

## **Proposals for amendment to the Draft Articles of the International Law Commission concerning the "Protection of Persons in the Event of Disasters" on behalf of the Slovenia**

### **General comments**

Slovenia expresses its sincere appreciation for the opportunity to submit written comments on the Draft Articles concerning the Protection of Persons in the Event of Disasters.

The Draft Articles represent a significant contribution to the international legal framework governing the events of disaster. Slovenia considers the Draft Articles to be a valuable foundation for strengthening international solidarity, enhancing coordination among relevant actors and improving the protection of affected persons before, during, and after disasters.

As a strong supporter of humanitarian action, disaster risk reduction and civil protection mechanisms, Slovenia attaches particular importance to this topic. Due to its national experience, regional cooperation, and engagement within international and multilateral frameworks, Slovenia recognizes the growing frequency and complexity of natural disasters and the consequent need for clear, coherent and principled legal guidance at the international level.

Slovenia therefore respectfully submits the following observations and comments on specific aspects relating to the Draft Articles.

#### **a) Draft Article 1 – Scope**

*Explanation of the proposed amendment:*

The temporal scope as currently defined, appears to concentrate primarily on the phase following the occurrence of a disaster, in particular the immediate post disaster response and recovery efforts. The laid out formulation may lead to a conflict with draft article 9, which addresses disaster risk reduction.

Slovenia wishes to point out that the effective disaster governance requires a holistic approach covering the entire disaster handling. This includes not only response and recovery, but also prevention and preparedness measures. Slovenia strongly advocates for the systematic integration of preventive actions, aimed at risk reduction, early planning and capacity building. Such measures are essential to enhance the resilience of individuals, infrastructure and essential services, with limiting vulnerability and reducing the overall consequences of disasters.

#### **b) Draft Article 3 – Use of terms**

*Explanation of the proposed amendment to Draft Article 3 (a):*

The use of the term “calamitous” raises concerns with regard to legal certainty, as it is unclear what threshold would be required for an event to qualify and thereby trigger the application of the proposed articles. This ambiguity creates uncertainty as to when the new instrument would become operative. For this reason, Slovenia is of the view that the term should be removed in order to ensure greater clarity and predictability in application.

Furthermore, given that cultural property already enjoys protection under Additional Protocol I to the Geneva Conventions and under the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Slovenia proposes that an explicit reference to such protection be included in Article 3, so as to ensure coherence with existing international legal frameworks.

*Explanation to the proposed amendment to Draft Article 3 (d):*

From Slovenia’s perspective, the broader understanding of assisting actors accurately reflects the realities of disaster relief, where international cooperation extends beyond inter-State relations and includes collaboration with competent intergovernmental and non-governmental organizations. In this light, Slovenia considers that expressly including “regional integration organizations” within the definition of “other assisting actors” would more accurately capture the role and specific nature of entities such as the EU, as well as other regional structures like the African Union. The concept of “regional integration organizations” is well established and widely accepted within the UN system, and has been incorporated into a number of significant international legal instruments, including the 2006 United Nations Convention on the Rights of Persons with Disabilities.

*Explanation to the proposed amendment to Draft Article 3 (f):*

Slovenia proposes removing the reference to “civilian and military” personnel. Under international humanitarian law (IHL), the special status of protection is accorded specifically to humanitarian personnel, based on their impartial and non-combatant character. Armed forces fall under a distinct legal regime and are governed by different rules and obligations. From Slovenia’s perspective, combining these categories risks creating conceptual uncertainty and may undermine the clear distinction that IHL seeks to maintain. Slovenia therefore considers it important to avoid any wording that could obscure the neutral and exclusively humanitarian nature of protected actors or inadvertently weaken the legal and practical safeguards afforded to humanitarian organizations and their staff.

**c) Draft Article 6 – Humanitarian principles**

*Explanation to the proposed amendment:*

Slovenia wishes to include the term "independence" since it helps ensure disaster assistance is needs-based and free from political, economic, or military influence. In Slovenia’s view, explicitly adding independence strengthens the integrity and credibility of disaster response, especially in complex emergencies where disaster relief and broader political or security considerations may become intertwined.

