agreements identify the entities that have the expertise enabling them to send in foreign relief teams. Generally, these are the French Republic Minister for the Interior and, more specifically, the COGIC. But it can happen that the diplomatic route is prioritized as in the case of the Treaty signed between the French Republic and the Kingdom of Spain on civil protection on the 11<sup>th</sup> October 2001<sup>59</sup>. The person concerned will then be the Minister for Foreign and European Affairs.

b. Information contained in the request

Part III, point 10, section 1 of the guidelines provides that: “In order to make this decision, the affected State should promptly assess needs. Consideration should be given to undertaking joint needs assessments with the United Nations and other assisting humanitarian organizations.”

Information that must be included in requests is detailed in the agreement or in the administrative organization. The information is the same in both cases in point: the nature, the extent of the accident/disaster, the number of victims, the means required in order to supplement the French initiative already deployed, maps showing the location of the disaster, the person in charge of the operation. The request can also be formulated as a preventive measure, i.e. should the French authorities inform the country that a disaster is developing and that a request is likely in the future. The administrative organization may apply a type form<sup>60</sup>.

Further to the request, if the response is positive, it must indicate the number and nature of the means provided and the estimated time of their arrival in the area where they are to be deployed.

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<sup>59</sup> Article 6 §1.

<sup>60</sup> See appendix .

B- ON THE LEGAL MEANS GRANTED BY THE APPLICANT STATE TO THE RELIEF TEAMS  
SENT BY THE ASSISTING STATE

Applying consistent logic, the applicant State, smoothes the way for the arrival of the personnel providing the assistance and their equipment (1). The request for international aid imposes a certain number of obligations on the State (2).

1) Procedures applicable to the entry of equipment and personnel into the French territory

a. Border crossing for international assistance personnel

Part V, point 16 of the IDRL provides that:

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

a. Grant visas and any necessary work permits, ideally without cost, renewable within their territory, for the time necessary to carry out disaster relief or initial recovery activities;

b. In disaster relief operations, waive or significantly expedite the provision of such visas and work permits;

c. Establish expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers, driving licences and other types of licence and certificate that are necessary for the performance of disaster relief or initial recovery functions and that have been certified as genuine by the concerned assisting State or eligible assisting humanitarian organization, for the time necessary to carry out disaster relief or initial recovery activities;

d. Facilitate freedom of access to and freedom of movement in and from the disaster affected area, bearing in mind the safety of disaster relief and initial recovery personnel.

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

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

i. The personnel authorized to take part in the assistance mission

Under some agreements, the States have agreed in advance on the composition of the relief equipment.

As an example, let us consider the agreement between the French Republic and the Federal German Republic dated the 3<sup>rd</sup> February 1977 where article 2 states that *«assistance will be provided by sending to the disaster area [...] relief teams that have been trained specifically in the following fields: fire fighting, fighting nuclear and chemical dangers, life-saving, rescues or clearing and who have the equipment required in order to perform their tasks. Assistance will generally be provided, from the German side, by Disaster Protection Units (Katastrophenschutz) and from the French side, by Civil Protection units. »*. This is not an exhaustive list and allows for the provision of other means if necessary.

This information on the composition of relief teams can also be found in other agreements<sup>61</sup>.

By virtue of these provisions, it appears that France will not call upon foreign NGOs to assist on its territory in the event of a disaster. It would also appear that France adopts the same position when working abroad (see boxed text below). Based on the various discussions we have been able to have with authorities, the level of equipment available in France and from its partners is adequate. That is why no mention is made of the NGOs in the various reciprocal assistance agreements. Only NGOs or French associations that have been approved as national civil protection entities are included in civil protection operations. (See Title II).

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<sup>61</sup> Article 6 of the Agreement between the Government of the French Republic and the Government of the Italian Republic on matters for forecasting and preventing major risks and on reciprocal assistance in the event of catastrophes that are either natural or caused by Man's activities, of the 16th September 1992 ; Article 2 of the Agreement between the Government of the French Republic and the Government of the Kingdom of Belgium on reciprocal assistance in the event of disasters or serious accidents , of the 21<sup>st</sup> April 1981 etc.

### French NGOs abroad: The value of international civil protection approval

This is an approval delivered to associations that are likely to provide support to populations or assistance in relief operations and which have the means and the expertise enabling public powers to include them<sup>62</sup> in relief missions abroad. As an example, let us consider the case of the “Pompiers Sans Frontières” or Firemen Without Frontiers who have been given this approval but who have not yet been asked by the public authorities to take part in an action abroad. This NGO travels independently on rescue<sup>63</sup> missions and has to carry out its own formalities in order to enter into the disaster country.

However, we should not ignore the role played by these NGOs; in fact, based on their experience, they could also counteract political considerations that would stand in the way of international humanitarian aid.

The State rarely calls in these NGOs<sup>64</sup> within the framework of civil protection approvals. The people interviewed saw this in terms of responsibilities. If the action of these NGO's is damaging, the French Government would be liable. The Government does not have sufficient resources (in terms of funds and time) to monitor the actions taken by the aforesaid NGOs.

#### ii. Documents required in order to cross borders

Entry formalities are always detailed but vary depending on the partner country.

According to France's agreement with Malaysia, the parties undertake to facilitate border crossings subject to compliance with customs and immigration legislation. The members seconded for the mission must be bearers of a travel document that complies with national law. Furthermore, the person in charge of the seconded team must bring and provide to the Applicant Party (in France, this document must be forwarded to the COGIC) a document attesting the mission, the types of unit that make up the secondment and the number of persons concerned. This document is delivered by the authority to which the seconded team reports<sup>65</sup>.

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<sup>62</sup>[http://www.interieur.gouv.fr/sections/a\\_l\\_interieur/defense\\_et\\_securite\\_civiles/autres\\_acteurs/agrements-securite-civile/agrements/view](http://www.interieur.gouv.fr/sections/a_l_interieur/defense_et_securite_civiles/autres_acteurs/agrements-securite-civile/agrements/view)

<sup>63</sup> Example of a mission to Peru, in connection with the 2007 earthquake.

<sup>64</sup> Until now, only the association “Secouristes sans frontière” has been called on by the DSC

<sup>65</sup> Article 9 of the agreement between the Government of the French Republic and The Government of Malaysia.

The formalities are not onerous: the only established requirements are a travel document (passport) for each member of the mission and the number of persons carrying out the assistance mission.

As part of the agreement with Croatia and the Kingdom of Morocco, it is stated that the assistance teams will remain on the territory without the need for administrative formalities required to obtain a visa or residence permit.

Therefore, we can query the consequences ensuing on the absence of this wording in some agreements. Should this information be included in the agreement in order to allow assistance personnel to benefit from this lightened administrative approach?

On reading the agreement with Malaysia, this would not appear to be a problem because all that is requested as a simple travel document, without any additional details.

Nowadays however, Regulation 574/1999/EC encourages States to suspend visa requests for humanitarian aid personnel<sup>66</sup>. The European Community is thus trying to settle the issue of the administrative procedures to be carried out by international aid teams.

With regard to border States, the issue of borders no longer applies because borders have been abolished within the European Union.

**The entry of rescue dogs into France:**

France has 400 rescue dogs so, according to the DSC, it is unlikely that France would call on other countries for rescue dogs.

In the unlikely case that France calls for foreign rescue dogs, they must have European passports that are up-to-date for the rabies vaccine.

In less than 12 hours, the French rescue teams can mobilise 300 dogs. There is mistrust regarding foreign dogs. Unlike France, which has a set of criteria, some countries do not have quality control, so France is reluctant to accept dogs from outside of the country.

**European regulation:**

The EC regulates the non-commercial movement of animals within the

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<sup>66</sup> British Institute of International and Comparative Law, Preliminary Review of European Law, June 2009.

Community and also from third states. Regulation 998/2003/EC on the animal health requirements applicable to the non-commercial movement of pet animals essentially provides that pet animals may be moved between the Member States if accompanied by a passport issued by a veterinarian certifying that the animal has received the requisite vaccinations.<sup>9</sup> Different rules apply to non-EU pets depending on their country of destination.<sup>10</sup> Commission Decision 2003/803/EC establishes a model passport for the intra-Community movement of dogs and other animals which is meant to contain details of the animals' health in accordance with Regulation 998/2003.

Council Directive 91/496/EEC is specifically focused on animals originating from third countries and lays down principles governing the organization of veterinary checks on animals entering the Community that are not family pets accompanying travellers for non commercial purposes. Article 4 provides that the Member States must ensure that the animals are subjected to a documentary and identity check at the border, as well as an official veterinarian check before transit through the territory is authorised.

None of this legislation specifically discusses the entry of animals from third countries in the context of disaster assistance, or makes any provision for expedited procedures in exceptional circumstances.

b. Entry and exit of equipment intended for use as part of the assistance mission

The guidelines also provide for ideal measures to be applied for the entry and exit of goods and equipment:

Part V, point 17:

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

- a. Exempt them from all customs duties, taxes, tariffs and governmental fees;
- b. Exempt them from all export, transit, and import restrictions;
- c. Simplify and minimize documentation requirements for export, transit and import;
- d. Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organization owns and wishes to retain.

