

# IDRL & Auxiliary Role Advocacy Fact Sheet, Gabon



## 16 FEBRUARY 2023 Marburg Virus Response

Version 1, 17 February 2023

*This document is intended to provide: (i) key information to humanitarian actors (including the Red Cross and Red Crescent Movement network and Operations) relating to the regulatory and policy environment applying to the entry of incoming disaster relief (IDRL) in Gabon to respond to the Marburg Virus outbreak that has impacted portions of Cameroon, Equatorial Guinea and Gabon in the beginning of February 2023. This disaster exacerbates a context marked by a decade of humanitarian and migration crisis in the region where millions of vulnerable and displaced people are already relying on humanitarian aid and assistance; (ii) advocacy messages around the special facilities to be requested to the Gabonese authorities to enable humanitarian access; and (iii) advocacy messages around the auxiliary role of the Gabonese Red Cross.*

**Note** that a legal mapping was conducted by the IFRC Disaster Law Africa team on [Legal Preparedness for International Disaster Assistance in Namibia](#) (2021). Legal facilities available in [Namibia](#) related to international disaster assistance are also set out on the [International Disaster Response Laws Dashboard](#) on the **GO Platform**.

## Legal and institutional framework

- The governmental authority responsible for DRM in Gabon is the National Platform for Prevention and Reduction of Disaster Risks (PNPRRC). Whose composition and powers are determined by [Decree 0672/PR/MISPID](#).
  - The PNPRRC is a multisectoral national commission that works in favor of the prevention and reduction of disaster risks. Its missions are the coordination and strengthening of multidisciplinary collaboration for the sustainability of disaster risk reduction and prevention activities.
  - Importantly, the PNPRRC is responsible for, amongst others;
    - The compilation of the basic information necessary for the prevention and reduction of disaster risks;
    - The deployment of efforts aimed at a better integration of the prevention and reduction of disaster risks into the concepts, policies and programs applied in the fields of development and humanitarian assistance; and
    - Promoting cooperation with institutions working in the fields of disaster risk prevention and reduction.
  - Article 7 of [Decree 0672/PR/MISPID](#) states that the PNPRRC may call on any administration or body as well as any natural person, because of their skills or their financial and / or material contribution, in the areas of prevention and reduction of disaster risks, which could apply to appeals for international assistance.
  - [The National Health Development Plan 2011-2015](#) provides in Section 6.2 that multilateral partners, in particular those of the United Nations system (WHO, UNICEF, UNFPA, UNAIDS), the Global Fund, the European Union, the African Development Bank and the World Bank provide multifaceted support (technical,

material and financial) to the health of populations in their respective missions. Development partners also advocate with decision-makers to facilitate the allocation of significant resources to the health sector. Although not directly related to disaster management, this can be relevant as strengthening the healthcare system through international partnerships may contribute to higher preparedness when responding to a disaster.

- The website for the Ministry of Health and Social Affairs for the Republic of Gabon may be accessed [here](#). Importantly, the [Red Cross is seen as a partner](#).
- In terms of regional cooperation, Gabon is a member State of the Economic Community of Central African States (ECCAS), which adopted in 2012 the Central Africa Regional Strategy for Disaster Risk Reduction (DRR) and Climate Change Adaptation (CAA). The Strategy provides in Section 3.1 the following goals:
  - Increased political commitment to reduce the risk of disasters;
  - Better identification and assessment of disaster risks;
  - Better management of knowledge relating to disaster risk management;
  - Increased awareness of disaster risk reduction among the population;
  - Better governance of institutions involved in disaster risk reduction;
  - Integration of disaster risk reduction into emergency response management.
- All the aforementioned priorities for action provide a clear framework to promote regional and international coordination, information sharing and financial cooperation, which is key to achieve a better disaster response.
- **As a focal point**, [Order 00979/PM/MISPID](#) provides in Article 3 that the **Inter-ministerial Committee** (which includes representatives from the Ministry of Health) is responsible for, among others, **developing and supporting all appropriate initiatives and measures aimed at promoting international cooperation in cross-border assistance in the event of disasters**. Importantly, Article 7 establishes that the Inter-Ministerial Committee of Experts in the Management of Emergency Situations may call on all persons useful for the accomplishment of its missions, in particular:
  - Agencies of the United Nations System;
  - The Gabonese Red Cross; and
  - Non-Governmental Organizations.
- Gabon is a party to the [Revised Kyoto Convention](#) on customs procedures. It requires parties to **simplify and expedite the processing of relief consignments**.
- Gabon is a party to the [African Charter on the Rights and Welfare of the Child \(ACRWC\)](#), it provides that states take all appropriate measures to ensure that refugee children who have been internally displaced, including by disasters, receive appropriate humanitarian assistance.
- Gabon is also party to the [African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa \(Kampala Convention\)](#), which provides in article 5(7) that state parties are obligated to facilitate the coordination of international relief and allow rapid and unimpeded passage of humanitarian relief to internally displaced persons.
- Importantly, the President of the Gabonese Red Cross (CRG) is included as a representative on the Steering Committee of the PNPTRC.
- IFRC does not have a Legal Status Agreement (LSA) in Gabon.

