
CBRN Integrated Response Italy

enhancing on-site
cooperation
between safety and
security
organizations

MAPPING REPORT



Mapping Report

on the Legal, Institutional, and Operative Framework Concerning Response to CBRN Threats in Italy and in other 10 EU Member States

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LIST OF MAIN ABBREVIATIONS/ACRONYMS

Abbreviation / acronym	Description
B	Biological
C	Chemical
CBRN	Chemical, biological, radiological, nuclear.
CCA	Crisis Coordination Arrangements
CECIS	Common Emergency and Information System
CoPS	(Italian) Comitato Politico Strategico
CITDC	(Italian) Commissione Interministeriale Tecnica di Difesa Civile
CWC	Chemical Weapons Convention
ECDC	European Centre for Disease prevention and Control
ERCC	European Response Coordination Center
EU	European Union
EWRS	Early Warning and Response System
FDA	Food and Drug Administration
GHSI	Global Health Security Initiative
HSC	Health Security Committee
IAEA	International Atomic Energy Agency
ICT	Information and Communication Technology
MIC	Monitoring and Information Centre
NATO	Nord Atlantic Treaty Organisation
NISP	(Italian) Nucleo Interministeriale Situazione e Pianificazione
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
OPWC	Organization for the Prohibition of Chemical Weapons
RN	Radiological or nuclear
SitCen	(EU) Joint European Union Situation Centre
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
WHO	World Health Organisation
WMD	Weapons of mass destruction

INTRODUCTION

The present Mapping Report arises from a study carried out within Work Package 2, of the *CBRN Integrated Response Italy* Project. It identifies and analyses the Italian and – in a comparative perspective – other 10 EU Member States' Institutional and legal framework governing the response to CBRN emergencies or crises affecting their territory. To a minor extent, it also maps and examines the technical-operational procedures and practices adopted by national law enforcement authorities, incident commanders and other first responders in dealing with these emergencies or crises.

Since the relevant Institutional, legal and operative framework in the surveyed States, or specific norms and procedures it consists of, have been established according to international obligations, the Mapping Report presents also a broad overview of these obligations and discusses how they have been implemented at domestic level – in particular, with regard to Italy.

As the very outcome, the Report presents the similarities and differences between the Institutional, legal and technical-operational approaches to CBRN events in the countries surveyed, as well as identifies potential gaps and best practices. It also proposes specific recommendations to be implemented by Italy in order to improve its overall CBRN response system. Some recommendations address also the EU established legal and cooperation framework dealing with response to CBRN emergencies or crises.

With regard to its structure, the Mapping Report consists of this Introduction presenting the Mapping Report's scope and content, and in three main analytical sections concerning respectively:

- An overview of the international obligations and cooperation mechanisms concerning CBRN preparedness and response, with special focus on those established by the European Union (Section 1);
- A study and analysis of the Italian and other 10 EU's Member States Institutional, legal and operative frameworks dealing with response to CBRN crises or emergencies (Section 2)
- A "horizontal" comparative analysis of the above frameworks aimed at identifying gaps and best practices, the latter to be adopted by the Italian and, when relevant, the EU established system dealing with response to CBRN crises or emergencies.

This document is designed to reflect the description of WP2 research and analysis activities. More information about the methodological approach adopted for determining its scope and content may be found in Annex 1.

1. AN OVERVIEW OF THE MAIN INTERNATIONAL OBLIGATIONS AND COOPERATION MECHANISMS CONCERNING PREPAREDNESS AND RESPONSE to CBRN CRISES.

Over the last decade, C, B, R, N issues have increasingly gained the International Community's interest. Several legal and policy instruments dealing with the subject matter have been adopted at universal, regional and even at bilateral level.

International Obligations and Cooperation Mechanisms at Universal Level.

As far as the United Nations (UN) are concerned, the Security Council adopted *Resolution 1540 (2004)*, which discusses, and imposes binding restrictions, concerning nuclear, chemical or biological weapons and related materials.¹ *Resolution 1540 (2004)* – reiterated and extended by *Resolution 1673 (2006)*, *Resolution 1810 (2008)*, and *Resolution 1977 (2011)* – not only requires UN Member States to adopt legislation preventing the proliferation of nuclear, chemical and biological weapons, their means of delivery, and to implement measures to ensure that related materials are not illicitly trafficked, but it also proposes enhanced international cooperation in such measures. It is worth stressing that *Resolution 1540* concerns terrorism too. Indeed, it obliges States to refrain from supporting by any means non-state actors from developing, acquiring and employing nuclear, chemical and biological weapons.² In order to monitor and foster the implementation of its provisions, it has established a specific Committee which functions as a subsidiary body of the Security Council.³ The resolution reiterates that none of the obligations it contains shall conflict with or alter the rights and duties of States stemming from other international conventions or established forms of international cooperation (like the International Atomic Energy Agency – IAEA; and Organisation for the Prohibition of Chemical Weapons - OPCW). The former conventions mainly deal with C, B, R, N threats associated to the development, deployment and use of military weapons and aim to prevent and limit such threats.⁴ They are:

- the (1968) *Treaty on the Non-Proliferation of Nuclear Weapons (NPT)*.⁵ The NPT's goal is three-fold: to prevent the spread of nuclear weapons and weapons technology, to achieve disarmament and to foster the peaceful uses of nuclear energy. Non-proliferation is also pursued

¹ Security Council Resolution 1540 (2004) concerning weapons of massive destruction adopted by UN Security Council on 28.4.2004, S/RES/1540 (2004), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/328/43/PDF/N0432843.pdf?OpenElement>. See also <http://www.un.org/en/sc/1540/>.

² *Ibidem*, art. 1

³ *Ibidem*, art. 4.

⁴ It is worth stressing that these conventions were adopted in pursue of “non-proliferation” purposes, *i.e.* to prevent the spread of C,B,R, N weapons and their component parts and materials and relevant technologies to state or non-state actors.

⁵ Adopted by the United Nations, New York, 12.6.1968, entered into force on 5.3.1970, available at <http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc140.pdf>. As of June 2013. The Treaty binds 190 parties, Italy included at <http://disarmament.un.org/treaties/t/npt>.

by the establishment of a safeguards system under the responsibility of the International Atomic Energy Agency (IAEA).⁶

- the (1972) *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC)* ⁷. According to the BWC States parties shall adopt domestic provisions and measures aimed at preventing the acquisition of biological weapons, transfer to other States as well as promoting their destruction or conversion to peaceful purposes.⁸ With regard to their duty to cooperate, States shall assist other parties which have been exposed to a danger as a result of a violation of the BWC.⁹
- the (1992) *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)*.¹⁰ The CWC aims to eliminate Chemical weapons by prohibiting the development, production, acquisition, stockpiling, retention, transfer or use of these weapons by States Parties. States Parties, in turn, must take the steps necessary to enforce that prohibition in respect of persons (natural or legal) within their jurisdiction.¹¹

International obligations concerning prevention, preparedness and response to CBRN events – in particular those concerning RN agents- are also to be found in the (2005) *International Convention for the Suppression of Acts of Nuclear Terrorism*.¹² The Convention obliges State Parties to adopt all practicable measures to prevent and counter terrorism in their respective territories and to exchange

⁶ See <http://www.un.org/disarmament/WMD/Nuclear/NPT.shtml>. It has to be noted that the Agency's activity on non-proliferation is also based on the following agreements or protocols. The *Agency's Safeguards System (INFCIRC/66/Rev.2)* approved in 1965. It lays out the general principles and procedures for IAEA safeguards to ensure that States do not use their peaceful nuclear facilities for the acquisition of nuclear weapons. The IAEA undertakes this task by a combination of design reviews, facility and nuclear material recordkeeping, state reporting to the IAEA and inspections. The *Nuclear Safeguards (INFCIRC/153/Corrected)* outlines how safeguards agreements between the IAEA and States Parties to the *Treaty on the Non-Proliferation of Nuclear Weapons* are designed and implemented as required under Article III of the Treaty.

⁷ Adopted by United Nations in London, Moscow and Washington D.C. on 10.4.1972, entered into force on 26.3.1975, available at <http://www.opbw.org/convention/documents/btwctext.pdf>. As of June 2013, 170 parties, Italy included, joined the Convention. See

[http://www.unog.ch/_80256ee600585943.nsf/\(httpPages\)/7be6cbb0477b52c12571860035fd5c?OpenDocument&ExpandSection=1#_Section1](http://www.unog.ch/_80256ee600585943.nsf/(httpPages)/7be6cbb0477b52c12571860035fd5c?OpenDocument&ExpandSection=1#_Section1).

⁸ BWC, Art. I-IV.

⁹ *Ibidem*, Art. VII. The Convention has been reviewed several times: the II (1986) and III Review Conference (1991) aimed to improve the international co-operation in the field of peaceful biological activities through the Confidence-Building Measures (CBMs). The VI Review Conference (2006) adopted a detailed plan for promoting universal adherence, and decided to update and streamline the procedures for submission and distribution of the Confidence-Building Measures (CBMs). See <http://www.un.org/disarmament/WMD/Bio/>.

¹⁰ Adopted by United Nations, Geneva, 3.9.1992, entered into force on 29.4.1997, available at http://www.opcw.org/index.php?eID=dam_frontend_push&docID=6357. As of June 2013, 189 States, Italy included, joined the convention at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVI-3&chapter=26&lang=en.

¹¹ See <http://www.opcw.org/chemical-weapons-convention/>. With the entry-into-force of the Chemical Weapons Convention (CWC), the Organisation for the Prohibition of Chemical Weapons (OPCW) was formally established to implement the provisions of the CWC and to ensure a credible, transparent regime to verify the destruction of chemical weapons; to prevent their re-emergence in any member State; to provide protection and assistance against chemical weapons; to encourage international cooperation in the peaceful uses of chemistry.

