



Workshop Report

Developing a Checklist on Law and Disaster Preparedness and Response: A Policy-Legal Tool for European and EU Member States' Stakeholders

Red Cross EU Office (Brussels) 2 October 2019

Overview

The Workshop, jointly organised by the Red Cross EU Office, the IFRC, and the DILAW4E Jean Monnet Project at Roma Tre University, aimed at presenting and discussing at the European level the innovative “Checklist on Law and Disaster Preparedness and Response”. This new, non-binding, assessment tool provides today concrete guidance to law and policymakers, both at the international level, as for the EU institutions, and national and local levels, on key issues that must be considered when developing law on disaster preparedness and response. This Checklist represents the evolution and systematization of previous experiences in this regard which had a significant impact also at the EU level.

Along these lines, the event provided the opportunity to debate the development and finalisation process of this instrument with relevant stakeholders based in Brussels, as senior representatives of the EU, and in particular ECHO and the European Civil Protection Mechanism, representatives of EU Member States acting within this Mechanism, as well as European Red Cross National Societies legal experts and academics. Discussions also focused on how the Checklist will have a significant impact on future law and policy activities by EU institutions and EU Member States.

Of note, in December 2019, the ‘Checklist’ was launched by a resolution adopted at the 33rd International Conference of the Red Cross and Red Crescent (Geneva) – where delegations of States (including all EU Member States) parties to the Geneva Conventions are present – and ‘recognised’ as an important resource supporting States in evaluating and improving the content and implementation of their normative frameworks.¹

Discussion

On 1st October, a preparation meeting was organized in order to gather 14 European Red Cross National Societies (NSs) from the participating States to the Union Civil Protection Mechanism (UCPM) at the Red Cross EU Office. Thanks to presentations by the IFRC and DILAW4EU key staff, this allowed participants to review and discuss the content of disaster law, the work undertaken by scholars and practitioners in this field, and ways forward and support needed on how to better address legislative barriers on disaster preparedness and response in Europe. In

¹ 33rd IC, Resolution 7, [33IC/19/R7](#) (2019), paras 3-5.

particular, the discussion focused on how NSs could work with respective governments and how to have a coherent coordinated approach with the UCPM (through the capacity assessments required under the Decision on the Union Civil Protection Mechanism and the Host Nation Support Guidelines). All participants discussed ways forward and greater involvement of European NS in disaster law in Europe. In particular, through the auxiliary role in support of their respective governments, the need to strengthen their capacity in Disaster Law advocacy and also considering the topic when deploying internationally.

The pre-meeting also focused on reviewing the structure and work of the IFRC Disaster Law Programme globally and the different thematic under the Disaster Law umbrella, including International Disaster Response Law (IDRL), disaster preparedness and response law (DPR), Disaster Risk Reduction and Climate Change Adaptation Law (DRR/CAA) and the auxiliary role project aimed at analysing national legislation and policy outlining the auxiliary role of National Societies. The application of Disaster Law in the EU Context was explained, as it integrated into the disaster preparedness and response mandate of the UCPM established through EU Decision 1313/2013 and the facilitation of international disaster response as outlined in the National Support Guidelines.

This preliminary debate was instrumental to the proper **Workshop** held on the following day (2nd October), when NS representatives were joined by government officials and officials from EU DG ECHO and other International Organisations for an interactive workshop involving around 40 participants. The objective of the event was to ensure that all stakeholders are familiar with the content of the new Checklist on Law and Disaster Preparedness and Response and gave the opportunity to discuss the issues and identify approaches for making the best use of the Checklist once it has been endorsed. The purpose was also to ensure that the Checklist and the Resolution on 'Disaster laws and policies that leave no one behind' will be received positively by national stakeholders.

During the first half of the day, the IFRC presented the process of the 33rd International Conference and the Background document on 'Disaster laws and policies', to which the Checklist on Law and Disaster Preparedness and Response (DPR) was annexed. The ten key topics of the DPR Checklist were discussed at length, mainly: legal and institutional frameworks; disaster risk finance; contingency planning, education and drills; early warning/early action; states of emergency/states of disaster; legal facilities; disaster-related human mobility; emergency shelter and housing, land and property rights; protection and inclusion of vulnerable groups; quality, accountability and prevention of fraud and corruption.

In the afternoon, participants were split into two groups to discuss 3 key questions concerning disaster preparedness and response in Europe. The discussions highlighted some good practices and issues of concern.

Question 1: Identify way laws, "red tape" and bureaucracy can hamper disaster response operations in Europe and domestic level. What are the top 3 most important issues?

- Lack or poor interagency **coordination mechanisms** and tools may hamper the response operation. It is important to count with coordination mechanisms in the legal framework, so they activate in case of disaster, with clear roles and mandates of each stakeholder defined.

