



Permanent Mission
of the Federal Republic of Germany
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Statement by

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The Legal Adviser

on the occasion of
the 68th Session of the
United Nations General Assembly

6th Committee

Part 3 of Agenda Item 81
Protection of persons in the event of disasters

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(please check against delivery)



Madam Chairwoman/Mr Chairman,

Germany welcomes and supports the sixth report of the Special Rapporteur on “Protection of persons in the event of disasters” and the encompassing draft articles 5 ter and 16. As previously, the Special Rapporteur again offers a well-structured and informative report. We especially welcome the elaborate assessment of practice by States and international organizations. We would also like to thank the drafting committee for its work and we welcome the two draft articles proposed.

Draft articles

We support the reference in draft article 16 to the duty of each state to reduce the risk of disasters by taking the necessary and appropriate measures. It is helpful to clarify that disaster risk reduction measures include the conduct of risk assessments, the collection and dissemination of risk and past loss information, and the installation and operation of early warning systems.

Concerning draft articles 14 and 15, in our view more scope should be given to the discretion of the states involved.

On the 6th Report

just a small, but important point:

Concerning the assessment of practice by States and international organizations included in the report, we want to point out that Article 222 of the Treaty on the Functioning of the European Union refers primarily to the political obligation of the Union and its member states to provide solidarity in cases of a terrorist attack, natural or man-made disaster. In this light, the report’s focus on the ordinary legislative procedure of the Union seems out of place.



General Remarks

The project at hand is now well advanced. Given the fact that collecting and analysing existing practice in order to elucidate *lex lata* is already an enormous challenge, it would be wise for the ILC to abstain from any attempt to develop new rules *de lege ferenda*.

For two reasons:

First, such an attempt would be highly controversial.

Second, we must be very clear: There is no legal obligation on third States or international organizations to provide the affected State with assistance. Nevertheless there is no doubt of the importance of voluntary assistance in case of natural or made-made disaster.

In general, in our view the final outcome of the project can only be a set of recommendations supporting domestic legislation to establish effective national systems of disaster prevention, preparedness and response rather than a proposal on a binding international instrument.

Madam Chairwoman/Mr Chairman,

Germany continues to follow this project with great interest.

Thank you!