¹² Adopted by the United Nations, New York, 14.9.2005, entered into force on 7.7.2007, available at <http://www.un.org/en/sc/ctc/docs/conventions/Conv13.pdf>. As of June 2013, 86 parties, has joined the Convention. Italy is not part in to the Convention See http://treaties.un.org/Pages/ViewDetailsIII.aspx?&src=TREATY&mtdsg_no=XXVIII~15&chapter=18&Temp=mtdsg3&lang=en.

accurate and verified intelligence among their respective competent authorities.¹³ For the purposes of preventing terrorist offences, States Parties are obliged to make every effort to adopt appropriate measures to ensure the protection of radioactive material, taking into account the relevant recommendations and functions of the IAEA.¹⁴

With regard to CBRN threats stemming from terrorism, it is also worth mentioning the (2006) “Plan of Action” annexed to the *United Nations Global Counter-Terrorism Strategy*.¹⁵ The Plan of Action reaffirms the UN commitment to combat terrorism and its consequences. As per the topic here under discussion, the Plan contain an invitation to the United Nations “to improve coordination in planning a response to a terrorist attack using nuclear, chemical, biological or radiological weapons or materials, in particular by reviewing and improving the effectiveness of the existing inter-agency coordination mechanisms for assistance delivery, relief operations and victim support, so that all States can receive adequate assistance”.¹⁶

A significant contribution to the prevention of and response to CBRN threats linked to terrorism or other criminal activities is provided by INTERPOL.¹⁷ The International Police Organisation has a CBRNE Terrorism Prevention Programme, which is consisted of three units: Radiological and Nuclear Terrorism Prevention Unit (RadNuc), Bioterrorism Prevention Unit (BioT), Chemicals and Explosives Terrorism Prevention Unit (ChemEx).¹⁸ The three units are operating based on intelligence sharing, combatting CBRN materials dispersal and investigation of CBRN threats and incidents.¹⁹ Since its initiation in late 2010, INTERPOL’s CBRNE Terrorism Prevention Programme has been working closely with both the 1540 Committee and the UN Office for Disarmament Affairs in order to actively support the implementation of the Resolution’s guidelines.²⁰

With regard to crisis or emergencies - CBRN included – affecting its Member States, INTERPOL may provide specialized teams to assist national police. These teams, called Incident Response Teams (IRTs) may be deployed at the request of a Member of INTERPOL. They can provide assistance in case of a manmade or natural disaster, or crime. In the former case, IRT delivers concentrated attention to urgent issues and problems arising from the disaster or crisis. In the latter, IRT’s personnel may provide specific expertise and investigative support to national police.²¹

The above cited international conventions, instruments or cooperation mechanisms cope with CBRN issues with respect to the development, deployment and usage of weapons of mass destruction or to

¹³ *International Convention for the Suppression of Acts of Nuclear Terrorism*, cit. art. 7.

¹⁴ *Ibidem*, art. 8. See also <http://untreaty.un.org/cod/avl/ha/icsant/icsant.html>.

¹⁵ UN General Assembly, A/RES/60/288, 20.9.2006, available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=topic&tocid=4565c225e&toid=&publisher=&type=&coi=&docid=468364e72&skip=0>. The GA resolution has been amended: in 2008 (A/RES/62/272), in 2010 (A/RES/64/297) and in 2012 (A/RES/66/282).

¹⁶ *Ibidem*, Par. II, No. 17 of the Plan of Action. Cf. also <http://www.opcw.org/report-of-the-weapons-of-mass-destruction-working-group-report-of-the-ctif/the-united-nations-global-counter-terrorism-strategy/>.

¹⁷ See <http://www.interpol.int/>.

¹⁸ See <http://www.interpol.int/Crime-areas/Terrorism/CBRNE-Terrorism-Prevention-Programme>.

¹⁹ Cf. A. Harutyunyan, *CBRN Terrorism: Response Mechanisms of INTERPOL*, paper available on-line through academia.edu.

²⁰ Cf. *supra*.

²¹ Cf. <http://www.interpol.int/INTERPOL-expertise/Response-teams/Incident-Response-Teams>.

criminal and terrorist activities. However, there are other international instruments that are relevant for the topic here discussed. We refer to international conventions dealing with transboundary cooperation and assistance in case of nuclear and radiological emergencies originating from civilian use of related material.²² They are:

- the (1986) *Convention on Assistance in Case of a Nuclear Accident or Radiological Emergency*²³ that sets out an international framework for co-operation among States Parties and with the IAEA to facilitate prompt assistance and support in the event of nuclear accidents or radiological emergencies. It requires States to notify the IAEA of their available experts, equipment, and other materials for providing assistance. In case of a request, each State Party decides whether it can render the requested assistance as well as its scope and terms. The IAEA serves as the focal point for such cooperation by channelling information, supporting efforts, and providing its available services.²⁴
- the (1986) *Convention on Early Notification of a Nuclear Accident*²⁵ that aims to strengthen international co-operation in order to provide relevant information about nuclear accidents as early as necessary in order that trans-boundary radiological consequences can be minimized.

²² It has to be stressed that the following conventions concern “nuclear safety” *i.e.* the prevention and mitigation of nuclear accidents and the harmful effects of radiation on human health and the environment. Further to the cited conventions there are other international instruments concerning nuclear safety that it worth citing. First of all, the (1963) *Vienna Convention on the Civil Liability for Nuclear Damage*, entered into force on 12 November 1977 with the IAEA as the depositary. The Convention makes nuclear operators liable for any damage caused by their facilities and provides for compensation for those affected by nuclear damage. States parties negotiated a Protocol in September 1997 that provides a broader scope, increases the amount of liability of nuclear operators, and enhances means for securing adequate compensation. The Protocol entered into force on 4 October 2003. The (1971) *Convention Relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material*, that entered into force on 15 July 1975 with the International Maritime Organization (IMO) as the depositary. It is an addition specific to the transport of nuclear material by sea to the 1963 Vienna Convention. It limits the liability of nuclear operators that transport nuclear material to protect them from overwhelming financial burdens in the event of an accident. The (1972) *Convention on the Prevention of Marine Pollution by Dumping Wastes and Other Matter (London Convention)*, entered into force on August 30, 1975 with the International Maritime Organization (IMO) as depositary. It prohibits the dumping of hazardous materials, including nuclear, at sea. States parties strengthened the convention several times through numerous amendments, including a 1993 amendment to ban the dumping of low-level radioactive wastes. The amendment came into force on 20 February 1994. The (1997) *Convention on Supplementary Compensation for Nuclear Damage*, not yet into force. It defines additional amounts that states parties must contribute to public funds in the case of nuclear incidents. The convention calls for contributions based on installed nuclear capacity and the UN rate of assessment for contributions to international organizations.

²³ Adopted by IAEA, Vienna, 26.9.1986, entered into force on 26.2.1987, available at <http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc336.shtml>. As of May 2013, 110 parties – Italy included –, joined the Convention, at http://www.iaea.org/Publications/Documents/Conventions/cacnare_status.pdf. In 2005, Euratom joined this Convention through the *Commission Decision 2005/845/Euratom of 25 November 2005 concerning the accession of the European Atomic Energy Community to the Convention on Assistance in Case of a Nuclear Accident or Radiological Emergency*, OJ L 314/27, 30.11.2005, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:314:0027:0027:EN:PDF>.

²⁴ Cf. <http://www.iaea.org/Publications/Documents/Conventions/cacnare.html>.

²⁵ Adopted by IAEA, Vienna, 26.9.1986, entered into force on 27.10.1986, available at <http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc335.shtml>. As of May 2013, 116 Parties, Italy included, joined the Convention, at http://www.iaea.org/Publications/Documents/Conventions/cenna_status.pdf. In 2005, Euratom joined this Convention through the *Commission Decision 2005/844/Euratom of 25 November 2005 concerning the accession of the European Atomic Energy Community to the Convention on Early Notification of a Nuclear Accident*, OJ L 314/21, 30.11.2005, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:314:0021:0021:EN:PDF>.

States Parties commit that, in the event of a nuclear accident that may have transboundary radiological consequences, they will notify countries that may be affected and the IAEA, and provide relevant information on the development of the accident. The IAEA in turn forthwith informs States Parties, Member States, other States that may be physically affected and relevant international organizations of a notification received and promptly provides other information on request".²⁶

- the (1994) *Convention on Nuclear Safety*²⁷ that has the goal to legally commit participating States operating land-based nuclear power plants to maintain a high level of safety by setting international benchmarks to which States would subscribe. The Convention's provisions mainly concern safety issues, quality assurance and emergency preparedness. The Convention is an incentive instrument.²⁸
- the (1997) *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*.²⁹ It aims to protect individuals, societies and the environment from the potential hazards of radioactive waste through the enhancement of national measures as well as international cooperation. The convention applies to civilian nuclear programs, as well as declared spent fuel and radioactive waste from military programs.

In light of the above described with regard to prevention and mitigation of RN threats, one may note the relevant role played by the AIEA.³⁰ As already mentioned, the (1968) *Nuclear Non-Proliferation Treaty* designated the IAEA as the international body responsible for the oversight and implementation of safeguards to prevent nuclear proliferation.³¹ It also has an important role in promoting nuclear safety and security. The following codes of conduct are the basis for the Agency's safety and security efforts:

- the (1990) *Code of Practice on the International Transboundary Movement of Radioactive Waste (INFCIRC/386)*. It encourages States to take appropriate measures to ensure that radioactive waste under its control is safely managed and disposed of to ensure protection of human health and the environment. It encourages the safe international transboundary movement of radioactive waste through a variety of recommendations, and reaffirms States right to prohibit the movement of waste through its territory;
- the (2001) *Code of Conduct on the Safety and Security of Radioactive Sources* (revised 2003). This code establishes norms for maintaining the safety and security of radioactive sources, defined as radioactive material that has been encapsulated or that has leaked from a storage container.

²⁶ See <http://www-ns.iaea.org/conventions/emergency.asp?s=6&l=38#2>.

²⁷ Adopted by IAEA, Vienna, 17.06.1994, entered into force on 24.10.1996, available at <http://www.iaea.org/Publications/Documents/Infcircs/Others/inf449.shtml>. As of May 2013, 76 parties, Italy included, joined the Convention as http://www.iaea.org/Publications/Documents/Conventions/nuclearsafety_status.pdf. In 1999, Euratom joined this Convention through the *Commission Decision 1999/819/Euratom of 16 November 1999 concerning the accession to the 1994 Convention on Nuclear Safety by the European Atomic Energy Community (Euratom)*, OJ L 318, 11.12.1999, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:318:0020:0020:EN:PDF>.

