



Permanent Mission
of the Federal Republic of Germany
to the United Nations
New York

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The Permanent Mission of Germany to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour to submit as requested in op 3 of the General Assembly Resolution 63/123, entitled "Report of the International Law Commission on the work of its sixtieth session" the following documents by the German Government:

Comment of the German Government to chapter VI of the ILC-report –
Reservations to treaties

Comment of the German Government to chapter VII of the ILC-report –
Responsibility of International Organizations

Comment of the German Government to chapter IX of the ILC-report –
Protection of persons in the event of disasters.

The Permanent Mission of Germany to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.

New York, 26 February 2009

His Excellency
Mr. Ban Ki-moon
Secretary-General of the United Nations
United Nations
Secretariat Building, Room S-3800
New York, NY 10017



Protection of persons in the event of disasters

At its 59th session the ILC decided to include the topic "protection of persons in the event of disasters" in its programme of work and at the 60th session held a debate on the basis of the preliminary report of the Special Rapporteur. It also had before it a memorandum by the Secretariat, focusing primarily on natural disasters. During the debate participants sought to identify the main legal questions to be covered, to decide how to approach to the topic, and discussed its scope *ratione materiae, personae, loci and temporis*.

In paragraph 31 of its report, the Commission noted that it would welcome any information concerning the practice of states with respect to this topic, including examples of domestic legislation. It also requested information and comments on specific legal and institutional problems encountered in dealing with or responding to disasters.

Germany welcomes the inclusion of the topic in the ILC's programme of work and would welcome the drafting of – non-binding – rules in line with the ICRC Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL guidelines). The ILC, however, should avoid duplicating these guidelines in its work. Close cooperation between the ILC and ICRC will be essential in order to share experiences with the guidelines and also to identify problem areas in which the ILC could play a complementary role.

Germany shares the view that the ILC should adopt a comprehensive approach to the topic and take natural disasters as well as other man-made disasters into consideration. Limiting the scope only to natural disasters, a point raised in the ILC discussion, would be insufficient because it is often impossible to make a clear distinction.

Likewise, Germany supports the approach of taking all phases of a disaster into consideration. Here again, concentrating only on the phase of response and assistance in the immediate aftermath of a disaster would be too short-sighted. Comprehensive protection must begin with prevention. The right to assistance in the event of a disaster and the support provided by the international community could give states the impression that carrying out their own preventive efforts is obsolete.

German national legislation on the protection of persons already reflects the IDRL guidelines mentioned above. Protection of persons is governed comprehensively and in detail by federal and, as is common in a federal state like Germany, state legislation. Additionally, Germany has concluded bilateral disaster relief agreements with its neighbours for the event of a disaster or serious accident.

The Civil Protection Act is primarily concerned with protecting persons from the effects of war; the Federal Agency for Technical Relief (THW) provides assistance for civil protection as well as in managing disasters, public emergencies and large scale accidents. The legal basis is the act establishing the legal relations of volunteers to the THW. According to the law a volunteer is defined as a person who has freely committed him/herself to voluntary service in the THW.

At the level of the federal states there are a wide variety of laws pertaining to the emergency services, firefighting and fire prevention measures, and disaster relief.

Bilateral agreements with our neighbouring countries are a good example of positive transnational cooperation. These agreements assure mutual aid in the event of a serious accident or disaster, and govern the mutual deployment of assistance teams.