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

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

3. In order to benefit from the above facilities, assisting States and assisting humanitarian organizations should, in accordance with agreed international standards, appropriately pack, classify and mark disaster relief and initial recovery goods and equipment, and include detailed manifests with each shipment. They should additionally inspect all such goods and equipment to ensure their quality, appropriateness for the needs in the affected State, and conformity with the national law of the affected State and international standards.

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

i. The general system

In general, agreements stipulate that the equipment for use in assistance missions is covered by the temporary admission scheme.

The temporary admission scheme covers the temporary importing, either totally or partly exempt from customs duties and taxes, of goods from outside the European Union intended to be re-exported in the same condition and without their being subject to trade policy measures<sup>67</sup>.

There are two types of temporary admission:

- ❖ Total exemption from customs duties and taxes;
- ❖ Partial exemption from customs duties and taxes.

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<sup>67</sup> <http://www.douane.gouv.fr/page.asp?id=230>

Article 677 of the European Commission EEC regulation n° 2454/93 of the 2<sup>nd</sup> July 1993 places equipment intended for use in the fight against the effects of a disaster under the total exemption scheme.

An application has to be lodged with the customs administration and a permit will then be delivered.

This application must be sent to the regional division or to the customs office applicable to the first location where the goods will be used or on its admission into Community territory.

The permit application may be simplified in some cases either:

- ❖ In the form of a declaration (DAU) which is used to obtain the permit and also to place the goods under customs control in the form of an inventory (Community form);
- ❖ Without any declaration or authorization in writing (personal effects and sports equipment) unless demanded by the department.

The second possibility is usually the one detailed in the agreements but exclusively for three types of goods. These are equipment objects, relief means and operating equipment. A simple list, detailing these equipment objects, relief means and operating equipment brought in, certified by the authority to which the relief team reports will be required.

Definition :

- Equipment: the equipment, vehicles and personal equipment intended for use by the relief teams;
- Means of assistance: additional items of equipment and other goods taken on each mission and intended for distribution to the populations victims of the disaster;
- Operating equipment: goods required in order to use equipment objects and for supplying the teams.

A single permit may be delivered when the goods are intended for use in several member States.

The permit is usually deposited with the member State where the goods are used for the first time.

The residence period is the one required for deployment independently of some cases where Community legislation has set specific timescales; in general it must not exceed 24 months but may be extended in some cases.

In practice

Having consulted the General Directorate for Customs and Indirect Taxation and more specifically that E3 bureau responsible for processing simplified customs clearance procedures, we have found that there is no special formal importing procedure applicable in the event of a disaster. There is no type import procedure unlike the one applicable to exports in the event of a disaster. There is a gap in procedures.

According to the customs official we contacted, in practice, the export model is used (informally) for imports. The same information has to be sent to the customs office and to the COGIC.

However, due to the lack of a formal approach, there is a degree of flexibility. Indeed, in some cases, customs clearance procedures do not involve any formalities. Accordingly, when the incoming equipment unites the following two cumulative conditions, a simple verbal declaration will suffice: the imported equipment does not weigh more than one tonne and the value of the equipment is less than 1,000 Euros.

The customs department receives no special instructions from the Government. It is they who decide on the procedure to be applied on a case-by-case basis and depending on circumstances and the type of equipment imported.

Generally, in order to ensure that the equipment is allowed through quickly, regularization after the event is acceptable.

ii. Importing medicines

Point 18 of Part V of the guidelines provides for the case of special goods, including medications:

“1. Affected States should grant temporary recognition to foreign registration and plates with regard to vehicles imported by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance.

2. Affected States should waive or expedite the granting of any applicable licences and reduce any other barriers to the use, import or export of telecommunications and information technology equipment by assisting States and assisting humanitarian organizations, or on their behalf, in disaster relief and initial recovery assistance.

Without discrimination against or negative impact to domestic relief actors, affected States should also grant (or, where appropriate, encourage other domestic actors to grant) assisting States and eligible assisting humanitarian organizations priority access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations.

3. Originating, transit and affected States should reduce legal and administrative barriers to the exportation, transit, importation and re-exportation of medications and medical equipment by assisting States and eligible assisting humanitarian organizations, or on their behalf, in disaster relief and initial recovery assistance, to the extent consistent with public safety and international law. Assisting States and eligible assisting humanitarian organizations should take all reasonable steps to ensure the quality, appropriateness and safety of any such medications and equipment and in particular:

- a. Any medications they import should be approved for use in the originating and affected States;

- b. Medications they use in their own operations should be:

- i. transported and maintained in appropriate conditions to ensure their quality and;
  - ii. guarded against misappropriation and abuse.

- c. Any medications they donate for use by others in the affected State should be:

- i. at least 12 months from their expiry date upon arrival, unless otherwise agreed by the receiving authorities;
  - ii. transported and maintained in appropriate conditions to ensure their quality until they reach the affected State; and
  - iii. appropriately labelled in a language understood in the affected State with the International Non-proprietary Name or generic name, batch number, dosage form, strength, name of manufacturer, quantity in the container, storage conditions and expiry date.

4. Originating, transit and affected States should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports

and exports by assisting States and eligible assisting humanitarian organizations in disaster relief operations can be modified or reduced.”

Generally, it is accepted in agreements that the importing of medicines into the co-contracting party's territory and the return of unused amounts does not fall under the scope of the 1961 international Agreement on medicines.

However, this exception only applies when certain conditions prevail:

First of all, medicines can only be brought in for urgent medical requirements. Then they can only be administered by qualified medical personnel (the agreements do not specify in greater detail who is authorized to use these products) acting in accordance with the legal provision of the contracting Party to whom the request was made.

The State retains the right to control this type of products.

2) The obligations of the State submitting the request

a. Directing relief operation

Section 3 of point 3 of Part I provides that:

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

All of the agreements that France is involved in state that the direction of rescue and relief operations is the responsibility of the authorities of the contracting Party submitting the request.

Instructions intended for the relief teams of the contracting Party submitting the request must be transmitted exclusively to their leaders who must finalise execution details in relation to the personnel they oversee.

It is recommended that tasks allocated to foreign relief teams are shown on the request for assistance. As already discussed, some agreements include type requests appended to administrative organizations or at least specify information that has to be forwarded to the public authorities of the contracting Party to whom the request is made.

«Accordingly, when international aid arrives on the disaster scene, it is allocated a mission or an area and it can then work with its equipment and implement its working methods. It is usually provided with a driver and an interpreter»<sup>68</sup>.

Finally, the Governments undertake to protect and assist the relief teams of the contracting Party to whom the request is submitted. In practice, it would seem that this provision is difficult to apply in the event of a disaster. However, every step is taken in order to ensure that the international aid personnel has speedy access to care if needed.

b. Government legal protection

All agreements stipulate that no claim for compensation may be made against the other contracting Party should the goods belonging to it or to a political or administrative division suffer damage when said damage has been caused by a member of the other contracting Party's relief team during the performance of his mission as part of the assistance agreement.

The same applies in the event of harm suffered by a member of the relief team who is injured or dies during the performance of his mission as part of the assistance agreement.

In the event of damage caused to a third party by a member of the relief team of the contracting Party to whom the request is submitted during the performance of his mission, the contracting Party submitting the request is responsible for the damage under the same circumstances as if this damage had been caused by his own relief teams.

These provisions also apply in the event of jointly performed exercises.

c. Financing the assistance mission

Part V of the IDRL in its point 24 concerning costs states that:

“1. The costs of providing international disaster relief or initial recovery assistance pursuant to these Guidelines should normally be borne by the assisting State or assisting humanitarian organization. However, assisting States may agree in

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<sup>68</sup> Interview with Colonel Salles-Mazou, director of the SDIS 66, 29<sup>th</sup> June 2009.

advance with the affected State for the reimbursement of certain costs and fees, or for the temporary loan of equipment.

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

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

The bilateral agreement to which France belongs state the costs arising in connection with the assistance provided by relief teams of the contracting Party to whom the request is made, including expenses generated by the loss or total or partial destruction of the objects brought in are not borne by the authorities of the contracting Party submitting the request but by the party to whom the request is made.

Special provisions apply to aircraft; these provisions state that in this case, the contracting Party to whom the request is submitted may ask for costs associated with the use of the aircraft to be shared equally between both contracting Parties.

Finally, all issues associated with logistics (accommodation, food) shall be the responsibility of the contracting Party submitting the request throughout the duration of the mission of the teams of the contracting Party to whom the request is made, who will also be responsible for re-supplying operating goods insofar as the stocks brought in have been exhausted.