²⁸ See <http://www.iaea.org/Publications/Documents/Conventions/nuclearsafety.html>.

²⁹ Entered into force on 18.06.2001 with the IAEA as the depositary, available at <http://www.iaea.org/Publications/Documents/Infcircs/1997/infcirc546.pdf>.

³⁰ See <http://www.iaea.org/>.

³¹ See *supra*.

Recommendations include establishing effective legislation and regulation of radioactive sources, as well as import and export controls;

- the (2004) *Code of Conduct on the Safety of Research Reactors*. The Code aims at achieving and maintaining a high safety standard for research reactors. It encourages the enhancement of national measures and international cooperation including safety related technical cooperation. It does not apply to military research reactors, or to issues of physical security of nuclear material.

Since its establishment the IAEA has published numerous safety fundamentals, requirements and guides for States with nuclear technology. These standards address a wide range of nuclear-related activities, including nuclear power plant design and operation, waste disposal, decommissioning and the establishment of national legislation and infrastructure.³²

As we discussed before, the IAEA is the International agency responsible for promoting safe, secure and non-military nuclear technologies at universal level. However, it is not the only form of multilateral cooperation on the subject matter.³³ There are other international bodies or *fora* dealing with prevention or mitigation of RN threats. Among the non-institutionalised form of cooperation there is the *G8 Nuclear Safety and Security Group (G8-NSSG)*. It was created to provide technically informed, strategic policy advice to leaders of the G8 on issues that affect safety and security in the peaceful use of nuclear energy. The main purpose of the group is to promote existing safety standards and best practices and to further cooperation among the G8 and other states in nuclear safety and security. It works in close cooperation with existing multilateral organizations and is intended not to duplicate work already being done by them.³⁴

The NATO and Its CBRN Response Mechanism

CBRN threats emanating from both State and non-state actors are one of the main NATO's matter of concern. As stated in the Organisation's New Strategic Concept adopted at the Lisbon Summit held in

³² Lists, descriptions and texts of these various standards are available at the IAEA's website. To cite a few, the (1998) *Guidelines for the Management of Plutonium (INFCIRC/549)*. The document proposes measures to encourage the responsible handling, physical protection, accountancy and control, international transfer, national policy implementation and transparency of States' plutonium holdings. The *Guidelines* are recommendations made by UN member States derived from their national policies. It is also worth mentioning the (2006) *Fundamental Safety Principles (N. SF-1)*, aimed at protecting health and minimize the danger to life and property from nuclear activities. They were published in 2006 as a comprehensive guide for States to ensure a high level of safety in the use of nuclear materials and radioactive sources. While not binding, adherence to these standards is strongly encouraged, and they are jointly sponsored by several other international bodies concerned with nuclear safety, such as the Nuclear Energy Agency of the OECD and EURATOM. They are the principle source of safety guidelines for states in their nuclear activities.

³³ Cf. J. Alger, *A Guide to Global Nuclear Governance: Safety, Security and Non-proliferation*, in *Nuclear Energy Futures*, September 2008, available at <http://www.cigionline.org/publications/2008/9/guide-global-nuclear-governance-safety-security-and-nonproliferation>.

³⁴ *Ibidem*, p. 9.

2010, NATO should develop the capacity to defend Member States' populations, territory and forces against the threat of military or terrorist attacks involving CBRN agents.³⁵

On a very operative level, the above commitment has been fulfilled through the establishment of a Combined Joint Chemical, Biological Radiological, Nuclear (CBRN) Defence Task Force. The task Force is a body specifically trained and equipped to deal with CBRN threats. It falls under the strategic command of the Supreme Allied Commander Europe (SACEUR).³⁶ The task force consists of a CBRN Joint Assessment Team (JAT) and CBRN Defence Battalion.³⁷

With regard to the latter, it has to be stressed that it is not only trained for armed conflicts. It may also provide military assistance to civil authorities in situations of crisis such as natural disasters and industrial accidents, including those involving hazardous material.³⁸ Its deployment should be authorised by the North Atlantic Council.³⁹ The CBRN Defence Battalion is capable of conducting the following tasks: (i) CBRN reconnaissance and monitoring operations; (ii) sampling and identification of B, C, R agents (SIBCRA); (iii) biological detection and monitoring operations; (iv) CBRN assessments and advice to NATO commanders; and (v) CBRN hazard management operations, such as decontamination.⁴⁰ While it can be deployed independently, the Battalion has a close relationship with the NATO Response Force.⁴¹

It is also worth mentioning that NATO has also promoted Civil Emergency Planning activities focused on measures aimed at enhancing national capabilities and civil preparedness in the event of possible attacks using chemical, biological or radiological agents (CBRN).⁴² In 2002, a *Civil Emergency Action Plan* was adopted for the protection of populations against the effects of Weapons of Mass destruction. As a

³⁵ *Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization*, adopted by Heads of State and Government at the NATO Summit in Lisbon, 19-20 November 2010, Nos. 10 and 19. available at http://www.nato.int/strategic-concept/pdf/Strat_Concept_web_en.pdf.

³⁶ Cf. http://www.nato.int/cps/it/natolive/topics_49156.htm. As reported the Task Force operational control is delegated to a subordinate command as required.

³⁷ *Ibidem*.

³⁸ *Ibidem*. It is worth recalling that NATO does not only deal with crisis of military nature. In other words, the Organisation's adopted concept of "crisis management" goes beyond military operations to include issues such as the protection of populations. In this respect, NATO began developing civil protection measures in the event of a nuclear attack and to face the effects of disasters induced by floods, earthquakes or technological incidents, and against humanitarian disasters. In 1998, the Euro-Atlantic Disaster Response Co-ordination Centre was established to co-ordinate aid provided by different member and partner countries to a disaster-stricken area in a member or partner country. NATO also established a Euro-Atlantic Disaster Response Unit, which is a non-standing, multinational mix of national civil and military elements that have been volunteered by member or partner countries for deployment to the area of concern. Cf. http://www.nato.int/cps/eu/natolive/topics_49192.htm and http://www.nato.int/cps/eu/SID-48C1D3B8-AF72E654/natolive/topics_52057.htm.

³⁹ *Ibidem*. For example, they played a key planning role during the 2004 Summer Olympics in Greece, and the 2004 Istanbul Summit, where they supported any CBRN-related contingency operations.

⁴⁰ *Ibidem*. The Battalion level organization is composed of personnel from a number of NATO countries, on standby for a period of six months, in future twelve months.

⁴¹ Cf. http://www.nato.int/cps/eu/natolive/topics_49755.htm.

⁴² Cf. http://www.nato.int/cps/eu/natolive/topics_49158.htm?. As reported, "A comprehensive EAPC programme on CBRN training and exercises has been developed. Treatment protocols for casualties following a CBRN attack were developed by NATO's Public Health and Food/Water Group. NATO's Civil Protection Group has developed public information guidelines for use before, during and after a crisis".

result, an inventory of national capabilities for use in CBRN incidents (medical assistance, radiological detection units, aero-medical evacuation) has been developed. In addition, guidelines and standards have been developed for NATO's Member and Partner Countries (Euro Atlantic Partnership Council or EAPC) to draw upon in the areas of planning, training and equipment for first responders to CBRN incidents.⁴³ For example, we refer to the *Guidelines for First Response to a CBRN Incident* adopted in 2002. Broadly speaking, these activities have contributed to enhancing Allies and Partners ability to assist one another in the face of such attacks.

The EU CBRN Preparedness and Response Framework

As far as the Europe Union is concerned, crisis management in general – and preparedness for, resilience and response to, and recovery from CBRN incidents in particular – are primarily the responsibility of Member States. With respect to disasters or crises in general, the EU emphasises that Union level response capacity should be developed in accordance with two principles: *national responsibility* and *EU solidarity*.⁴⁴ In effect this means that EU actions concern the promotion of coordination among individual Member States. This can be through initiatives to share resources or best-practice, or through promoting interoperability.

At the EU level, and with respect to cross-border emergencies – CBRN included –, the Union supports Member States through different tools: for responding to both natural and man-made disasters and crises, the *Solidarity Clause* mechanism, the *Community Civil Protection Mechanism* and the *Crisis Coordination Arrangements (CCA)*;⁴⁵ for responding to public health risks and crises, the Health Security Committee (HSC)⁴⁶ and the European Centre for Disease Prevention and Control (ECDC). With regard to critical situations stemming from suspected criminal or terrorist activities, Europol can provide investigative support to Member States' law enforcement and intelligence authorities.

A short description of the above mechanisms and tools follows.

a) The Solidarity Clause

The Solidarity clause provides the option for the Union and its Member States to provide assistance to another Member State which is the object of a terrorist attack or a victim of natural or man-made

⁴³ On the EAPC, see <http://www.nato.int/cps/it/natolive/51288.htm>.

⁴⁴ Council of the European Union, *Conclusions on reinforcing the Union's disaster response capacity – towards an integrated approach to managing disasters*, Luxembourg, 16 June 2008, p. 2, available at http://www.eu2008.si/si/News_and_Documents/Council_Conclusions/June/0616_GAERC-Disaster_Response.pdf.

⁴⁵ Both of these focus on civil protection in crises and emergencies beyond just CBRN events. The CCA are described in a partially public Report. They describe arrangements and procedures for crisis coordination. Council of European Union, *Report and revised Manual on EU emergency and crisis coordination*, 10011/1/07. Brussels, 20 June 2007, available at: <http://register.consilium.europa.eu/pdf/en/07/st10/st10011-re01.en07.pdf>.

⁴⁶ The HSC was set up in 2001 by the Council of Ministers to address health security issues such as the prevention and management of pandemic flu, the deliberate release of CBRN substances and other non-specific threats to health.

disaster.⁴⁷ The pre-requisites for the activation of the solidarity clause is the fact of a Member State being affected by a terrorist attack (or a threat of an attack) or a natural or man-made disaster.⁴⁸ Although it is not provided explicitly, it goes without saying the above identified threats may involve the release or fusion of CBRN agents.