## State of emergency & request of humanitarian aid and assistance

From the research conducted, there has not been a State of Emergency declared yet. Importantly, on the 15th of February 2023, [the Government of Gabon had a working session with its Epidemic Response Operational Unit \(CORE\)](#). The outcome of this working session has not yet been disclosed to the public. It is not clear if this CRG is a member of or in contact with this unit.

### Potential issues & recommendations:

- *NO OFFICIAL LIST OF NEEDS seems to have been issued by the Government yet. Therefore, it is unclear how the Inter-Ministerial Committee of Experts in the Management of Emergency Situations is coordinating offers from international donors. Importantly, uncoordinated efforts may lead to the receipt of unsolicited goods (unsolicited bilateral donations or UBD).*
  - **We recommend IFRC to offer technical support to the Government to prepare the List of Needs**, based on IDRL best practices.
- SPECIAL IDRL FACILITIES for eligible international humanitarian actors:

By virtue of the International Conventions that Gabon is party too, the following legal facilities may be invoked:

- Expedited management of customs, immigration services and clearance of aircrafts containing humanitarian assistance in response to disasters (Chicago Convention)
- Expedited customs clearance or exemption for the importation of goods for relief assistance (Kyoto Convention)
- In any case, provided that these facilities do exist (under the law or special announcements), THE INFORMATION IS NOT READILY AVAILABLE.
  - **We recommend IFRC to reach out to the Inter-Ministerial Committee of Experts in the Management of Emergency Situations to offer technical assistance to prepare an IDRL Decree of Emergency to clearly plan for the granting of IDRL facilities.**

## Legal facilities identified under the Namibian law

<p>Entry of humanitarian personnel</p>	<ul style="list-style-type: none"> <li>• <a href="#">Law No.5/86</a> regulates the admission and residence of foreigners in the Gabonese Republic.</li> </ul> <p>The above law regulates foreign workers in Gabon and categories temporary visitors in Gabon whose duration of stay is less than 3 months. These categories are tourists, temporary workers and businessmen.</p> <p>For purpose of entering Gabon, <b>temporary workers on assignment must present an entry permit and a temporary employment permit.</b></p> <p>Temporary visitors who are nationals of states that have not concluded an immigration agreement with Gabon must have a visa. Importantly, Public sector contractors are only subject to the presentation of a valid passport and a commitment or assignment decision.</p> <ul style="list-style-type: none"> <li>• Importantly, there are <b>no specific provisions</b> included in this law <b>regarding visa types that might apply to international assisting actors</b>, such as a humanitarian visa or diplomatic visa. However, the category of people as temporary workers could potentially apply as international relief personnel.</li> </ul>
<p>Registration of International Assisting Actors</p>	<ul style="list-style-type: none"> <li>• The law does not appear to provide expedited procedures for international actors to register in Gabon and therefore it appears that the normal rules and procedures would apply. <ul style="list-style-type: none"> <li>• <b>We recommend IFRC to request the PNPTRC to activate special visa facilities for IFRC assisting personnel to be announced by the Government (e.g. through adoption of an IDRL Emergency Decree).</b></li> </ul> </li> </ul>
<p>Recognition of professional qualifications</p>	<ul style="list-style-type: none"> <li>• The law does not appear to establish specific procedures for the recognition of foreign professional qualifications of international disaster assistance personnel, and no other relevant laws could be located for the purposes of this review.</li> </ul>
<p>Freedom of movement of international assisting actors during a disaster response</p>	<ul style="list-style-type: none"> <li>• There do not appear to be any provisions that explicitly facilitate the free movement and access of international assisting actors in Gabon.</li> </ul>