However, when France calls on private means, it bears the cost. France has already called on Danish companies for their pumps during floods in France. As the cost of the pumps is high (between 1 and 1.5 million Euros each), not all countries have them. France now has 8 high-capacity pumps.

d. Repatriation of evacuated persons

During our research, we only found one reference to the case of the re-admission of evacuated persons. This is the agreement of the 14<sup>th</sup> July 1987 between the Government of the French Republic and the Swiss Federal Council on reciprocal assistance in the event of a disaster or serious accident. Article 12

headed: « Assistance and re-admission of relief workers and evacuated persons » states that « each contracting party is obliged to re-admit, irrespective of their nationality, persons, relief workers or evacuees who have gone from its territory to that of the other contracting party even when they are not in possession of an official identity document. In the case of foreigners, they are governed by the same residence and establishment status as prior to crossing the border ».

Thus, the Governments undertake to reinstate the status quo and not to refuse entry to persons who are on French territory illegally.

#### C- CHALLENGES INHERENT TO INTERNATIONAL COOPERATION

The act of calling in international relief teams poses a major problem that is inherent to this international aspect. Teams providing assistance arrive with their equipment and their expertise but communication between relief teams is difficult due to the different languages involved (1).

In addition to the communication problem, there is that of the harmonization of some qualifications (2).

##### 1) Languages

Having contacted a number of border SDIS (who are accustomed to working with foreign relief teams), all have raised the problem posed by languages. This problem can be resolved more easily at cross border level as we shall see further on.

In practice, in the field, the international relief team mission leader being the only person to receive instructions, communication is relatively easy. However, one or more interpreters have to be found quickly depending on the number of relief teams arriving in the country in the event of a disaster. This would appear to be the ideal solution when neighbouring relief teams undertake, alone, missions in a given area. However, this solution seems to cause problems when French and border teams cooperate in the same area and then, the language problem is heightened when different working methods and techniques are applied.

Therefore, solid grounding in the methods used in neighbouring countries would help to overcome the language problem and this knowledge could be acquired in meeting spaces or through training and regular drills. This training and these drills may not be required in some cases where relief teams are used to working together.

Efficient cooperation relies on a good knowledge of foreign relief team working techniques, means and methods. Additionally, coordination will become easier when certain working habits are put in place. Indeed, if this information is available and if practices and methods are known, this will enable authorities to submit precise requests and also to better identify the Governments that could intervene, thus saving a considerable amount of time.

That is why drills are organized at regular intervals and at all levels:

- ❖ At European level, there are two annual drills;
- ❖ 10 drills between European countries each year;
- ❖ At border level, one drill is held each year. (These drills may not take place when teams regularly work together).

Some SDIS Directors recommend the creation of meeting spaces for use in exchanging the practices and methods deployed in different countries.

Furthermore, in terms of cross border cooperation (which we shall discuss in greater depth in the following development), it is worthwhile quoting the case of the Upper Rhine Conference whose purpose consists in investigating any cross border issue and in submitting solutions designed to improve cooperation, especially in the event of a disaster.

Working groups have been created and, in particular the following group: «reciprocal assistance in the event of a disaster» which concentrates on «optimising pooled information and cross border cooperation between administrations and relief teams responsible for civil protection»<sup>69</sup>. One of this group's projects consists in the production of a bilingual dictionary in several volumes (two to date) specializing in civil protection terms together with a description of general staff and their organization. The first volume takes the form of a document intended for intervention units while the second addresses the organization of the assignment at the scene of the event.

## 2) Qualifications

Part V, point 16, section c, recommends: « Establish expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers, driving licenses and other types of licence and certificate

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<sup>69</sup> <http://www.conference-rhin-sup.org/fr/themes-et-projets/catastrophe/groupe-de-travail/>

that are necessary for the performance of disaster relief or initial recovery functions and that have been certified as genuine by the concerned assisting State or eligible assisting humanitarian organization, for the time necessary to carry out disaster relief or initial recovery activities;».

Nowadays, within the European Union, there exists a truly positive approach to qualification harmonization; however, some qualifications do not benefit from this progress such as, for example, the relief worker diploma.

However, it is important to note that a relationship of trust exists between countries. According to the Ministry for the Interior, personnel making up relief teams do not actually require a formal qualification.

This absence of recognition of the qualifications of rescue workers leads to some contradictions.

The French Red Cross is part of the International Federation of the Red Cross and Red Crescent societies. In order to fulfil the legal obligations resulting from the civil protection approval, the French Red Cross can call on the Movement without prior consent from the Government. But the absence of recognition implies that the French Red Cross must train the teams of the Federation so that they can support the missions of the French Red Cross. In emergency situations, it is not possible to mobilise personnel to train rescue teams from other national societies.

“With regard to the free movement of persons within the European Union based on Title III of the EC Treaty, European citizens are authorized to move freely between the various Member States. Chapter 1 concerns the right of workers to move freely within the Union without being subject to discrimination. Free movement of labour was granted through regulation 1612/68/EEC. Consequently, any person who is a member of a humanitarian aid team who is a citizen of one of the Member States should not encounter any barrier when entering a European territory where a disaster has occurred.

Furthermore, there is a European directive concerning the recognition of professional qualifications for certain professions, such as doctors or lawyers. But this directive does not mention the professions associated with aid in the event of disasters and does not introduce a particular procedure in the event of a disaster.

The Member States must implement the provisions of the treaty regarding free movement. The regulation and the directive are also obligatory.”<sup>70</sup>

### III- Cross border cooperation agreements

The basis of this cooperation can be found in the bilateral agreements mentioned above, restricted geographically to the border zone when the agreement concerns cross border cooperation. The department’s prefect is responsible for reaching agreements with his counterpart and for specifying the application conditions applicable to said agreement. However, it can happen that these agreements are not signed (for instance, in the case of Spain, the organization set out in the agreement on current border assistance is still being produced and, until it is signed, no framework will have been established in this precise field) »<sup>71</sup>. The lack of formalised framework does not constitute a barrier to cross border assistance which will, however, be deployed in an informal manner.

As in the case of international cooperation, a request has to be submitted to the border department relief teams (A). The granting of a number of legal facilities is conditional on this request (B). There will be no mention of the guidelines because the same points are covered in the part relating to international cooperation.

#### A- SUBMITTING THE REQUEST

The department prefects have the authority to submit a request for assistance from border relief teams; the department prefect constitutes the focal point for cross border assistance. However, within the context of this cooperation, other protagonists may apply for cross border assistance when the situation so requires (1). Nevertheless, cross border cooperation does have its limits (2).

##### 1) The focal point of cross border assistance

The Department prefect, representing the Government at municipal level, is the focal point for cross border assistance. He decides on the deployment of cross border cooperation and on operation coordination.

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<sup>70</sup> British Institute of International and comparative law, “Preliminary review of European law”, June 2009.

<sup>71</sup> Magalie Féroul, policy officer, Directorate for Defence and Civil Protection, Ministry for the Interior, Overseas, Regional and Local Authorities.

This authority granted to the prefect is welcomed by the SDIS. Indeed, due to this prerogative, timescales are shortened because the decision is made in the field and no longer in Paris. The EMZ and the COGIC are kept informed.

Agreements also acknowledge «that, if required, a direct request for assistance will be submitted and approved by the relevant municipal and border authorities»<sup>72</sup>.

In practice, what frequently happens is that the SDIS Departmental Director himself decides to call in the cross border teams, informing the prefect and the President of the department who, in turn, forwards the information to the EMZ. However, this practice is not prevalent in all departments. This case frequently occurs when the neighbouring State has problems in sharing expertise with its regions as is the case between Spain and Catalonia. For some years, attempts have been made to reach agreements between the Pyrénées Orientales department and Catalonia but these have not been successful because the Spanish Government does not recognize Catalonia has having foreign policy competence. Thus, pending a statutory framework, there are cooperation arrangements but these are only informal and this could cause problems as stressed by Colonel Salles-Mazou, Departmental Director of the SDIS, Head of the Departmental Organization, in the event of an accident or of damages to a third party or to a member of the relief team. However, this practice is only acceptable in the event of a local disaster of average extent.

For the time being, there is only one agreement between the two Governments and it has already happened that, in compliance with the procedures set up by the bilateral inter-government agreement on international and non border assistance, relief teams have had to wait for the approval of various ministers before acting, resulting in a delay of more than six hours on the occasion of a forest fire assignment when the French teams were ready to leave. This example demonstrates the importance of ratifying the provisions set out in inter-government agreements, Governments being required to ensure an agreement is reached between departments by reducing the obstacles inherent to differences in territorial organization.

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<sup>72</sup> Article 3 of the Agreement between the French Republic and the German Federal Republic on reciprocal assistance in the event of disasters or serious accidents of the 3<sup>rd</sup> February 1977 ; article 3 of the Agreement between the Government of the French Republic and the Government of the Kingdom of Belgium on reciprocal assistance in the event of disasters or serious accidents , of the 21<sup>st</sup> April 1981.

## 2) Disaster management: a modulated response

Depending on the nature of the disaster, the cross border cooperation will be adequate (b) providing that the relief teams do not have to deal with the same disaster in that country (a).