The solidarity clauses involves both the EU and its Member States. In other words, solidarity is provided by both the EU, meant as a supranational organisation with legal capacity that acts through its Institutions and agencies, and Member States. With regard to the EU, it has a legal obligation to “mobilise all the instruments at its disposal” in order to “assist a Member State in its territory, at the request of its political authorities”.⁴⁹ It has to do so following a request coming from the political authorities of the affected State. In other words, the EU formally does not have a right to take the initiative in this context and the victim State is free not to ask for Union assistance.⁵⁰ As far as Member States are concerned, even if they are under a legal obligation to assist the victim State, they will maintain the right to choose, in good faith, the concrete modalities of assistance.⁵¹

The implementation of the solidarity clause shall be defined by a decision adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy”.⁵² Recently, the Commission and the High Representative of the Union have presented a “Joint Proposal for a Council Decision on the arrangements for the implementation by the Union of the

⁴⁷ As stated by Art. 222 par 1, *Treaty on the Functioning of the European Union (consolidated version)*, Lisbon 1.12.2009, in *OJEU* C 326, 26.10.2012, p. 47 ff., available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:326:0047:0200:EN:PDF>, “The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster”. On the “Solidarity Clause”, cf. M. Fuchs-Drapier, *The European Union's Solidarity Clause in the Event of a Terrorist Attack: Towards Solidarity or Maintaining Sovereignty?*, in *Journal of Contingencies and Crisis Management*, Vol. 19, No. 4, December 2011, pp. 184–197; No. von Ondarza and R. Parkes, *The EU in the face of disaster. Implementing the Lisbon Treaty's Solidarity Clause*, in *SWP Comments*, April 2010, available at http://www.swp-berlin.org/fileadmin/contents/products/comments/2010C09_orz_pks_ks.pdf; S. Myrdal and M. Rhinard, *The European Union's Solidarity Clause: Empty Letter or Effective Tool? An Analysis of Article 222 of the Treaty on the Functioning of the European Union*, in *UL Paper*, No. 2 2010, available at http://www.sipri.org/research/security/old-pages/euroatlantic/eu-seminar/documentation/2010_Myrdal%20Rhinard_EU%20Solidarity%20Clause_UIOP.pdf; M. Hatzigeorgopoulos, *The EU's Mutual Assistance and Solidarity Clauses*, in *European Security Review*, No. 61, December 2012, available at http://www.isis-europe.eu/sites/default/files/publications-downloads/esr61_Assistanceandsolidarityclauses-Nov2012MH_0.pdf.

⁴⁸ Cf. *ibidem*, lett. (a) according to which the Union shall mobilise all the instruments at its disposal, “to prevent the terrorist threat in the territory of the Member States”.

⁴⁹ *Ibidem*, lett. (a) and (b).

⁵⁰ Cf. also M. Gestri, *EU Disaster Response Law: Principles and Instruments*, in A. de Guttry, M. Gestri, G. Venturini (Eds) *International Disaster Response Law*, Part. II, Ch. 5, 2012, The Hague, p. 105 ss. The notion of “political authorities” it might appear ambiguous. In any case, it seems that one has to interpret the provision in the light of the general features of the EU institutional and legal order, according to which the EU ordinarily deals with the Member States, that is, their central governmental authorities. As a consequence, it is submitted that a regional or local authority could have the competence to request the intervention of the EU only with the consent of the central government of the State in question. *Ibidem*.

⁵¹ *Ibidem*. Cf. also *Declaration on Article 222 of the Treaty on the Functioning of the European Union* (N. 37), annexed to the Final Act of the Lisbon Conference, according to which: “Without prejudice to the measures adopted by the Union to comply with its solidarity obligation toward a Member State which is the object of a terrorist attack or the victim of natural or man-made disaster, none of the provisions of Article 222 is intended to affect the right of another Member State to choose the most appropriate means to comply with its own solidarity obligation toward that Member State”.

⁵² Art. 222, par. 1, *Treaty on the Functioning of the European Union (consolidated version)*, cit.

Solidarity clause (2012)".⁵³ As described by its Explanatory Memorandum, the "Proposal" aims at defining the geographic scope of the solidarity clause, its activation mechanism, as well as the response arrangements adopted at Union level.⁵⁴

With regard to the scope of the solidarity clause, it should apply to disasters and terrorist attacks within the EU territory, whether on land, sea or in the air. It should apply irrespective of whether the crisis originates inside or outside the EU.⁵⁵

As explained by the Proposal, the solidarity clause should relate to all crisis response structures at EU level.⁵⁶ In order to "improve efficiency and avoid duplication of structures and functions, a network approach will be used. The most relevant EU response centre for each crisis will constitute the hub and the interface with Member States (the "centre of gravity"), supported by the full spectrum of specialised services".⁵⁷

It has to be stressed that the proposal provides for the EU to act in solidarity only in exceptional circumstances and at the request of the political authorities of a Member State which sees its own capacities overwhelmed as the result of an actual or imminent terrorist attack or of a natural or man-made disaster. The Member State affected may invoke the clause and must address its request to the Commission and notify simultaneously the Presidency of the Council.⁵⁸ The latter may decide to activate the Crisis Coordination Arrangements.⁵⁹

b) The EU Civil Protection Mechanism

The Union Civil Protection Mechanism is designed to facilitate co-operation between the 28 EU Member States, plus 4 other participating Third States,⁶⁰ in civil protection assistance for major emergencies or threatened emergencies. The Mechanism was established as a "Community Mechanism" by the *Council Decision 2007/779/EC*.⁶¹ Recently, it has been established as "Union Mechanism" by *Decision*

⁵³ JOIN/2012/039 final - 2012/0370 (NLE), 21 December 2012, available at <http://new.eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012JC0039&qid=1387378192208&from=EN>.

⁵⁴ Cf *ibidem*, p. 3-5.

⁵⁵ As it is further clarified: "The Clause also applies to ships (when in international waters) and airplanes (when in international airspace) or critical infrastructure (such as off-shore oil and gas installations) under the jurisdiction of a Member State". *Ibidem*.

⁵⁶ *Ibidem*.

⁵⁷ *Ibidem*.

⁵⁸ *Ibidem*.

⁵⁹ Cf. *infra*.

⁶⁰ Iceland, Liechtenstein, Former Yugoslav Republic of Macedonia, Norway.

⁶¹ *Council Decision of 8 November 2007 establishing a Community Civil Protection Mechanism (recast)*, OJ L 314, 1.12.2007, available at, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:314:0009:01:EN:HTML>. The Community Mechanism was accompanied and financed by the *Council Decision No. 2007/162/EC of 5 March 2007 establishing a Civil Protection Financial Instrument*, OJ L 071, 10.03.2007, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007D0162:EN:HTML>. The Community mechanism was originally set up by *Council Decision No. 2001/792/EC of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions*. All the cited Decision have been recently substituted by Decision 1313/2013/EU (see next footnote). It has to be noted that in the field of Civil protection there are other relevant tools like those that have been

1313/2013/EU of the European Parliament and of the Council of 17 December 2013.⁶² It is to be noted that while the Union Mechanism primarily protects people, it can also protect the natural and cultural environment, and property. As originally conceived and implemented, the Mechanisms had the goal to provide assistance to Member States that were in the event of a natural disaster or man-made accident. From 2007 the mechanism may be also triggered to counter acts of terrorism.^{63,64}

The Union Mechanism includes several tools to assist cooperation and solidarity.⁶⁵ These are: the Emergency Response Coordination Centre (ERCC) – former Monitoring and Information Centre (MIC) – ;⁶⁶ The Common Emergency and Information System (CECIS);⁶⁷ Training Programmes;⁶⁸ Civil Protection Modules.⁶⁹

Moreover, Member States participating in the EU's Civil Protection Mechanism are encouraged to apply the *EU Host Nation Support Guidelines* adopted on 18 January 2012 ("HNS Guidelines").⁷⁰ The Guidelines are intended to support and assist affected States in receiving international assistance, whether in the preparedness or disaster response phases. They recommend – they are non-binding – key actions to be taken in relation to emergency planning, emergency management and coordination, logistics, transport and legal and financial issues.⁷¹

c) Crisis Coordination Arrangements

The EU emergency and crisis coordination arrangements (CCAs) define rules for interactions between EU institutions and Member States during the most severe emergencies or crises affecting the EU directly or indirectly.⁷² These emergencies should be of such a wide-ranging impact or political significance that they require a coordinated political response at EU level.⁷³ In particular, the CCAs are intended for a situation

specifically designed to deal with major industrial chemical accidents and combating marine pollution. For more information cf. http://ec.europa.eu/echo/civil_protection/civil/prote/legal_texts.htm.

⁶² Decision No 1313/2013/EU of The European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism, in OJ L 347, 2012.2013, also available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0924:0947:EN:PDF>.

⁶³ *Ibidem*, art. 1 par. 2.

⁶⁴ Cf. also *Council Decision of 8 November 2007 establishing a Community Civil Protection Mechanism (recast)*, cit., art. 1 par. 2.

⁶⁵ For further details see: http://ec.europa.eu/echo/policies/disaster_response/mechanism_en.htm.

⁶⁶ Countries can appeal for help through the ERCC. The ERCC matches offers of assistance to the countries that need such help. It also serves as a communications hub for countries involved in an event. Cf. also http://ec.europa.eu/echo/policies/disaster_response/mic_en.htm.

⁶⁷ This facilitates communication among relevant states, allowing them to receive or send alerts, to request or offer help, and to monitor on-going events.

⁶⁸ The Union Mechanism facilitates training, joint exercises, and expert-exchanges.

⁶⁹ These are highly specialised teams or equipment which can be put to use as needed.

⁷⁰ The guidelines were adopted by the EU Civil Protection Committee. For more info see <http://www.ifrc.org/en/what-we-do/idri/latest-news/disaster-law-newsletter-february-2012/host-nation-support-guidelines-approved-by-eu/>.

⁷¹ *Ibidem*.

