



PERMANENT MISSION OF GREECE TO THE UNITED NATIONS

866 SECOND AVENUE • NEW YORK, NY 10017-2905

TEL: (212) 888-6900 • FAX: (212) 888-4440

E-MAIL: MISSION@GREECEUN.ORG

[www.mfa.gr/un](http://www.mfa.gr/un)

---

**67<sup>TH</sup> SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY**

**Sixth Committee**

**Agenda Item 79**

**Report of the International Law Committee  
on the work of its sixty-fourth session**

**Chapter V: Protection of persons in the Event of Disasters**

---

**Statement by**

**Ms. Phani Daskalopoulou-Livada**

**Legal Adviser, Head of the Legal Department,**

**Ministry of Foreign Affairs**

**NEW YORK**

**Friday, November 2, 2012**

Mr. Chairman,

Concerning the matter at hand, the topic of the Protection of Persons in the Event of Disasters, we would like to sincerely express our thanks to the Special Rapporteur, Mr. Valencia Ospina for his excellent fifth Report. The Special Rapporteur spares no effort and leaves no stone unturned in his quest to provide a full picture of how the international community has dealt with this matter so far, be it in a multilateral or bilateral context, in a global or regional one. Based on this vast wealth of binding and non-binding texts he has studied, he formulates proposals, also taking into account certain elements pointing to the direction the law is taking in its course of future development. At the same time, he gives full explanations for the choices he is making and the solutions he puts forward and, in consequence, the articles he proposes. We are also satisfied with the discussion in the ILC on this matter, which provided an even clearer picture of the issues involved and the way they might be treated.

Mr. Chairman,

While fully endorsing the statement of the European Union on the matter, we would like to make certain observations with regard to some particular questions:

Mr. Chairman,

Article 12 refers to a “right” of States and international organizations to offer assistance. It must be recalled, in this respect, that, as also evidenced by the opinion of states which the Special Rapporteur has sought, there is no duty of States and international organizations to render assistance. The formulation in terms of a right obviously corresponds to the goal of avoiding any mention of duty here. Indeed, the duty to cooperate in case of disasters, enunciated in draft article 5, does not go so far as to oblige a State or an international organization to provide assistance when

requested<sup>1</sup>. Nonetheless, no matter how convenient it might be to consider it sufficient to implant a word such as “right” which stands *a contrario* to duty, the fact remains that the use of the phrase “*right to offer assistance*” may be the source of unnecessary confusion.

Two arguments may be put forward to show why this is so. First, it is obvious that a State or an international organization may, at any time, propose its assistance to an affected State,<sup>2</sup> hence there is no need to couch such offer in terms of a “right”. Second, mention of a “right” in this connection could generate some perplexing questions which cannot be easily answered. Thus, a right bestowed on a subject of international law entails, in principle, a corresponding duty for another, a correlation which is not easy to establish in the present case. Which, in fact, would be the duty of the affected State? One might be tempted to establish a link between the “right” referred to in article 12 and the “duty to seek assistance” contained in article 10. This approach, however, would completely miss the point here, as the two provisions do not complement each other in any way.

For these reasons, we support the view expressed last year by some delegations, that the term “right” does not fit in with article 12 which should therefore be reformulated, focusing more on the constructive character of the offer rather than on its legal qualification<sup>3</sup>.

As regards Draft Article A, Greece finds itself in agreement with those members of the ILC who have expressed the view that the use of mandatory language in this regard, such as the word “shall” indicates the existence of an obligation to provide assistance, an assertion which has been found not to be supported by state practice. Furthermore, the text would benefit from an indicative list, as opposed to a restrictive one which is now employed, of the types of assistance that can be provided. This would give the assisting state more options within the framework also outlined by article 13.

Mr. Chairman,

---

<sup>1</sup>For a summary of the position of States on this issue, see *Fifth report on the protection of persons in the event of disasters* by Eduardo Valencia-Ospina, Special Rapporteur, doc. A/CN.4/652 (2012), par. 52, p. 15.

<sup>2</sup>See Russian Federation, A/C.6/66/SR.24, par. 37, p. 7.

<sup>3</sup>See United Kingdom, A/C.6/66/SR.23, par. 45, p. 10, United States of America, A/C.6/66/SR.21, par. 69, p. 14.

I would like now to address a matter of a more general nature in relation to the future work of the International Law Commission on this topic.

The Special Rapporteur informed the Commission of his intention to spend most of his next report on the question of disaster risk reduction, including the prevention and mitigation of disasters<sup>4</sup>. We welcome this approach, as protection of persons in the event of disasters should not be limited to the provision of relief assistance but also encompass measures to prevent such disasters or mitigate their effects through appropriate infrastructure, international cooperation, early warning systems and contingency plans. This approach has added value, particularly in the case of recurrent harmful events, such as river floods.

In relation to the latter, we would like to stress the importance of the United Nations Economic Commission for Europe Model Provisions on Transboundary Flood Management. Those Model Provisions together with commentaries thereto, were adopted at the fourth meeting of the Contracting Parties to the Helsinki Convention on the Protection and Use of Transboundary Watercourses and International Lakes, held in Bonn in 2006 and are meant to be used by riparian States for the drafting of bilateral or multilateral agreements dealing with this issue<sup>5</sup>. As it is one of the very few normative instruments at the international level addressing matters of flood-related disaster prevention and mitigation, we think it provides a useful precedent to be taken into account in the course of the future work of the Special Rapporteur and the International Law Commission in relation to this topic.

Thank you Mr. Chairman.

---

<sup>4</sup>See *Report of the International Law Commission, sixty-fourth session, doc. A/67/10(2012)*, par. 80, p. 90.

<sup>5</sup>See doc. ECE/MP.WAT/2006/4 available at :  
<http://www.unece.org/fileadmin/DAM/env/documents/2006/wat/ece.mp.wat.2006.4.e.pdf>