On the border level, procedures are frequently applied in an informal manner. As the teams are used to working together and as they are familiar with each other's equipment and techniques, requests are not always submitted in a formal manner since reactivity has to be prioritized over administrative formalities. If necessary, regularization will take place after the event.

We have also referred to the fact that even if the proximity criterion is the overriding factor, the authorities will always prioritise the use of national assistance. Therefore, we have to distinguish two cases in point.

### a. A disaster in a border area

As an example, let us take the South of France, an area susceptible to forest fires and floods. Accordingly, for some four decades, there has been inter-departmental cooperation. A SDIS that is not able to respond on its own to this type of disaster can call on national back-up through the prefect who contacts the EMZ (or the COGIC when more significant means have to be mobilised) in order to second relief units from other departments in a structured and organised manner. In 1985, a great many fires broke out and 75% of France's firemen were mobilized. Today, back-up units (department, composition) from other departments are included in advance in crisis management plans. In future, should a fire break out in the south of the country, arrangements have been made for back-up units to come in from Brittany.

This option will be deployed when it is possible to forecast the disaster in good time and when the relief teams believe that they will be overloaded.

On the assumption that the disaster will occur suddenly and create major consequences that will be difficult to manage exclusively using SDIS means, then a call for cross border cooperation will be issued. However, this option is limited because the disaster can also affect our neighbours and in this case, these teams could only be mobilized for a few days.

Example: During the Fires in Greece, the Eastern French relief units provided

assistance and not those from the South. Indeed, in this case, relief team proximity was not the first criterion applied because, at that time, the Southern Zone had to deal with its own forest fires.

These teams will remain until national support – which can be mobilized for longer periods of time - arrives at the disaster scene.

Therefore, it is noticeable that there are weaknesses in cross border cooperation when the disaster extends over several border departments. When a fire breaks out in the “Pyrénées Orientales”, there is a strong possibility that Catalonia will be affected by the same disaster. Therefore, cross border cooperation cannot be deployed in this case and the more technical the appropriate resources, the greater the problems affecting cooperation.

The European civil protection mechanism then appears to be efficient palliation.

b. A specific disaster

Cross border cooperation works well in the case of a specific disaster or a routine risk.

If we take the example of the “Pyrénées Orientales”, during a helicopter reconnaissance mission, the SDIS was able to record the presence of a fire on the Catalan side. On a proposal submitted by the SDIS, the Catalan command centre agreed to the SDIS sending in its manpower and equipment until the Catalan teams arrived on the scene since the SDIS was closer and ready to go. Operations continued to be headed by the Catalan command unit.

Therefore, this cooperation is sometimes provided in a totally informal manner with the prefect, the president of the region and the EMZ being kept informed.

In the border area, language is less of a problem because, due to cultural reasons, bilingual officers are more easy to come by.

B- THE LEGAL AND ADMINISTRATIVE MEANS GRANTED AS PART OF CROSS BORDER COOPERATION

The informal nature of the request can be seen as the granting of legal means in the customs domain (1). Other guarantees and means are the same as those agreed between Governments, bilateral agreements forming the legal basis for cross border cooperation (2).

1) Border crossing eased for assistance personnel and equipment

a. Border crossing for assistance personnel

Born of the wish of certain European Union member States to extend freedom of movement in their countries to citizens of third party countries, the Schengen space is based on the Schengen Agreements.

These agreements authorize the free circulation of individuals and harmonise traveller controls within the space formed by these States. Included under the 1999 Amsterdam Treaty, they constitute an integral part of Community law<sup>73</sup>.

Governments that are not member States of the European Union are included in this space and have, therefore, signed an agreement with the Union on this issue: they are Iceland, Norway, Switzerland and Liechtenstein.

Additionally, through the enactment of the exchange of Franco-Monegasque letters of the 15<sup>th</sup> December 1997 amending the Treaty of Friendship and Cooperation of the 18<sup>th</sup> May 1963 and ratified on a decision of the Schengen Committee of the 28<sup>th</sup> June 1998, Monaco is an approved point of entry into the Schengen space<sup>74</sup>.

Accordingly, relief teams from all border countries can enter into France without going through any border crossing formalities.

b. Entry and exit of equipment intended for use as part of the assistance mission

In principle, rules that apply to the importing of equipment for use in fighting the effects of a disaster within the context of an inter-governmental bilateral agreement are valid in this case. But yet again, formalities in the field of cross border cooperation remain fairly flexible as lists are not demanded systematically. The equipment brought in will be the equipment requested by the relief teams or by the departmental prefect.

2) Relief action management and costs and responsibility

The rules set for international cooperation also apply to cross border cooperation as the latter falls within the scope of bilateral agreements.

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<sup>73</sup> <http://www.touteurope.fr/fr/actions/citoyennete-justice/schengen.html>

<sup>74</sup> <http://www.cooperation-monaco.gouv.mc>

## C- SPECIFIC COOPERATION AGREEMENTS

The Upper Rhine region is a dynamic cross border cooperation region. « The Upper Rhine Franco-German-Swiss space constitutes a shared living, commercial and cultural area for its inhabitants. The different cultures and traditions form the wealth of this region located at the heart<sup>75</sup> of Europe and under no circumstances do they constitute obstacles».

The Upper Rhine Convention was created with a view to encouraging cross border cooperation in this region. This is a «privileged framework for cross border dialogue within the Upper Rhine space»<sup>76</sup>. Working groups addressing a specific topic promote cooperation in a number of areas and especially in the field of mutual assistance in the event of a disaster affecting the Upper Rhine space.

Since 1987, the firemen from Kehl and Strasbourg have joined forces in preventive firefighting and for the purpose of exchanging information and experiences. Following a major fire in Switzerland, the authorities have set up intensive cooperation focusing on protection against disasters affecting the territory. This cooperation is governed by a mandate from the Upper Rhine Franco-German-Swiss Convention.

The River Rhine is extremely important to the Upper Rhine space as it is used by vessels to carry increasingly large amounts of hazardous products and river cruises are proliferating. Therefore, the risks have increased.

This led to the decision to acquire a « Europa 1 » firefighting tender vessel. A local cross border cooperation group was created for the purpose of managing this new firefighting tender vessel. The group not only owns the vessel but is also responsible for its maintenance and operation<sup>77</sup>.

This is a multi-function rapid response and emergency unit that is required to cover the entire Upper Rhine space.

These teams have worked together on the development of a defence concept enabling them to attend between Rotterdam and Basel within 20 minutes for personal emergencies and within one hour for large scale operations.

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<sup>75</sup> <http://www.oberrheinkonferenz.org/fr/accueil/>

<sup>76</sup> <http://www.oberrheinkonferenz.org/fr/conference-rhin-superieur/>

<sup>77</sup> <http://www.oberrheinkonferenz.org/media/docs/335-Feuerl%C3%B6schbootbrosch%C3%BCre-F.pdf>

At present, these are not combined relief teams and they run the vessel alternately with the French firemen using it during the day and their German counterparts nights and weekends.

This project involving the pooled use of a fire tender means that French, German and Swiss teams can regularly work together. Simulations and drills have been organized such as, for example, as part of the REGIO CAT 2006 exercise. «The aim consists in checking the procedures and agreements applicable to cross border reciprocal assistance in the event of a disaster and in identifying the necessary improvements. »<sup>78</sup>

It is against this background that the « REGIO CAT 2006 » exercise took place on the 23<sup>rd</sup> September 2006 in the three border region close to Basel. The scenario for this large scale exercise consisted of a collision between a passenger vessel carrying 400 passengers and a tanker loaded with petrol. An explosion occurred following this accident, the « Baserdybli » caught fire and the passengers threw themselves into the river.

The exercise was the object of an in-depth assessment and was used as the basis for establishing a number of proposals designed to improve cooperation<sup>79</sup>.

Generally speaking, the spirit and the content of the guidelines set out by the Federation feature in the bilateral agreements that France has signed with its partners. We were also able to record a lack of formalism in some fields. This did not constitute any obstacles in terms of the cooperation which was not rigid and could be adapted according to the case in question. However, it was clear that there was a need to make up for this lack of formalism in the matter of customs procedures and in certain cases of cross border cooperation.

Furthermore, by virtue of its nature and areas of competence, the European Union has made it possible to lift a number of barriers such as those affecting border crossings.

Having examined how France has legally prepared itself to take in international reinforcements, it is important that we refer to the national framework applicable to relief operations by starting with the NGO and the associations who are the essential

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<sup>78</sup> <http://www.oberrheinkonferenz.org/fr/themes-et-projets/catastrophe/projets/regio-cat/>

<sup>79</sup> <http://www.oberrheinkonferenz.org/fr/themes-et-projets/catastrophe/projets/regio-cat/>

civil protection protagonists. If we look into this framework, we can also compare procedures that apply when France provides assistance to countries in a disaster situation.