**d) Draft Article 10 – Role of the affected State**

*Explanation to the proposed amendment to paragraph 1:*

Slovenia recommends placing emphasis on the fundamental importance of timeliness and effectiveness in disaster response, as the protection of affected population often depends on the rapid deployment of assistance and efficient coordination among all relevant actors. Delays or procedural obstacles can significantly undermine the impact of relief efforts and exacerbate human suffering.

In this context, Slovenia further proposes the inclusion of language specifying that the affected State facilitates access for relief personnel, equipment, and goods, as such facilitation is indispensable to ensuring that assistance reaches those in need promptly and operates effectively in practice. Slovenia proposes this wording in order to clearly reflect that the primary responsibility for the provision of disaster relief assistance rests with the affected State and should be expressly acknowledged as such. The facilitation of access for relief operations is therefore best understood not as an independent objective, but as a practical means of discharging this primary responsibility, or as an obligation that is ancillary to it and directly supports its fulfilment.

*Explanation to the proposed amendment to paragraph 2:*

Slovenia proposes replacing the term “supervision” with “facilitation” in order to better reflect the practical realities and objectives of disaster relief operations. While the affected State rightly retains the primary role in the direction, control and coordination of relief assistance, the notion of supervision may suggest an overly restrictive or controlling approach that could unintentionally delay the timely delivery of assistance. From Slovenia’s perspective, “facilitation” more accurately captures the role the affected State should play in enabling effective relief, including by ensuring swift access for relief personnel, equipment and goods, streamlining administrative procedures, and supporting operational coordination. This terminology emphasizes cooperation and support rather than oversight, thereby reinforcing the goals of timeliness and effectiveness in disaster response. At the same time, it preserves the affected State’s sovereignty and primary responsibility, while fostering an environment conducive to impartial and efficient humanitarian action.

**e) Draft Article 14 – Conditions on the provision of external assistance**

*Explanation to the proposed amendment:*

Slovenia suggests rephrasing to include all of the vulnerable groups, since explicit and comprehensive wording would enhance legal clarity and help to avoid divergent interpretations as to which groups are covered, thereby reducing the risk that certain persons in situations of vulnerability are overlooked in practice. By ensuring that the text expressly refers to the needs and rights of all persons affected by disasters who are in vulnerable situations, the provision would more effectively reflect a non-discriminatory, rights-based approach.



1. **Proposal submitted by Slovenia (A/CN.4/L.871)**

**Amendment to Article 1**

The present draft articles apply to the protection of persons in the event of disasters or when there is a risk of an imminent disaster.

**Amendment to Article 3**

For the purposes of the present draft articles:

- a. “disaster” means an event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, including damage to cultural property, thereby seriously disrupting the functioning of society;
- b. *idem*;
- c. *idem*;
- d. (d) “other assisting actor” means a competent intergovernmental organization, or a relevant non-governmental organization or entity, or a regional integration organization, providing assistance to an affected State with its consent;
- e. *idem*;
- f. “relief personnel” means personnel sent by an assisting State or other assisting actor for the purpose of providing disaster relief assistance;
- g. *idem*.

**Amendment to Article 6**

Response to disasters shall take place in accordance with the principles of humanity, neutrality, independence and impartiality, and on the basis of non-discrimination, while taking into account the needs of the particularly vulnerable.

**Amendment to Article 10**

1. The affected State has the duty to ensure the timely and effective protection of persons and provision of disaster relief assistance including facilitation of access to such assistance in its territory, or in territory under its jurisdiction or control.
2. The affected State has the primary role in the direction, control, coordination and facilitation of such relief assistance.

**Amendment to Article 14**

The affected State may place conditions on the provision of external assistance. Such conditions shall be in accordance with the present draft articles, applicable rules of international law and the national law of the affected State. Conditions shall reflect the rights of the persons affected by disasters in a non-discriminatory manner, including the specific needs of vulnerable or disadvantaged groups and the quality of the assistance. When formulating conditions, the affected State shall indicate the scope and type of assistance sought.