<p>Customs arrangements for specialized goods and equipment</p>	<ul style="list-style-type: none"> <li>• The Gabon General Tax Code 2019 provides in article 210 the goods and services exempt of the Value Added Tax, which include operations related to international traffic concerning: <ul style="list-style-type: none"> <li>○ On-board handling operations for products intended for export;</li> <li>○ Ships or boats used for the exercise of an industrial or commercial activity on the high seas;</li> <li>○ Rescue and assistance boats;</li> <li>○ Aircraft and ships for their maintenance and re-fuelling operations;</li> <li>○ Inter-state transit operations and related services, in accordance with the provisions of Articles 158 et seq. of the CEMAC Customs Code.</li> </ul> </li> </ul> <p>Although not directly related to international disaster assistance, this provision may be of relevance to international assisting actors who enjoy privileges and immunities under Gabonese law.</p>
<p>Cash</p>	<ul style="list-style-type: none"> <li>• There does not appear to be any information available on cash donations.</li> </ul>
<p>Importation of telecommunication equipment</p>	<ul style="list-style-type: none"> <li>• With regards to communications, the <a href="#">Telecommunications Sector Regulation</a> of Gabon is silent on simplified procedures for import/export and licensing of communications equipment as part of international disaster assistance.</li> </ul>
<p>Relief flights</p>	<ul style="list-style-type: none"> <li>• The <a href="#">Civil Aviation Code of Gabon, Loi n°023/2016</a>, provides the national legal framework for civil aviation in compliance with the Chicago Convention. Article 113 establishes that when an aircraft arrives or leaves, anywhere in the national territory, the Civil Aviation Authority has the right to visit the aircraft and examine the certificates and documents required by laws and regulations relating to civil aviation, registration, airworthiness and operation. The list of these documents, the conditions for their issue, their withdrawal and their validity are set by regulation. Any participating aircraft, leaving or staying on Gabonese territory must comply with the provisions of the texts in force in the Gabonese Republic, in particular those concerning the admission of crews, passengers and goods and immigration and passport formalities, customs and quarantine.</li> <li>• Notably, the Civil Aviation Code is silent on simplified customs and landing procedures for airplanes carrying humanitarian assistance.</li> </ul>

## Advocacy messages and recommendations

- Considering the above, we recommend IFRC and the CRG to request the Inter-ministerial Committee of Experts in the Management of Emergency Situations, the granting of the following IDRL special facilities AND the adoption of an IDRL emergency decree beneficial to CRG:
  - Exemptions of visas requirements;
  - Exemption from restrictions on transferring cash;
  - Speedy registration of vehicles;
  - Priority access for vehicles to cross borders;
  - Simplified and expedited customs clearance;
  - Exemption from customs duty, tariffs or fees;
  - Authorisation to import and use specialised goods and equipment; and
  - Priority landing of airplanes carrying humanitarian cargo.

The below outlines:

1. the arguments IFRC and CRCS can use to support their request;
2. how they can approach the Government;
3. how special legal measures can be introduced; and
4. what support is available from the Secretariat.

### 1. Arguments in support of special legal facilities

IFRC and CRG will need to support their request for special legal facilities with convincing arguments. The following key points can be used.

- i. **Auxiliary Role:** Originally founded in 1996, the [Gabonese Red Cross Society](#) (CRG), recognised by Decree in 1997 as an association of public utility and [voluntary relief society acts as auxiliary](#) to the government in the humanitarian field.
- ii. **Speed, effectiveness, and efficiency:** The Red Cross and Red Crescent Movement is working around-the-clock to meet the urgent, huge and growing humanitarian needs caused by the virus outbreak. While humanitarian aid and assistance are expected to be received from several countries and major NGOs, special legal facilities and measures are necessary to ensure that eligible actors and the Red Cross and Red Crescent Movement can work *as quickly, effectively and efficiently as possible*.
- iii. **Avoiding UBDS:** the development of the instrument relating to the granting of special legal facilities will allow to define (i) the eligibility criteria for those humanitarian actors allowed to benefit from them; (ii) the provisions that will allow the Government to keep control over the aid/assistance coming in to ensure it meets the real needs of the affected populations.

### 2. How to approach the Government to request special legal facilities

IFRC and CRG can approach the Government by writing a letter and/or requesting a meeting. A **template letter** is available for this purpose. IFRC Disaster Law can assist in tailoring this letter to the circumstances.

Two different options could be considered to approach the Government.

- i. CRG can approach the PNPTRC to discuss *all* the special legal measures it needs. It shall be able to instruct all other officials and ministries to provide those special legal measures.
- ii. CRG can approach *each* relevant government official or ministry one by one. For example, it could approach the Ministry of Finance in relation to cash transfers, and the Ministry of Transport in relation to priority access for vehicles to cross borders.

If it is feasible, the first option is preferable because it is likely to be more time efficient.

### 3. How special legal facilities can be introduced

There are different ways that special legal measures can be introduced:

- An **IDRL emergency decree or regulation** could be passed providing the above special legal facilities.
- The Government, CRG and IFRC could enter a **Memorandum of Understanding (MoU)** or **agreement** providing the special legal facilities to the National Society and IFRC.
- A high-ranking government official could write a **letter** stating that the National Society and IFRC benefit from the special legal measures.
- A **new IDRL Law** could be passed providing the special legal facilities.

The first three options might be much faster. Given the magnitude of the disaster, the Decree/regulation should be privileged if the relationship with the Government is favorable. A new law usually takes a significant amount of time and is usually pursued after the initial response phase.

### 4. Support available from IFRC

IFRC has a dedicated Disaster Law Team with recognized expertise to advocate for the granting of these special legal facilities that need to be quickly adopted.

Disclaimer: Some legislation cited here are publicly available only in Portuguese and have been translated to English unofficially.

*For further information on the IDRL Emergency Fact Sheet, please contact:*

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