## **Title II- The specific features of the relief operation national framework**

Population protection is one of the essential missions of public powers but their material resources do not always suffice in emergency situations because of both the amount of equipment required and of the specific nature of some requirements. Therefore, this responsibility cannot devolve exclusively on public authorities but has to be shared with other parties involved. The law on the modernization of civil protection stresses on the need for a range of protagonists in order to efficiently deal with the different risks affecting the population. France has emergency services available as a matter of routine to deal with most requests for assistance. These emergency services are the fire and emergency services (SDIS) and the emergency medical assistance services (SAMU).

The associations are essential protagonists in the field of civil protection and, accordingly, we shall discuss how they are integrated into civil protection operations (I).

Beyond the organization of its country's civil protection, France has also considered as part of its regulations the hypothesis whereby a country victim of a disaster might call upon France for disaster management support (II).

### **I- The associations, specific actors in the field of civil protection**

The civil protection modernization law of the 13<sup>th</sup> August 2004 stresses the need to call on a range of protagonists with a view to providing a more efficient response to complex situations. Therefore, we shall examine the role attributed by the 2004 law to associations and NGOs (A) and how it is implemented in practise with the example of the French Red Cross. (B).

#### **A- THE ROLE PLAYED BY ASSOCIATES IN THE CIVIL PROTECTION MISSIONS**

The Associations and the NGOs are included in the protagonists listed under the civil protection modernization law (3). However, for an association or an NGO to be included in civil protection missions, it must have received civil protection approval (1). A certain number of responsibilities ensue on this approval (2).

### 1) Civil protection approval

Article 2 of law n°2004-811 of the 13th August 2004 on civil protection modernisation lists the civil protection actors concerned and mentions associations that include civil protection in their corporate object. Article 35 creates the civil protection approval and only associations approved at a national level can take part in civil protection missions<sup>80</sup> on French territory. Today<sup>81</sup>, 15 associations<sup>82</sup> have this approval and they include the CRF<sup>83</sup>. «The manpower potential of the major public power partner relief associations accounts for over 200,000 volunteers including more than 50,000 specialised team members and first-aiders who specialize in assisting those in physical or emotional distress and who are immediately available. They also have the knowledge required in order to be accepted as members of structured teams, organized as hierarchies and equipped with suitable equipment enabling them to participate in relief work organized under the auspices of public authorities. »<sup>84</sup>

### 2) Obligations associated with the status of approved association

The aforementioned approval lists the missions that have to be undertaken by associations who have received this approval. For instance, the CRF civil protection approval lists the following missions: « Assistance to individuals, nautical assistance, support actions in favour of populations victims of disasters, support for volunteers in connection with actions in favour of populations victims of disasters and provisional emergency arrangements». Thus, the CRF is not mentioned by name in the law, but it refers to approval agreements.

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<sup>80</sup>Article 36 of law n°2004-811 of the 13th August 2004 on the modernization of civil protection: « Only approved associations will be called upon at the request of the competent police authority or on the deployment of the ORSEC plan, to take part in emergency actions and to supervise volunteers as part of population support initiatives. ».

<sup>81</sup> June 2009.

<sup>82</sup>The list of associations can be looked up on the ministry's site: [http://www.interieur.gouv.fr/sections/a\\_l\\_interieur/defense\\_et\\_securite\\_civiles/autres\\_acteurs/agrements-securite-civile/view](http://www.interieur.gouv.fr/sections/a_l_interieur/defense_et_securite_civiles/autres_acteurs/agrements-securite-civile/view)

<sup>83</sup> Order of the 15th September 2006 amended and concerning civil protection approval for the French Red Cross.

<sup>84</sup>[http://www.interieur.gouv.fr/sections/a\\_l\\_interieur/defense\\_et\\_securite\\_civiles/autres\\_acteurs/associations-securite-civile/asso-sc-presentation/](http://www.interieur.gouv.fr/sections/a_l_interieur/defense_et_securite_civiles/autres_acteurs/associations-securite-civile/asso-sc-presentation/)

In the interest of a fully integrated relief system, agreements must be established between civil protection associations and public authorities and with the SDIS.

Thus, a framework agreement dated December 2007 was signed by the Ministry for the Interior, Overseas and Local and Regional Authorities that defines the conditions under which the CRF provides its assistance at the request of the Directeur de la Défense et de la Civil protection (D.D.S.C), of zone prefects and of departmental prefects in respect of missions quoted in the approval order of the 15th September 2006 as amended.

Having mentioned the CRF territorial organization, the convention then refers to the CRF as an approved association. Consequently, the CRF «agrees to strengthen, at the request of the Government representative responsible for crisis management, public sector relief means and to provide them with personnel and equipment as required and within the limits of their capability. »<sup>85</sup>.

### 3) The role and obligations of associations within the ORSEC mechanism

Then, as part of the ORSEC<sup>86</sup> mechanism, article 1 of decree n°2005-1157<sup>87</sup> defines the tasks allocated to public or private individuals involved in the general protection of populations:

«Each public entity or private individual listed in the ORSEC plan :

- a) Must always be able to undertake the missions entrusted to it/him within this context by the departmental prefect, the zone prefect or the maritime prefect;
- b) Prepares its/his own event management structure and provides a brief description thereof to the Government's representative;
- c) Appoints from within its ranks a contact for the Government representative;
- d) Specifies the internal provisions that enable it/him to receive or transmit a warning at all times;

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<sup>85</sup> Article 3 of the framework agreement between the Ministry for the Interior, Overseas, Regional and Local Authorities and the CRF of the 5<sup>th</sup> December 2007.

<sup>86</sup> Organisation de la Réponse de Sécurité Civile.

<sup>87</sup> Decree of the 13<sup>th</sup> September 2005 on the ORSEC plan and used to enact article 14 of law n° 2004-811 of the 13<sup>th</sup> August 2004 on the modernization of civil protection.

e) Details the means and information available to it/him and that may be of use as part of the general population protection mandate headed by the Government's representative and the special missions entrusted to it/him by said representative.

When several public or private persons perform the same mission, they may set up a common event management organization and nominate a common spokesperson who is the Government representative's contact. These arrangements are notified to the Government's representative and updated by each private individual or public entity. »

Those associations who have been granted legal approval have the legal obligation, resulting from their status as civil protection association, of submitting an annual activity report.

In the case of the CRF, each departmental delegation transmits a report to the departmental prefect. The Direction de l'Urgence et du Secourisme (hereinafter DUS) then centralises departmental activity reports and forwards them to the Ministry for the Interior. These reports are used to update means and personnel available within the CRF<sup>88</sup>.

#### B- THE LEGAL OBLIGATIONS OF AN ASSOCIATION OF CIVIL SECURITY: THE EXAMPLE OF THE FRENCH RED CROSS

The missions entrusted to the French Red Cross make it a civil protection actor (1) and its status as an aide to public powers vest in it a special role when it is required to take part in a civil protection mission (2) or in forms designed to improve the existing mechanism (3).

##### 1) The CRF articles of association

The foreword to the FRC articles of association<sup>89</sup> states that the French government recognizes the FRC as a «voluntary and independent relief society, that assists public powers and, in particular, the armed forces in accordance with the stipulations

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<sup>88</sup> Interview with Arnaud Tessier, Departmental Director of Emergency and Rescue Services for the Morbihan, 15<sup>th</sup> May 2009.

<sup>89</sup> French Red Cross 2008 articles of association.

of the first Geneva Convention and, in its capacity as the only national Red Cross society, it can carry out its activities on French Republic territory. With regard to public powers, the French Red Cross maintains an autonomy that allows it to act in accordance with the seven basic principles of the international Red Cross and Red Crescent Movement. ».

Article 1 details the FRC's activities and its role as an aide to public powers.

The five areas of activity constituting the FRC mission are mentioned: life saving and emergencies, social action, health, training and international solidarity. According to the provisions of this article, the FRC carries out its actions on the Republic's territory and beyond this territory in accordance with the articles of association of the international Red Cross and Red Crescent Movement. As an aide to public powers, it provides its assistance whenever there is a public catastrophe and in the field of civil protection<sup>90</sup>.

With regard to civil protection, the articles of association do not establish in greater depth the role the FRC is expected to play. This role is defined by law and in agreements signed with the Ministry of the Interior and with the SDIS.

On the international level, when the French Red Cross intervenes at the request of the International Federation of the national Red Cross and Red Crescent Societies, its main activities are: logistics, health, water, sewerage and distribution.

## 2) The FRC: an aide to public powers

The FRC articles of association detail its role as aide to public powers and which, accordingly, require the FRC to support public powers in the field of civil protection.

The FRC's role can be extended at the request of public authorities with a view to coordinating the associative structure. Indeed, it has already been entrusted with the task of coordinating the associative structure, especially on the occasion of the Klaus storm of January 2009<sup>91</sup>. Also, on the occasion of major events requiring the presence of relief services as part of preventive action. According to the departmental delegations interviewed and who have carried out this coordination

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<sup>90</sup> Article 1 of the French Red Cross 2008 articles of association.