- Insufficient **involvement from communities** in the planning and response. The law should reflect the localization of the response, ensuring that affected populations and communities are consulted and be the part of the response planning and design. Red Cross is well rooted in communities, adds value and strengths in comparison to state actors. Duty to care of RC is an important element that must not be neglected.
- **National disaster response plan** must be based on the local DR plans (bottom-up) structure, to ensure the response is localized and reflects local situation and capacities.
- Legal framework must contain the requirement to ensure the most **vulnerable groups** (elders, children, disabled, etc.) are being prioritized in disaster response and not excluded.
- Legal framework must establish **effective feedback and complaint mechanisms** with use of multiple information channels.
- **Law should address RC volunteers**: When a large number of volunteers comes in, it adds pressure to the system, and some are not trained. Legislation could facilitate clear protocols and increase clarity on volunteering: clarifying their status, insurance coverage, what does it mean if they are paid, or get a compensation? Legislation should also clarify the need of qualifications for the first aid and other areas.
- Legal issues on **cross border assistance** such as staff qualifications, restrictions at the borders, customs should also be clarified in legislation.
- Conducting a **comprehensive exercise at the national level** and bringing together all actors (RC together with national authorities), would help identifying gaps and obstacles, and develop a plan of action to address these.

Question 2: Utility of the new DPR checklist in the context of the UCPM and domestic implementation. Do you think the checklist could be useful in conducting the risk and capacity assessments required by the UCPM decision? What follow up actions are needed?

- There is a need to clarify **how the capacity assessment tool looks like**. ECHO Advised to get in touch with national authorities to learn about the assessments as they are confidential and thus ECHO cannot share them. There are different methodologies that Member States are using, and ECHO is trying to increase coherence.
- ECHO is producing a **standardized model** at EU level. National Platforms could be involved in assessments. Would be good to have standardized benchmarks to facilitate these assessments.
- A challenge in the use of the checklist is that in most European countries, **legislation is fragmented**, as many of these countries are Federal States. However, the assessment of disaster laws should be done both nationally and locally.
- To support the risk/capacity assessments, the checklist could be utilized as a tool in **peer reviews** between neighboring countries, or countries with similar risk profiles.

Question 3 - What actions are needed to facilitate / implement host nation support in Europe and in Member States?

- Countries could have **bilateral agreements** integrating with the overall EU coordination mechanisms, aiming to expedite and speed-up international cross-border assistance. This may include, but not be limited to mutual recognition of professional qualifications, specifications, etc. in case of a disaster. At a later stage these could become more multilateral (or regional or sub regional) arrangements.
- Each nation should **establish a national Host Nation Support Group** (Working Group, Steering Group, etc.) with clearly defined ToR. The Group should comprise of nominated

representatives of each stakeholder operating at both national and local levels, representatives of local authorities, NGO, opinion leaders, policy-makers, military, police, legislature, communities and so on to discuss and develop recommendations (plan of action, roadmap) on how to reduce and eliminate bureaucratic obstacles for the effective and efficient disaster response.

It should be a consultative mechanism meeting on a regular basis with clear agendas, objectives, timeframes, etc. The NS or another organisation could serve as a Secretariat support to this group.

- Schengen allowed free movement of people and goods but in practice there are issues of e.g. medical staff not being able to practice in another EU country.

Conclusions

- With an increasing drive to improve EU Member States' preparedness and focus on cross-border collaboration, there is a good potential to increase attention to legal preparedness in Europe.
- The workshop served as a basis to raise legal preparedness in the agenda both vis-à-vis EU institutions and within EU Member States. There are opportunities to continue the dialogue in the future.
- National Societies expressed their interest to take disaster law, including host nation support, up with their respective authorities as well as internally. It was noted that the topic is cross-cutting and concerns operational disaster management teams, legal departments, and international departments.
- As the International Conference has recognized the importance of strong disaster laws since 2003 and has tasked the IFRC and NS with providing advice and support to the authorities for the development and implementation of effective legal and policy frameworks, the NS are well-positioned to take the role with the support of IFRC, as needed, and also liaise with their neighbouring National Societies for cross-border collaboration.

List of Speakers

- Isabelle Granger – IFRC DLP Coordinator and DILAW4EU Key Staff
- Tommaso Natoli – IFRC DLP Fellow and DILAW4EU Key Staff
- Rocio Escauriaza Leal – RC EU Office, Senior Legislative Officer
- Paula Uski - RC EU Office, Senior Advisor
- Milena-Maria Cisilino – Italian Red Cross, DILAW4EU Key Staff, was involved among discussants.