⁷² Cf. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/crisis-and-terrorism/crisis-management/index_en.htm

⁷³ A non-updated version of the Council of the EU, *Manual on EU Emergency and Crisis Coordination Brussels*, 10579/1/08 REV 1, 24 September 2008,) that provides for a description of the CCA is available <http://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vi7jgt9g1cze>.

that is normally characterised by one or more of the following criteria: (a) time constraints preventing the Union from handling the situation by means of ordinary Council proceedings; (b) event with cross-sectoral consequences affecting several policy areas; (c) directly affecting a number of Member States or requiring the engagement of the entire Union; (d) when existing mechanisms cannot cope.⁷⁴

As one may understand, an significant event involving the release or fusion of a CBRN agents may well trigger the CCAs.

d) The Health Security Committee

In Europe, CBRN falls partly within the organisational framework of the European Union's Health Security Committee (HSC). The HSC was set up in 2001 by the Council of Ministers to "address health security issues such as the prevention and management of pandemic flu, the deliberate release of CBRN substances and other non-specific threats to health".⁷⁵ The HSC comprises representatives from each national administration, the Commission's Directorate-General for Health and Consumers, and certain other relevant Commission departments and agencies. It has primary responsibility for coordinating Union-wide health security efforts (it is "the key mechanism for coordinating health security efforts" at the EU level).⁷⁶ It focuses on health-related threats from, for example, cross-border pandemics (e.g. the 2009 H1N1 flu pandemic), but also releases of CBRN agents. The HSC has three major areas of interest, one of which is CBRN threats.⁷⁷

So the HSC's activities are not restricted to CBRN-related issues, but do include such issues insofar as they relate to public health issues.⁷⁸ More generally, actions focus on coordinating measures across Europe.⁷⁹

e) The European Centre for Disease Prevention and Control

⁷⁴ Cf. Council of The European Union, *EU Emergency and Crisis Coordination Arrangements (CCA) - CCA Standard Operating Procedures*, Doc. 12966/11, Brussels, 15 July 2011, p. 5.

⁷⁵ European Commission, *Health Security in the European Union and Internationally*, Commission Staff Working Document, SEC(2009) 1622, Brussels, 23.11.2009; p. 4. The Union's strategic policy framework on health security was partly motivated by the threat from CBRN agents with, for example, the anthrax scare that followed the September 11, 2001 terrorist attacks in the USA making apparent the need to ensure adequate preparation for large-scale public health emergencies

⁷⁶ Cf. http://ec.europa.eu/health/preparedness_response/hsc/index_en.htm.

⁷⁷ See also http://ec.europa.eu/health/preparedness_response/hsc/index_en.htm.

⁷⁸ For example, in 2008 the HSC was called upon to consider possible coordinated actions relating to shortages of radio-isotopes resulting from the closure of the three EU reactors that produce radio-isotopes for health purposes (e.g. diagnostics and treatment of cancers and heart disease). European Commission, *Health Security in the European Union and Internationally*. Commission Staff Working Document, SEC(2009)1622, Brussels, 23.11.2009, p. 6.

⁷⁹ It should be noted, in addition, that the EU, through the European Commission's membership of the Global Health Security Initiative (GHSI), is involved in collaborative health security efforts with the G7+ states (Canada, France, Germany, Italy, Japan, Mexico, the UK, the USA) and the World Health Organisation (WHO). The GHSI is an informal, international partnership aiming to strengthen health preparedness for and response to public health threats, including those related to CBRN incidents. See European Commission, *Health Security in the European Union and Internationally*, Commission Staff Working Document, SEC(2009) 1622, Brussels, 23.11.2009; p. 4.

There are, in the EU, systems in place for epidemiological surveillance. The European Centre for Disease Prevention and Control (ECDC) takes responsibility for the surveillance of infectious diseases in Europe and for maintaining databases concerning epidemiological surveillance. This is an important aspect of the detection and prevention of, and response – as well as the coordination of responses – to, possible CBRN events, such as bioterrorism attacks. Member States undertake to share information pertaining to possible public health issues that may be felt at the European level;⁸⁰ this is done through the Early Warning and Response System (EWRS). The EWRS is a web-based system which connects the European Commission, public health authorities in MSs, and the ECDC.

Other means of gathering “medical intelligence” include: a) The “Network for the surveillance and control of communicable diseases”;⁸¹ b) the “MediSys”: an information scanning tool, which is fed by c) the “European Media Monitor” (EMM), which processes internet articles and uses dedicated algorithms to identify relevant trends or breaking news.⁸²

As per its remit, the focus of the ECDC is more on B aspects of CBRN than C or RN, dealing mainly (in these respects) with biosecurity, biorisk, biosafety, etc. Relevant legislation, standards, and guidelines may be found at the ECDC website.⁸³

Finally, it should be noted that in December 2011 the European Commission undertook to develop a legal proposal aimed at stepping up the protection of European citizens from cross-border public health threats. This aims to provide solutions to perceived shortcomings in the current EU health security framework. The proposal will “extend the existing framework of communicable diseases to cover risk assessment, risk management and risk communication aspects of all serious cross-border threats to health”.⁸⁴ This means that, inter alia, the current network of epidemiological surveillance (involving the European Commission, the ECDC and national authorities) will be cover also *all* heath threats caused by biological, chemical or environmental causes. The proposal will also upgrade the HSC, which is presently an informal advisory group. Once enacted, the proposal will formalise the HSC’s responsibility to offer advice on health security issues (including preparedness and response planning and coordination for relevant CBRN events) to the Commission and Member States.⁸⁵

⁸⁰ This is provided for by Decision 2119/98/EC of the European Parliament and of the Council, and Decision 2000/57/EC (amended by Commission Decision of 28/IV/2008).

⁸¹ Established by Decision No 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the epidemiological surveillance and control of communicable diseases in the Community

⁸² See ECDC. (2006). “Epidemic intelligence in the EU”, Meeting Report, Stockholm, 18 – 19 January 2006. At: http://www.ecdc.europa.eu/en/publications/Publications/0601_MER_Epidemic_Intelligence_in_the_EU.pdf

⁸³ Cf. http://www.ecdc.europa.eu/en/activities/microbiology/biosafety/pages/further_reading.aspx.

⁸⁴ Cf. http://europa.eu/rapid/press-release_MEMO-11-884_en.htm?locale=en.

⁸⁵ *Ibidem*.

f) Europol

Europol is the EU's agency whose main goal is to support and enhance Member States' competent authorities action and their mutual cooperation in preventing and combating organised crime, terrorism and other forms of serious crime affecting two or more Member States".⁸⁶

Given its role and tasks, Europol contributes to counter terrorist or criminal activities involving CBRN agents as well as Explosives. In case of a crises or emergency stemming from the criminal or terrorist employment of CBRNE agents in one or more Member States, Europol may support national law enforcement (and intelligence) authorities in carry out investigations by sharing relevant information thought in force information systems.⁸⁷ Furthermore, Europol staff may participate in joint investigation teams to be deployed in the territory of the Member States affected by a criminal or terrorist act, or other form of serious crime.⁸⁸ Within the limits provided for by the law of the Member States in which a joint investigation team operates and in accordance with an administrative arrangement between the Director of Europol and the competent national authorities, the EU's agency can facilitate *in loco* investigation. During the operations of a joint investigation team, Europol staff shall, with respect to offences committed against or by them, be subject to the national law of the Member State of operation applicable to persons with comparable functions.⁸⁹ They shall not, however, take part in the taking of any coercive measures.⁹⁰

g) The EU CBRN action Plan

With respect to CBRN, the *EU CBRN Action Plan*, i.e. the main EU adopted policy document dealing with this type of threats, reiterates that "it is primarily Member States' responsibility to protect the population against CBRN incidents and that initiatives at the EU level should be taken in accordance with the principles of subsidiarity and proportionality, as well as be guided by the principle of solidarity".⁹¹

It has to be noted that *The EU CBRN Action Plan* "constitutes a political commitment" and "may be seen as a roadmap of intentions for the coming years" (note that it is due to be reviewed in 2013). Yet it is not a legal instrument.⁹² By adopting an "all-hazards" approach to CBRN incidents and materials - meaning

⁸⁶ Council Decision 2009/371/GAI establishing the European Police Office (Europol), 6.04.2009, in OJEU L 121 del 15.05.2009, p. 37 ss, artt. 3 and 5 and available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:121:0037:0066:IT:PDF>. Cf. also *ibidem* Annex.

⁸⁷ *Ibidem*, artt. 10-16

⁸⁸ *Ibidem*, art. 6 par. 1.

⁸⁹ *Ibidem*, par. 2.

⁹⁰ *Ibidem*, par. 1.

⁹¹ Council of the European Union, *Conclusions on strengthening chemical, biological, radiological and nuclear (CBRN) security in the European Union - an EU CBRN Action Plan*, 15505/1/09, Bruxelles, 12.9.2009, available at <http://register.consilium.europa.eu/pdf/en/09/st15/st15505-re01.en09.pdf>. These three principles together demand that European-level CBRN policy must be required in addition to individual MSs' initiatives (subsidiarity); must be an appropriate response to the perceived need for policy (proportionality); and must encourage and facilitate coordination and support amongst MSs (solidarity).

⁹² European Commission, *Communication from the Commission to the European Parliament and the Council on strengthening chemical, biological, radiological and nuclear security in the European Union - an EU CBRN Action Plan*, COM(2009) 273,

that it covers all CBRN incidents whether intentional, accidental, natural or man-made - it recommends actions concerning prevention, detection, preparedness and response, as well as horizontal measures in the context of high-risk CBRN materials.⁹³ However it is worth recalling what the Council Conclusion on the EU CBRN Action Plan has stressed: “Action to address the CBRN threat should be conducted with full respect for international law, including human rights and the principle of the rule of law.”⁹⁴

On May 2012, the European Commission issued the “Progress Report on the Implementation of the EU CBRN Action Plan”⁹⁵. The report points out that “progress has been made in all the areas C, B, RN and H”. Regarding the “Response” aspect, in the field of chemical security, the Member States have reported good progress “carrying out exercises to improve preparedness and response in case of incidents involving high-risk substances”. in the field of biological security, the Member States have achieved good results in “providing training and education for professionals working with, having access to or handling high-risk agents, including on bio-safety, bio-security and bio-ethics”. As per radiological and nuclear security, Member States reported good progress in “carrying out research into detection and response, including development of technology in the area of radiological and nuclear security”. Regarding the H – Actions set out by the Action Plan, work has also been carried out in conducting exercises at local, regional, national, EU and international level, based on risk assessment (H. 31), establishing the European network of specialised CBRN law enforcement units (H. 38), setting up the Early Warning System (EWS) for law enforcement authorities for incidents related to high risk CBRN materials as well as explosives and firearms under the coordination of Europol and several Member States (H. 54), drawing up a first version of a CBRN Glossary in all EU languages (H. 53).