<sup>91</sup> Interview with Patrice Dallem, French Red Cross Director of Emergency and Rescue Services, 12th May 2009.

task, relations with other associations were good and they wholeheartedly welcomed this role.<sup>92</sup>

### 3) The FRC as part of the National and departmental civil protection council

The foreword to the civil protection modernization law of the 13th August 2004 emphasises the need to redefine the direction that «has to be imposed on the conduct of the protection and relief mission in order to ensure that it responds to new crises and to the expectations of the population. ».<sup>93</sup>

These directions can be grouped under three headings:

- ❖ Resolutely facing risks through greater anticipation (Knowledge, prevention and preparation);
- ❖ Reviewing population protection;
- ❖ Mobilizing all means by encouraging solidarity.

As part of the first heading, addressing crises consists in summarizing the state of knowledge on risks as part of a multi-discipline approach ranging from a scientific analysis of phenomena to the organisation of relief, rethinking operational planning and extending the drill practice to full scale training sessions.<sup>94</sup>

It is thus that a decision was reached to create a national council for civil protection and this will be extended to the local level (departments).<sup>95</sup>

#### a. The national council for civil protection

Chaired by the Minister for the Interior<sup>96</sup>, the purpose of this Council which meets once a year consists in building on the competences of the organizations responsible for prevention and forecasting and also those of ministries in charge of various risks, by encouraging the pooling of research data and of feedback. This Council must ensure that resources are pooled and made available to planning, preparation and operational continuity. It must establish a risk and threat typology and analyse their

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<sup>92</sup> Morbihan departmental delegation and Lot-et-Garonne departmental delegation.

<sup>93</sup> Foreword to law n°2004-811 of the 13th August 2004 on the modernization of civil protection.

<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

<sup>96</sup> Decree n°2005-99 of the 8th February 2005 on the creation of the National council for civil protection, article 3.

consequences together with the appropriate crisis management methods<sup>97</sup>. This Council brings together the main administrations concerned, the major public service operators, the research and assessment entities that are the most directly involved, elected officials and relief actors, especially the CRF (the President or his representative)<sup>98</sup>.

The INHES<sup>99</sup> provides the administrative staff and disseminates [information on] the National Council for Civil Protection in order to enable the government to continuously assess the country's state of preparation in respect of risks. The INHES contributes to work carried out on crisis management methods<sup>100</sup>.

Members of this Council may request that a topic be added to the agenda by contacting the INHES. On the assumption that these topics had not been raised during the plenary session, they may be suggested as subjects for working groups.

To date, the FRC has only been convened twice to assist the National Council for Civil Protection. What is more, it has not yet been convened for working groups.

This National Council for Civil Protection would appear to be the ideal forum for debating the issue of international aid since all civil protection actors come together at the same venue. Additionally, this matter could be the subject for a working group. The problems generated by international assistance could be raised and, in the best cases, resolved; the deployment of cross border agreements, and their shortcomings, could also be recorded.

This Council was created relatively recently. We can only hope that it will truly take shape in the near future, by means of an annual convocation as stipulated in law<sup>101</sup>.

b. The departmental civil protection council

Under the authority of the departmental prefect, the Departmental council for civil protection will mobilize the capabilities of the organisations involved in prevention, forecasting and relief.

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<sup>97</sup> Ibid.

<sup>98</sup> Decree n°2005-99 on the creation of the National council for civil protection, article 2 § 3.

<sup>99</sup> Institut National des Hautes Etudes de Sécurité

<sup>100</sup> <http://www.inhes.interieur.gouv.fr/fichiers/Avantpropos.pdf>

<sup>101</sup> Foreword to law n°2004-811 of the 13th August 2004 on the modernization of civil protection.

The departmental council for civil protection and major risks (CDSCRM) was created through the enactment of the decrees of the 7<sup>th</sup> and 8<sup>th</sup> June 2006 on administrative committee reforms.

Decree n° 2006-665 of the 7th June 2006 on reducing the number and simplifying the composition of various administrative committees, states as follows under its article 13:

- 1- Through its recommendations and opinions, the departmental council for civil protection contributes to the assessment of risks incurred by individuals, property and the environment, to crisis management preparation, to the definition of warning, information and population protection actions and to encouraging volunteering in favour of civil protection.
- 2- the national council for civil protection assists with risk analysis and with the preparation of risk management and prevention measures;

If we examine the case of the Ardèche departmental Council<sup>102</sup>, It meets at least once a year in the form of a plenary meeting comprising 29 members divided into 4 colleges:

- 15 representatives from Government departments;
- 3 representatives from local and regional authorities;
- 6 representatives from services, organizations and professionals specializing in the fields of prevention and relief;
- 5 representatives from public and private operators in the public service and expert organization area, contributing to civil protection.

The council can also hear all external persons (experts, elected officers, Government agents) whose contribution could clarify the council's debates.

The Council comprises 3 working groups who have the following functions:

- Providing preventive information on major risks;
- Avoiding major natural risks;
- Volunteers from the fire service and voluntary organizations working in the field of civil protection.

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<sup>102</sup>[http://www.ardeche.pref.gouv.fr/sections/actions\\_de\\_letat/securite/securite\\_civile/risques/le\\_conseil\\_departeme/view](http://www.ardeche.pref.gouv.fr/sections/actions_de_letat/securite/securite_civile/risques/le_conseil_departeme/view)

With regard to cross border cooperation, these councils would constitute an ideal forum for gathering neighbouring counterparts round the same table in order to exchange good practices and to improve cooperation. Indeed, knowledge of border relief team means and practices can lead to enhanced crisis management.

A working group dedicated to cross border cooperation would be a good way of furthering said cooperation.

c. French Red Cross Departmental Delegations within departmental civil protection councils

The Direction de l'Urgence et du Secourisme (DUS) encourages departmental delegations to sit on their department councils. In this connection, we have an active approach. The delegation must lodge an application with the prefect headquarters but it would appear that the rule is not applied homogeneously for some delegations because they sit on other committees and have been allowed to sit on said Councils<sup>103</sup>.

When this report was written, we had been unable to carry out a comprehensive count of departmental delegations that may or may not sit on these councils. Of approximately 100 departmental delegations, only 14 have replied to date and of these, only 7 sit on their departmental council<sup>104</sup>.

In general, shortcomings found at a national level are repeated at departmental level. In some departments<sup>105</sup>, these councils have not yet been created. The rate of progress achieved by these councils is not the same in every case since some have already set up working groups while others have not<sup>106</sup>. Some delegations are even unaware of their existence.

The Red Cross has been approved as a civil protection body. Therefore, it has a responsibility for the quality of its intervention. The fact that the Government frequently calls on the CRF and the role as coordinator of the associative structure

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<sup>103</sup> Example : the Morbihan departmental delegation that sits on the CODAMU has been allocated one seat on the departmental civil protection Council.

<sup>104</sup> DD 10, 29, 32, 37, 47, 56, 78.

<sup>105</sup> According to the departmental delegation of the 87, the Haute-Vienne department does not appear to have set up the council.

<sup>106</sup> The Morbihan departmental council has created two working groups, the first for promoting voluntary services and the second for training in first aid.

that is sometimes allocated to it demonstrates the trust shown in the CRF by the Government and the quality of its interventions. Therefore, the CRF is an essential actor in the field of civil protection and its position within the Councils would appear to be essential.

II- Specific intervention means

A- SENDING RELIEF IN THE FORM OF PERSONNEL AND EQUIPMENT TO A COUNTRY IN DIFFICULTY

1) Sending relief from France

The General Directorate for Customs and Indirect Taxation has instigated a special procedure for exporting personnel and equipment in the event of an emergency. It first identified and listed those involved in the assistance and solidarity action<sup>107</sup>. The first category comprises the institutional organizations (international or national) as well as the NGOs while the second lists local authorities, associations and private individuals. The level of constraint imposed by the formalities to be completed for humanitarian aid consignments varies depending on the type of protagonist and the nature of the goods sent<sup>108</sup>.

a. Consignments of a humanitarian nature despatched by institutional organizations or by ONGs

i. Goods originating from donations or collections

The sending of this type of goods may be exempt from the declaration normally required for export customs clearance purposes providing that these goods have no commercial value. The sole obligation that those involved must fulfil in order to benefit from this relaxation consists in providing a number of documents quoting:

- ✓ The organisation's name and address;
- ✓ The destination country;
- ✓ The nature and approximate weight of the goods exported (clothes, provisions, medicines, equipment, basic commodities);

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<sup>107</sup> BOD n°5653 of the 8th April 1992, text n° 92-029, «emergency humanitarian aid»

<sup>108</sup> Ibid

- ✓ Information on shipping means;
- ✓ A declaration signed by a representative from the organization stating that the goods are being consigned on humanitarian and philanthropic grounds.
- ✓ A copy of the humanitarian aid attestation<sup>109</sup> (there are two types of form depending on whether or not the organization is recognized by the French Government<sup>110</sup>).

In the past, this recognition was given by the Ministry of Health and humanitarian relief. This task now rests with the Ministry for Foreign and European Affairs.

ii. Goods purchased on the national territory

Tax regulations continue to apply and, therefore, must be respected. In the case of foodstuffs, the common agricultural policy rules apply.

There are two cases in point depending on whether the customs formalities are carried out by the supplier himself or by the organizations.

Export customs formalities are carried out by the suppliers themselves or on their behalf by a customs agent.

In the first case, the goods are taken over by humanitarian organizations after the customs export formalities have been completed.

Export declarations must be raised in the name of these suppliers (exporter heading) according to the customs procedures that they use for all their other export operations.

In particular, these export declarations must quote all information required under the common agriculture policy in the case of agri-food products on which refunds are claimed. Additionally, if a copy of the T5 control<sup>111</sup> is demanded by regulations, this document must accompany the goods and be signed by the final European Economic Community exit customs office.

Export customs formalities are carried out by the organizations themselves.

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<sup>109</sup> See appendix

<sup>110</sup> The French Red Cross has been recognized. Ibid

<sup>111</sup> See appendix

From the taxation viewpoint, non profit making organizations that export goods abroad as part of their humanitarian operations are authorized to receive, free of VAT, the goods to be exported and services associated with the exported goods<sup>112</sup>.

Depending on the type of goods, humanitarian associations exporting goods abroad must perform the following formalities in order to benefit from VAT exemption:

In the case of agri-food products where suppliers apply for the refunds granted as part of the CAP, humanitarian associations must lodge general law export declarations that must include all CAP related information.

When the same goods have been purchased from several suppliers, as many supplier declarations need to be raised. On the other hand, one single declaration will suffice when different articles are involved.

If a copy of the T5 control is demanded by regulations, this document must accompany the goods and be signed by the final European Economic Community (EEC) exit customs office.

- ❖ In the case of goods that are not agri-food products, the export declaration may be produced according to the conditions specified for goods originating from donations or collections subject to detailing the supplier(s) concerned.
- ❖ On the assumption that the goods involved are agri-food products in respect of which the suppliers waive their rights to a refund, this procedure will then apply to said goods. The following words must be included on the inventory: «No agricultural refund has been applied for in respect of the foodstuffs exported».

b. Consignments despatched by local authorities, associations or private individuals

Consignments despatched as part of humanitarian aid by regional or local authorities (regional or general councils, city halls etc.) can be processed through the customs service on the basis of a detailed list or inventory.

With regard to consignments dispatched by associations or by private individuals, the procedure seems longer in view of the additional steps required.

The sender must also complete a consignment application, a humanitarian aid attestation, signed by the City Hall for the local authority from which the consignment

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<sup>112</sup> Article 275 II of the General Code on Taxation

is being dispatched, «as quickly as possible», which will then be forwarded to the customs service who will send them on to the General Directorate for Customs and Indirect Taxation who will send back instructions on how to complete simplified export customs clearance formalities<sup>113</sup>.

First of all, it is clear that there is no procedure specific to associations and private individuals; they have to await instructions from the General Directorate for Customs and Indirect Taxation in order to clear customs and this means that longer time is required.

Additionally, the need to transit through the City Hall in the local authority from which the consignment is sent also burdens the procedure. It is stated that the documentation must be signed «as quickly as possible». This is a vague and imprecise concept and this step can take several days.

2) Sending relief in the form of personnel and equipment in transit via France to a country in difficulty

The sending office must:

In the case of consignments shipped by air or by sea, not require any transit documentation;

In the case of consignments shipped by road: Have a TIR carnet for consignments to a country that has signed up to the TIR treaty; or have a Community transit document drawn up, exempt of guarantees, valid up to the European Economic Union exist customs office. In this hypothesis, the description section of the Community transit document consists of a double inventory (or a Single Administrative Document should this be used).

**TIR :**

The TIR carnet is a customs transit document used to cover duties and taxes throughout the international transport of goods.

Each TIR carnet has a unique reference number. A TIR carnet may comprise 4, 6, 14 or 20 sections; 2 sections are required for each country travelled through, the number of

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<sup>113</sup> BOD n°5653 of the 8th April 1992, text n° 92-029, «emergency humanitarian aid»

sections thus indicating the number of countries covered by the TIR Carnet, inclusive of departure and destination countries. For example, a 20 section Carnet can be used to travel through a maximum of 10 countries.

An individual TIR Carnet can only be used for one single TIR transport. Once the TIR transport has reached the customs office at the goods' destination, the driver is handed back the TIR Carnet duly signed by the destination's customs authorities. The customs authorities must immediately confirm the end of the TIR journey electronically via SafeTIR. The TIR Carnet is then returned to the association and then conveyed to the IRU for final checking and archiving.<sup>114</sup>

#### DAU :

Lodging a declaration consists in the starting point for import and export customs clearance formalities. It can be raised using general law methods (normal procedure) or using simplified procedure methods. Its form and content must comply with the requirements of Community law. «The aim consists in harmonising and simplifying the DAU set up on the 1<sup>st</sup> January 1988 by reducing the amount of information required from the operators and by structuring data in an identical manner in order to achieve interoperability between member State information systems with a view to developing the electronic customs system. This regulation has been in force since the 1<sup>st</sup> January 2006. It has entered into effect in several member States. France had asked for its entry into force until the 1<sup>st</sup> January 2007. For information, the main compulsory information about the name or company style of the importer, the person lodging the declaration or his representative if he is not the importer, of the declaration type identified on the basis of the provenance of the goods, their origin, the nature of the goods and their value before tax.

It is compulsory for the declaration to be accompanied by the invoice and, if applicable, any other documents required in order to approve the preferential tariff scheme and the deployment of control measures applied to some goods when imported (agricultural produce covered by the CAP, war weapons, reinforcement etc.)<sup>115</sup>.

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<sup>114</sup> [http://www.iru.org/index/fr\\_iru\\_tir\\_TIRcarnet](http://www.iru.org/index/fr_iru_tir_TIRcarnet)

<sup>115</sup> <http://www.douane.gouv.fr/page.asp?id=363>

3) Consignments despatched to a destination that is banned or subject to surveillance

Consignments intended for countries covered by a total or partial embargo require an authorization.

As part of the embargo on Iraq, all applications without exception must first be approved by the “Secrétariat Général de la Défense Nationale” (SGDN).

Once the SGDN authorization has been given, senders must immediately contact the General Directorate for Customs and Indirect Taxation<sup>116</sup>, who will issue instructions to the applicable customs offices.

4) Consignments of humanitarian medical equipment conveyed in accompanied luggage (cabin or hold) by air

Humanitarian medical teams often transport high technology medical equipment by air in accompanied luggage.

«This transport method is appropriate to urgent requirements and also ensure that costly equipment can be watched over, avoiding the danger of theft of restricting or costly administrative procedures at the destination. »<sup>117</sup>.

On departure from the main French airports, the customs services will expedite the processing of these procedures. The heads of the district concerned should issue instructions in this spirit to the service and locally set up appropriate procedures in passenger air terminals with a view to accelerating customs formalities.<sup>118</sup>

The text does not detail the services provided.

## B- IMMUNITIES

Information not available

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<sup>116</sup> The E3 Bureau, simplified customs clearance procedures

<sup>117</sup> BOD n°5653 of the 8th April 1992, text n° 92-029, «emergency humanitarian aid»

<sup>118</sup> Ibid.

## **Conclusion**

A forum was organized on Tuesday December 2, 2009, bringing together the main actors in civil safety. It was based on a case study written by Lieutenant-colonel Alain Chevallier (Exercices Project Director) and Patrick TYBURN (REX Project Director) of the DSC.

The case study considered the hypothesis of an earthquake in December in the region southeast of Lourdes, of a magnitude of 8.2, leading to many deaths and injuries, and also many people buried under rubble. The damage to property is substantial, the roads to the winter sports areas are cut off, while the skiing season has begun and the occupancy rate is close to 100 % at most of the sites.

The case study was written so that the participants are led to consider two cases in particular: the mobilization of civil safety associations by the French authorities and the mobilization of foreign actors in rescue operations.

In crises, the first factor to consider is the time factor. For a mobilization to be efficient, actors in civil safety (associations, but also foreign rescue teams) must be in the habit of working with the French authorities so that these teams become acquainted and can be as autonomous as possible. The ideal solution is to assign a zone to these rescue teams or associations that have competencies that allow the authorities to concentrate on other areas of intervention.

The scenario to avoid is the arrival of teams that are not organized. In the event of crises, the time factor demands prior organization in order to avoid additional teams that would need french supervision.

To the best of our knowledge, and both in terms of domestic and international aspects, there is no training that would allow teams other than civil safety teams (such as food assistance, psychology support, shelters...) to prepare for this type of situation.

It would be necessary to determine action zones that would be attributed to the various actors (domestic and international). Civil safety approval does not systematically lead to calling on associations in the event of catastrophes, and they often intervene without waiting to be called.