Bilateral or Multilateral Agreements

Of course, obligations or other kind of international collaboration concerning prevention and response to CBRN event may also be established through bilateral or multilateral agreements ratified by two or more States. For example, at operative level, it is worth mentioning some memorandum of understanding signed by Italy and other countries - namely Bulgaria (⁹⁶), Croatia (⁹⁷), Cyprus (⁹⁸) and Germany (⁹⁹) and establishing a cooperation framework for risk mitigation and emergency management.

Brussels, 24.6.2009; p. 6. The EU CBRN Action plan grew out of the findings of the CBRN Task Force, which was established by the European Commission in February 2008.

⁹³ Council of the European Union, *Conclusions on strengthening chemical, biological, radiological and nuclear (CBRN) security in the European Union - an EU CBRN Action Plan*, cit., However it nonetheless has a strong emphasis on countering the terrorist threat.

⁹⁴ *Ibidem*.

⁹⁵ See http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/crisis-and-terrorism/securing-dangerous-material/docs/eu_cbrn_action_plan_progress_report_en.pdf.

⁹⁶ See <http://www.protezionecivile.gov.it/resources/cms/documents/Memorandum.pdf>.

⁹⁷ It will be part of EU as of July 2013. See http://www.protezionecivile.gov.it/resources/cms/documents/Protocollo_intesa_Italia_Croazia.pdf.

⁹⁸ See <http://www.protezionecivile.gov.it/resources/cms/documents/Cipro.pdf>.

⁹⁹ See <http://www.protezionecivile.gov.it/resources/cms/documents/Germania.pdf> (only in Italian).

2. CBRN COUNTRY REPORTS

ITALY*

Abstract

The Italian CBRN crises and emergencies management system is framed within two mechanisms that are formally separated although intrinsically integrated: the Civil defence and the Civil protection. While the latter mechanism deals with natural disasters and man-made incidents affecting Italy and determining a situation of “emergency” at national-central, regional or local level, the former copes with the same kind of dangerous events but amounting to a situation of “crisis”. Furthermore, the Civil defence mechanism is triggered to manage crises stemming from man-made intentional activities like criminal, subversive and terrorists actions, or military attacks originating from State and non-State actors. Both the Civil defence and the Civil protection mechanism are structured with a command and control chain, where the Prime Minister takes national decisions supported by different decision-making and coordination committees and ad hoc structures. On-site decision-making and assistance coordination are provided by different kind of local authorities each of them contributing to the response with their own resources. On the operative level, first response is provided by several actors interacting together on the basis of some pre-established criteria.

* Figures 1, 2, 3 may not be used separately from this publication or without making explicit reference to it.

THE ITALIAN LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRN CRISES

Introduction

The Italian CBRN crises and emergencies management system is framed within two mechanisms that are formally separated although intrinsically integrated: the Civil defence and the Civil protection. While the latter mechanism deals with natural disasters and man-made incidents affecting Italy and determining a situation of “emergency” at national-central, regional or local level, the former copes with the same kind of dangerous events but amounting to a situation of “crisis”. Furthermore, the Civil defence mechanism is triggered to manage crises stemming from man-made intentional activities like criminal, subversive and terrorists actions, or military attacks originating from State and non-State actors (figure 1).¹⁰⁰

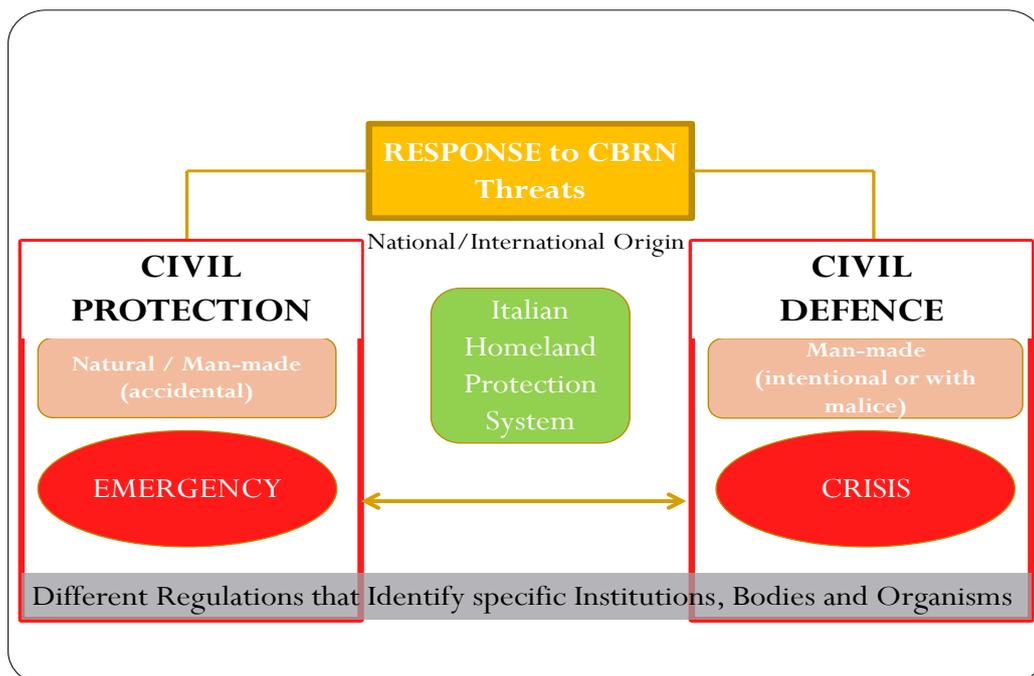


Figure 1.

It has to be noted that the relationship and interplay between the two cited mechanisms have yet to be precisely established.¹⁰¹ This is mainly due to the lack of a shared and close-ended notion of “ Civil

¹⁰⁰ R. Mugavero, *When in Rome...*, in *CBRNe World*, Winter 2010, available at <http://www.osdife.org/professor-roberto-mugavero,-from-the-university-of-rome.html>.

¹⁰¹ F. Bassetta, *Alcune Osservazioni sulla Difesa Civile*, in *Rassegna dell'Arma*, No. 4, 2004, available at <http://www.carabinieri.it/Internet/Editoria/Rassegna+Arma/2004/4/Studi/055-00.htm>. The author distinguishes among those scholars who adopted, on one side, a broad notion of Civil defence and, on the other, a narrow notion. The former scholars

defence” in the Italian legal order, that does not allow to differentiate it from Civil protection – which is formally defined by law.¹⁰² Indeed, both mechanisms aim to safeguard human life, goods, national Institutions, national heritage, human settlements and the environment from natural and man-made threats.¹⁰³ In other words, although they are different on a formal level, the Civil defence and Civil protection mechanisms pursue the common goal to protect the nation during dangerous situations.¹⁰⁴ On the theoretical level, pursuing this common goal entails a partial – tough significant – overlapping between the two notions; on a practical level, it entails a certain combination and interaction between the structures, actors and functions operated that are activated within the two mechanisms.¹⁰⁵

Therefore, on the theoretical level, it seems that the difference between the two notions depends on the type and reach of the threatening events at stake. As we have already said with regard to CBRN threats, Civil protection concerns preparedness and response to natural (e.g. earthquakes or floods) and man-made - but unintentional or involuntary (e.g. industrial accidents) - threats occurring at national or international level and determining a situation of “emergency”. Civil defence copes with the same typology of dangerous events further to man-made intentional or voluntary threats (e.g. sabotage, terrorism or armed aggression) that jeopardise national or international security and amount to a situation of “crisis”.¹⁰⁶ The notions of “crisis” and “emergency” are provided by Italian legislation.¹⁰⁷ As we will detail later on, a “crisis” originates from events that pose a menace to the Italian “national interests” (*interessi nazionali*), i.e. those goals, elements and activities that are paramount to the integrity and functioning of the State (i.e. its Institutions, population, territory, assets etc). An “emergency” is a dangerous situation to be countered by the adoption of specific, urgent and extraordinary measures.¹⁰⁸ As one may note, except for the reference to “national interests” in the notion of crisis, the two adopted definitions do not allow to draw a clear distinction between a situation of “crisis” and “emergency”. Indeed, it seems plausible that facing a crisis will require the adoption of specific, urgent and extraordinary measures too.

In light of the above, it is not possible to draw a distinction between Civil defence and Civil protection in peremptory terms. In order to better understand the differences between the two notions it seems useful to move from the theoretical level to the practical one. In other words, it seems necessary to

consider Civil defence encompassing Civil protection too. The latter interpret Civil defence and Civil protection as two completely separated notions. For references see, in particular, *Ibidem*, fn. 8 -12.

¹⁰² See *infra*.

¹⁰³ F. Toseroni, *Protezione e Difesa Civile Storia, Organizzazione, Pianificazione ed Analisi delle Minacce Future*, Roma, 2009, p. 23 ss.

¹⁰⁴ Cf. <http://www.osdife.org/la-protezione-e-difesa-civile.html>.

¹⁰⁵ As it has been pointed out, from a technical point of view the Civil protection available resources may be employed for purposes falling within the scope of Civil defence. Cf. *Le Prospettive Della Difesa Civile in Italia*, available at http://ispronline.eu/wiki/images/f/ff/DC_prospettive_italia.pdf.

¹⁰⁶ It has to be noted that an armed attack entailing the use of CBRN agents will also trigger the National Defence mechanism. We refer to the measures adopted by all national institutions and structures – the Italian Military Forces *in primis* – to protect Italy from the threat or use of armed force. Cf. also F.R. Palmeri, *L'organizzazione della Difesa Civile*, 2004 available at http://ssai.intern.it/download/allegati1/instrumenta_22_02_-_palmeri.pdf.

¹⁰⁷ *Decreto del Presidente del Consiglio dei Ministri 5 maggio 2010 (D.C.P.M. 5 maggio 2010) “Organizzazione nazionale per la gestione di crisi”*, in G.U. (Gazzetta ufficiale – Official Gazette/Journal of the Italian Republic) No. 139, 17.06.2010. See also *infra* par. 2.

¹⁰⁸ *Ibidem*.

examine the structures, roles, responsibilities and functions of all the actors that operates within both mechanisms. Given our interest in the response to CBRN threats, the following analysis focus on that topic.