Prior preparation bringing together the various actors (domestic and international) would allow all of them to be autonomous in their sectors of activity. The key to

autonomy is knowledge of teams, their capacities and their means, and above all their capacity to work together.

The presentation of case studies (by the Prefects among others) like the one presented by the DSC would be one possible solution and would address in advance the problem of the costs and logistics involved in field exercises.

In the post-crisis period, the reinforcements will be more in terms of specialized equipment, particularly for the reconstruction of networks.

It is therefore necessary to encourage the organization of such exercises on the national level and perhaps even with the collaboration and support of the European Commission, internationally, and also on the European and cross-border levels.

The establishment of a database for the autonomous specialized competencies of each of the actors would also be useful, with the taking into account of the capacities of civil safety associations.

The purpose of this study was to do an appraisal of French regulations concerning the plans for welcoming international aid to reinforce national means in the event of a catastrophe in France.

The results were mostly positive, even though some weaknesses were observed (absence of information relay with customs, ineffective use of structures such as the National Civil Safety Council, the issue of the recognition of diplomas, not including civil safety associations in strategies, etc.). It is important to point out that the appraisal was positive, but only for situations that would not require extra-European means.

With regard to the shortcomings that we noted, it seems more valuable that measures be taken on the European level, with the objective of harmonization, with the principle of subsidiarity taking on its full meaning.

Throughout the writing of this report, we observed that France is legally better prepared to send rather than to receive aid. However, the creation of the European civil protection mechanism allowed for the implementation of a cooperation framework and for better collaboration between governments. The other Member States also have a civil safety culture, and it is unlikely that France would one day need to call on means from outside of Europe (although this has already happened within the framework of bilateral agreements) to deal with a catastrophe.

Furthermore, some objectives of the European Union, like the single market, eliminate the problems with respect to borders.

However, even if operations are carried out properly in practice, some excessively informal procedures must be revised, particularly with regard to customs and in exchanges of information between the various services.

Moreover, the authorities have a role to play in terms of cross-border cooperation. As foreign policy is the purview of the Government, decentralized structures cannot deepen cross-border relations without national Government initiatives.

It is necessary to strike a balance between the necessary formalism and the indispensable flexibility in handling catastrophes, as each situation is unique. It must be possible to adapt the regulations to the different cases that arise.

## **Recommendations**

International cooperation in cases of disaster in France is currently managed by bilateral or multilateral agreements that France has signed with its European and international partners. According to the Direction of Civil Security (DCS), France should have signed 47 agreements (we were not able to locate all of them). These treaties offer certain flexibility. In spite of common traits between each one, there are different systems and procedures applied in each country.

**The creation of a single set of procedures in France in relation to international relief** in situations of disaster would help to resolve this difficulty and help give clear direction to the different actors concerned. For example, visa exemptions could be granted systematically to international relief teams if prior agreement for entry into the country has been approved by the government, a privilege that is not specified in all treaties. Another way in which the treaties vary concerns the focal points which can vary between the Ministry of the Interior and the Ministry of Foreign Affairs.

Let's take the hypothesis where the consequences of a disaster would surpass the French capacity response and demand specific equipment that our official partners don't have or do have but in limited capacity. This situation would force us to ask for help from other countries where no agreement has been signed previously: instead of taking exceptional measures in a crisis context, the implementation of a single set of procedures could anticipate those situations.

Then, about the capability to respond to disasters, it could be interesting **to expand the scenarios** further in order to confront the reflection on situations with the biggest consequences that we are used to doing currently, situations where French response capacity would be limited in order to examine all the alternatives, such as the call for international relief. That is why being legally prepared before a time of crisis is all the more important.

In addition, it would be helpful **to democratize the simulation of exercises** which have the advantage to be cheaper than a real exercise on the field. It would facilitate the gathering of a bigger number of national and international actors, for a reasonable period of time and thus, encouraging the sharing of experience, information, knowledge of the equipment held by our partners and cooperation more frequently.

It would also be more coherent to **broaden the recognition of qualifications of the first aid workers** coming from abroad, at least the ones who come from Europe. For instance, the French Red Cross is allowed to call on the first aid workers of the International Movement of the Red Cross and Red Crescent but cannot use their help if they do not follow an 8-hour training provided by the French Red Cross. In times of crisis, it is impossible to provide this training.

Finally, the States have a role to play in the trans-border cooperation, the foreign policy being a State competence. The regions, the decentralized structures, cannot deepen their transborder relations without a state initiative. There is no well established framework within some transborder regions today about the rescue operations. The question of the liability is not therefore solved. It is necessary to **encourage the implementation of administrative agreement between the French and the transborder departments when there is a lack of competence in foreign affairs.**

## **Appendices**

**Annexe/Anlage 2  
Formulaire de demande d'assistance/  
Formular Hilfsersuchen**

Information sur un accident grave/  
Information über einen schweren Unglücksfall  
Message N°/Mitteilung Nr. \_\_\_\_\_

A/An: \_\_\_\_\_

De/Von: \_\_\_\_\_  
Par ordre de (autorités nationales)/im Auftrag von (nationale Behörden)

Personne responsable/Verantwortlicher: \_\_\_\_\_

Localisation de l'événement/Ort des Ereignisses: \_\_\_\_\_

Téléphone/Telefon: \_\_\_\_\_ Coordonnées/Koordinaten: \_\_\_\_\_ (UTM)

Télécopie/Fax: \_\_\_\_\_

Adresse électronique/E-Mail-Adresse: \_\_\_\_\_

La situation décrite ici était valable jusqu'au/  
Die hier beschriebene Situation galt bis

\_\_\_\_\_ (dd-mm-yyyy) \_\_\_\_\_ heure locale/Ortszeit = \_\_\_\_\_ UTC

Situation de l'urgence/Sachstand zum Notfall: \_\_\_\_\_

Nombre de victimes (estimé)/Zahl der Opfer (geschätzt): \_\_\_\_\_,  
personnes affectées/blessées/Betroffene/Verletzte: \_\_\_\_\_

Mettre en pièces jointes les informations supplémentaires telles que cartes, tableaux etc. afin de donner des éléments complémentaires sur l'urgence (sous forme papier/fax ou par voie électronique, de préférence formats MS-Office-files, \*.jpg, ou \*.pdf, clairement signalées comme pièces jointes au Message N° \_\_\_\_\_)

*Bitte in der Anlage ergänzende Zusatzinformationen wie beispielsweise Karten, Tabellen etc. beifügen, um den Notfall besser erfassen zu können (auf Papier, Fax oder auf elektronischem Wege, vorzugsweise als MS-Office-Dateien, \*.jpg, oder \*.pdf, mit eindeutigem Hinweis, dass diese Dokumente Anlagen zur Meldung Nr. \_\_\_\_\_ sind).*

**Demande d'assistance/Hilfsersuchen:**

oui/ja       non/nein

Future demande/Künftiges Ersuchen:

probable/wahrscheinlich       encore ignoré/noch unbekannt

Type d'assistance/*Art der Hilfe*

- matériel/*Material*
- équipe d'intervention/*Einsatzsteam*
- équipe d'experts ou d'évaluation/*Experten- oder Evaluierungsteam*

Type de matériel, d'intervention, ou d'expertise attendu/  
*Art des Materials, Einsatzes oder erwünschten Fachwissens:*

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Assistance déjà sollicitée de la part de/  
*Unterstützung bereits angefordert durch:* \_\_\_\_\_

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Remarques/*Anmerkungen:*-----

## Appendix 2

### Form for requesting assistance

Information on a serious accident

Message No.

To:

From:

(By order of (national authorities)

Person in charge

Site of the event

Telephone

Contact details

Fax

E-mail address

The situation described here applies until the

(dd/mm/yyyy)

local time

Emergency situation

Number of victims (estimate):

Individuals affected/injured:

Attach additional information such as maps, charts etc. in order to provide additional data on the emergency (hard copy/fax or e-mail, preferably in MS-Office-files, .jpg or .pdf format clearly identified as attachments to Message No. )

Request for assistance:

Yes

No

Future request

Probable

Not yet known

Type of assistance

Equipment

Action team

Expert or assessment team

Type of equipment or assessment expected

Assistance already requested by

Comments

Persons interviewed:

**Ministry for the Interior, Overseas and local and regional authorities:**

- Colonel Nardin, head of the international mission for the French Defence and civil protection directorate;
- Magalie Féroul, policy officer, Directorate for Defence and Civil Protection.

**Departmental Fire and Emergency Services :**

- SDIS 66 : Colonel J-P Salles-Mazou
- SDIS 65 : Lieutenant Colonel Hervé Jacquin
- SDIS 06 : Colonel Patrick Bautheac
- SDIS 67 : Martine Loquet Behr and Lieutenant Colonel Roth

**NGO/Associations :**

Pompiers sans frontières :

- Sandra Tuminy

Croix Blanche :

- Jean-Marie PRUDHOMMEAUX, President of the Federation of French Croix Blanche relief workers.

French Red Cross :

- Morbihan departmental delegation

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