1. Preliminary Remarks: On the Methodology and Content

Before proceeding further, however, we deem appropriate to give some brief but important explanations. As already stated, the subject of the following analysis is the “response” to emergency or critical situations involving the release or the merger of CBRN agents. Regardless of the precise meaning that the Italian legal system, the relevant practice or doctrine assign to the term “response” (discussed below), it should be noted that the term itself refers to one of the stages that characterize the emergencies or critical situations risk management cycle.¹⁰⁹ The response, in fact, is - or should be - preceded by risk “prediction” and “prevention” activities, and followed by activities aimed at “overcoming” emergencies and critical situations as well.

Without any pretense of completeness and making it simpler, “prediction” can be defined as the effort to identify risk scenarios and, whenever possible, to anticipate, monitor, supervise and control in real time events and risk levels expected. “Prevention” may instead be defined as the activity aimed to avoid, or minimize the damage caused by emergency or critical events, through the use of specific means such as planning, training, operators’ equipment and education of the population, as well as the application of technical regulations. Finally, “recovery” consists in a range of initiatives apt to promote the resumption of normal living conditions of the population affected by the emergency or critical event. From what we can see, the type, quality and effectiveness of the “response” cannot be separated from the previous prediction and prevention activities, but rather they are limited by them as well as they determine the next phase of the emergency recovery .

From the above said, it follows that the “response” (according to the definition discussed below) to emergency or critical CBRN-type threats represents the main focus of the following analysis. Nevertheless, we cannot help but consider - with sparingly and only when directly relevant and necessary to the context - some aspects that fall within the other phases of the emergency or crisis risk management, especially the prevention stage. In fact, there are some activities relating to the latter phase, the treatment of which – as we already said, contextual and targeted - cannot be avoided. We make particular reference to the activities of planning, staff training and the preparation of technical equipment which will be discussed in more detail later.

We should also note that another risk is related to the CBRN, i.e. the “explosives” risk resulting from the use of substances with a high energy content that can be used to trigger the release of contaminants or their dissemination.¹¹⁰ This type of risk – which, regardless of its correlation with the CBRN, constitutes a

¹⁰⁹ Cf. for example, D. F. Bignami, *Protezione civile e riduzione del rischio disastri. Metodi e strumenti di governo della sicurezza territoriale e ambientale*, Sant’Arcangelo di Romagna, 2010, p. 102; F. Toseroni, cit., p. 103 ff.

¹¹⁰ R. J. Heyer, *Introduction to CBRNE Terrorism: An Awareness Primer and Preparedness Guide for Emergency Responders*, 10.01.2006, available at <http://www.disasters.org/dera/library/Heyer%20WMD.pdf>.

threat in itself - is operatively treated by certain highly specialized bodies that we will discuss later. From a regulatory point of view, we should note that, in spite of the several public safety issues related to the use of explosives and the degree of risk associated with operations involving their use, the matter is regulated by a remarkable variety of regulatory texts generally quite old. Over the time, however, these texts have often undergone amendments and additions, adapting their content to the development of new explosive products and technologies and their use, as well as the constraints imposed by the European legislator.¹¹¹ The present Report will mention them, without departing from the scope of the research concerning the CBRN risk. In other words, the “explosives” will be the subject of consideration where relevant to the discussion of CBRN threats.

Finally, we should observe that the Italian legal system and, more importantly, the Italian crisis and emergency management system does not formally associate the explosives threat with CBRN. In order to avoid misunderstandings, we deem appropriate to explain that unlike the (few) other European states legal systems which associate the explosive threat with CBRN and, therefore, adopt the CBRNE denomination, the Italian system recognizes this association only implicitly and indirectly.

2. Response to a CBRN Threat within the Civil Defence Framework

Article 14 of the Legislative Decree dated on July 30, 1999 No. 300¹¹² (Legislative Decree No. 300/1999) confers jurisdiction in respect of civil defense (Civil protection and ordinance power within Civil Protection area) to the Ministry of the Interior, as well as the Government territorial agencies that exercise it through the Firefighters, Public Rescue and Civil Defense Department, under which the Central Directorate for Civil defence and Civil protection policies, established by President of the Republic's decree dated on September 7, 2001 No. 398 (Presidential Decree No. 398/2001), operates.¹¹³ We should immediately note that the Legislative Decree No. 300/1999 does not provide any information on what is meant for or what precisely constitutes the Civil defense nor exhaustively lists the additional State bodies taking part in it.¹¹⁴ As to the first question, by custom,¹¹⁵ today the maintenance/preservation of

¹¹¹ Cf. F. Retacchi, *La Normativa Italiana e Comunitaria nel Settore degli Esplosivi Civili*, in *Quarry & Construction*, September 2002, available at <http://www.euexcert.it/wp-content/uploads/2011/10/2002.09-LA-NORMATIVA-ITALIANA-E-COMUNITARIA-NEL-SETTORE-DEGLI-ESPLOSIVI-CIVILI.pdf>.; *La Normativa sugli Esplosivi per Uso Civile nel Contesto della Libera Circolazione delle Merci in Ambito Comunitario*, 2005, available at <http://www.earmi.it/varie/nitrex/La%20normativa%20sugli%20esplosivi%20per%20uso%20civile.PDF>.

¹¹² “Government organization reform, in compliance with art. 11 of Law 15 March 1997, No. 59”, in *G.U.* No. 203 s.o., 30.08.1999, also available at http://www.intern.gov.it/mininterno/site/it/sezioni/servizi/legislazione/pubblica_amministrazione/legislazione_421.html

¹¹³ “Regolamento recante l'organizzazione degli uffici centrali di livello dirigenziale generale del Ministero dell'Interno”, art. 6 par. 2(c), in *G.U.* No. 258, 06.11.2001, also available at http://www.intern.gov.it/mininterno/site/it/sezioni/servizi/legislazione/governo/legislazione_744.html. The Decree has reorganized the central offices of general management of the Ministry of the Interior and has established departments that replace the old DGs. For a detailed description of the structure of the Central Directorate for Civil Defence and Civil Protection Policies, see also

http://www.intern.gov.it/mininterno/export/sites/default/it/sezioni/ministero/dipartimenti/dip_vigili/scheda_17809.html.

¹¹⁴ According to a part of the doctrine, it is significant that the decree did not intend to assign functions to the Ministry of the Interior related to the development of the civil defense “policies”. It notes also that it is not enough to have attributed the civil

the following items are considered as the organization's strategic objectives and actions taken in Civil defence area:

1. Government's action continuity;¹¹⁶
2. Telecommunications and alarm systems functionality;¹¹⁷
3. Preservation of the economic and logistical system;¹¹⁸
4. Measures aimed at population protection and assistance;¹¹⁹
5. Public health protection;¹²⁰

Defence matter that, as it is reiterated, is associated with aspects of military order: as a consequence, a proper legislative discipline guaranteeing the effective exercise of the Ministry of the Interior specific function is required. See F. Bassetta, op. cit., doctrinal reference in note 15.

¹¹⁵ Cf. http://www.intern.gov.it/mininterno/export/sites/default/it/temi/soccorso_pubblico/sottotema004.html or <http://www.osdife.org/la-protezione-e-difesa-civile.html>. See also the manual "The Civil-Military Cooperation" published by the Joint Chiefs of Staff, Military Centre of Civil Defense in 1983 and revised in a new version in 1985 and still in force, which defines, according to a military perspective, the general guidelines on the subject of civil defense and civil-military cooperation in the field of national defense. An extract of the Handbook is available on the website http://www.ispro.it/wiki/images/5/53/Protezione_Difesa_Civile.pdf. It should be noted that the manual adopts a definition of Civil Defence that is as follows "complex of measures is to be prepared and the activities to be performed to cope with emergencies caused by: a natural event, an accident or involuntary, random by a calamitous done intentionally caused man, a national crisis and / or international conflict in war ". *Ibidem*, para 1.3.a.

¹¹⁶ On the basis of the provisions of the aforementioned Manual "The Civil-Military Cooperation", the first area of intervention of the Civil Defense more specifically concerns the maintenance of: (i) the action and the authority of the government, (ii) institutional functions (iii) public order and the rule of law, (iv) an effective information service, (v) a proper dissemination of news also for the strength of the "home front." *Ibid* 1.3.b.

¹¹⁷ The second area includes what is necessary to ensure: (i) the functionality of telecommunications (viewed as a set of systems, forming national networks and the inclusion of these nodal points in the mesh International), (ii) the branch of the stages and alarm states. *Ibidem*

¹¹⁸ The third area relates to: (i) the protection of vital public interest services, transport for any type of "green" (land, air, etc..), The militarization and eventual transformation of companies in the health food industry, (ii) the procurement, supply storage, transportation of raw materials and strategic ones, and the use of renewable energy, (iii) training and inventory replenishment, and (iv) work to restore important infrastructure, (v) the mobilization workers for the various fields of activities essential. *Ibidem*

¹¹⁹ The fourth area includes issues related to civil protection, in particular: (i) f the prevention and detection of hazards from natural agents including those having the character radioactive, biological, chemical, and (ii) the dissemination of alarm states for any kind of hazards (floods, landslides, earthquakes, tornadoes, etc.). including those resulting from aerial attacks with conventional weapons or nuclear type, bacteriological, chemical, and (iii) the protection of industrial equipment, agricultural heritage and livestock, and the protection of human lives and property including artistic and cultural (vi) the maintenance and restoration of the environment in the context of an organic ecological policy, the policy of the shelters and the maintenance of the population in place, saving the clearance and assistance to survivors of natural disasters, (v) the thinning and displacement, (vi) the movement of the evacuees. *Ibidem*.

¹²⁰ The fifth area regards: (i) the establishment of hospitals and health field assessment centers (ii) prophylaxis health and hygiene, (iii) f safeguarding and sanitary control of animals, food, water and the environment in general, (iv) the displacement and transfer of patients already admitted to hospitals, and (iv) rescue and shelter and care of patients including those suffering from injuries caused by conventional or N-type, B, and C weapons v) the supply, production, storage, and distribution of sanitary stuff, (vi) analysis of animals and things attacked by biological and chemical agents and appropriate countermeasures identification, (vii) decontamination of people and the remediation of contaminated areas, (viii) diffusion of first aid and mutual directions ix) the burial of remains. *Ibidem*.

6. Public information activities in an emergency situation;
7. Self-protection individual and collective training;
8. Artistic and cultural heritage preservation.¹²¹

The range of the aforementioned objectives is so wide that it does not allow a thorough determination of the Civil Defense scope: they are pursued through the activation of a framework that consists of different institutions and organizations, whose duties in this respect, are determined by different regulatory instruments. Such institutions and organizations operate at three distinct, albeit integrated, levels, i.e. political-strategic, tactical, and operative, as the diagram below shows (Figure 2).



Figure 2.

2.1 Political-Strategic Level

2.1.1 The National Scope

¹²¹ The sixth, seventh and eighth sector – the Manual considers unitarily - deal with matters relating to information about the population: the possible dangers and their states of emergency and alarm systems, the methods to protect themselves according to the various types of hazards, the details of individual and collective training, the Civil Protection volunteers' and auxiliaries' activities organization and the defense of the artistic and cultural heritage. *Ibidem*

At political-strategic level, the Government is responsible for any action opposed to a CBRN arson event as part of its fiduciary relationship with the Parliament of the Republic. In particular, as established by the Prime Minister's decree dated on May 5, 2010 (Prime Minister Decree of 5 May 2010 "National Organization for the crisis management"),¹²² the actions opposed to a critical event which is likely to involve or to put at risk the national interests,¹²³ like a CBRN *attack*, are implemented by the Prime Minister with the aid of specific agencies.

The **Political-Strategic Committee** (*Comitato Politico-Strategico* or *CoPS*) is the most important body involved. It deals with planning and national strategic guidance in crises situations.¹²⁴ The *CoPS* is convened by the Prime Minister, who is its chairman, and consists of the Ministers of Foreign Affairs, Interior, Defence, Economy and Finance.¹²⁵ Its meetings are also attended by other institutional figures including the Director General of the Department for security information, the Head of the Civil Protection Department, the diplomatic and military Advisor, the Chief of the Defence Staff and the Chief of the Fire Department, Public Emergency and Civil Defense.¹²⁶ As expressly stated in D.P.C.M. May 5, 2010, the *CoPS* "evaluates the situation, examines and defines the measures to be approved by the Council of Ministers, and ,when necessary, authorizes , on a temporary basis, the adoption of enforcement measures, in accordance with the general government policies as well as international treaties and agreements".¹²⁷

In support of *CoPS*, which according to the above description assumes the role of the decision-making body, the **Inter-ministerial Group on Situation and Planning** (*Nucleo Interministeriale Situazione e Pianificazione* or *NISP*) operates. This body is responsible for ensuring coordination between the initiatives promoted by the various ministries and agencies involved in the fight against critical situations.¹²⁸ The *NISP* is chaired by the Under-Secretary of State at the Presidency of the Council of Ministers: it may delegate its functions to the Prime Minister's Adviser and consists of representatives of the Ministries of Foreign Affairs, Interior, Defense, Economy and Finance, Health , the Civil Protection Department, the Department for Information Security (*Dipartimento Informazioni e Sicurezza* or *DIS*) , the Information and Internal Security Agency (*Agenzia Informazioni e Sicurezza Interna* or *AISI*), Information and External Security Agency (*Agenzia Informazioni e Sicurezza Esterna* or *AISE*), the Department of Firefighters, Public Rescue and Civil Defense and the Prime Minister's Press Office and Spokesperson, Prime Minister's Diplomatic Adviser's Office and Military Adviser's office.¹²⁹ All the

¹²² *Cit.* The decree replaces the Manual for the National Crisis Management approved by Decree of the President of the Council of Ministers of 24 March 1994 and subsequent amendments and additions. D.C.P.M. May 5, 2010, *cit.*, Art. 10.

¹²³ The term "crisis" is defined as "any situation likely to be able to involve or endanger the national interest, which may have originated from the perception of a potential danger, or in coincidence of sensational or seriously significant events." *Ibidem*, Art. 2 (a).

¹²⁴ *CoPS* was established according to the Legge 23 agosto 1988 No. 400, and subsequent amendments, art. 5 par. 2(h), in *G.U.* No. 214 s.o. del 12.09.1988, available with text in a consolidated version on http://www.govern.it/Presidenza/normativa/allegati/L_19880823_400.pdf.

¹²⁵ D.C.P.M. 5 maggio 2010, *cit.*, art. 4, paragraphs 2 e 6.

¹²⁶ For a detailed description of *CoPS* see *ibidem*, par.s 3 and 4.

¹²⁷ *Ibidem*, par. 7.

¹²⁸ *Ibidem*, art. 6 par. 1.

¹²⁹ *Ibidem*, art. 5 paragraphs 2 and 3. *Cf.* also paragraphs 5 e 6.

participants in the *NISP* have the power to make decisions that commit their Administration.¹³⁰ It meets on a regular basis at least once every two months and whenever deemed appropriate.¹³¹

NISP carries out the general coordination for what concerns the activities aimed at prevention and training both in possible crisis situations and in well-defined crisis situations or that are likely to become such. In the latter case, the body performs the following tasks: a) constantly update the situation, according to the reports of international organizations and through the exchange of information between the ministries and agencies that are part of it and, when deemed appropriate by the Ministry of Foreign Affairs, through the direct exchange of information with the diplomatic missions; b) assume one or more cases of “national position” to be taken within the framework of international organizations, in contrast to measures proposed or to be proposed by other countries, Prime Minister’s or *CoPS* decision [...]; c) identify and propose to the Prime Minister and the *CoPS* the possible need to agree on the public statements [...]; d) consider and propose to *CoPS* the guidelines of the national information policy, drawn up in accordance with the domestic situation and international organizations as may be agreed by the representatives of the Prime Minister’s Press Office and Spokesperson.”¹³²

In carrying out its activities, the *NISP* is supported by the **Inter-Ministerial Technical Commission for Civil Defense** (*Commissione Interministeriale Tecnica di Difesa Civile* or *CITDC*), the composition and duties of which are set out in the Decree of September 28, 2001 of the Minister of the Interior. The Commission is a body operating at both strategic and tactical level which belongs to the Ministry of the Interior. It is chaired by the Head of the Fire fighters Department, Public Rescue and Civil Defence and it consists of representatives from the Department of Civil Protection and State Administration (Interior, Defence, Health and others, depending on the need), National Autonomous State Roads Company (*ANAS*), Higher Inspectorate of the Italian Red Cross Military Corp and can be integrated with the representatives of other agencies and organizations (*ENAC, ENAV, Trenitalia, Poste Italiane* ...). It plays a consultative role, without the power to take decisions autonomously. The Commission also considers other risk possibilities, not directly related to malicious actions that can lead to situations of crisis for the government continuity as well as damage to the population and, in general, the security of the country.

It should be emphasized that the aforementioned bodies assume a certain role for the strategic definition of “contrast activities” *i.e.* that set of measures which, according to the definition adopted by the Italian law, are related to the prevention, response and management of crisis situations.¹³³ If we attentively consider the “response”, which is the main core of this study, we will see that it is defined as the set of “measures that are adopted and activities that are carried out to ensure that a particular situation could not turn into a situation of crisis.”¹³⁴ “Based on that concept, then it would seem that the response consists of the set of measures with a preventive/tactical/operational aim, designed to prevent a situation that is already considered as dangerous or resulting from serious and significant events can escalate, integrating the case of “crisis”.

¹³⁰ *Ibidem*, par. 4.

¹³¹ *Ibidem*, par. 7. In addition, the *NISP* can be convened on Prime Minister’s initiative, or upon the request by one member of different administration at least.

¹³² *Ibidem*, art. 6 par. 3 (a) – (d).

¹³³ *Ibidem*, art. 2(i).

¹³⁴ *Ibidem*, lett. (g).

It should be noted that we discussed preventive-tactical operational activities to distinguish them from those of a preventive strategic nature that seem to integrate the definition of crisis “prevention” adopted by the Italian laws. According to it, they can be considered as those “measures and training activities adopted to address a hypothetical situation of crisis, including, among other things, the identification of decision-making procedures, planning, operational planning and staff training at different levels.”¹³⁵ “The adoption of a policy of a temporal nature, could imply that the prevention strategy has the objective to develop, in long - medium term, the tools needed to govern and solve hypothetical critical events. Predictive and operational tactics instead implies the adoption of measures involved in potentially critical, contingent situations, which prevent, in the medium and short term, their evolution in factual crisis situations. Based on what we said above, for example, all the activities related to the definition of guidelines and planning for any action of informative nature carried out by the **Inter-Ministerial Committee for the Security of the Republic** (*Comitato Interministeriale per la Sicurezza della Repubblica* or *CISR*) established at the Presidency of the Council of Ministers (Law No. 124 of 2007),¹³⁶ fall within the strategic crisis prevention area. On the other hand, the collection and analysis of information carried out by the intelligence agencies belonging to the Department of Information and Security (*DIS*) i.e. the Police offices and facilities operating under the Ministry of Interior in a particular situation likely to evolve into a crisis, has preventive, tactic-operative nature.

It should be noted that the term “response” adopted by the Italian legal system, would seem to exclude the activities and measures adopted by the aforementioned bodies referred when the crisis is “overt”. In fact, for this type of measures and activities, the Italian laws provide uses the definition of measures of “management”, aimed at preventing, or at least limiting, the damage caused by the critical event to reduce its duration.¹³⁷

Actually, the three elements that define the “law enforcement activities” carried out by institutions and national bodies to cope with a crisis, i.e. the measures of prevention, response and management, are all inextricably linked to each other, especially with reference to the distinction between “response” and “management”, partially overlapping. In addition, lingering on the strict classification of the various types of measures is relevant from a formal point of view with scarce implications in practical terms.

2.1.2 The Supranational Dimension

From what we have said so far, it results that the activities carried out by the above mentioned national organisms need to take in to account international obligations and cooperation mechanisms. Reference is made to the NATO, EU and other international organizations. Even the D.P.C.M. May 5, 2010 makes express reference to. It states that, for the implementation of its provisions, the *NISP* is required to

¹³⁵ *Ibidem*, let. (f).

¹³⁶ Legge No. 124 “Sistema di informazione per la sicurezza della Repubblica e nuova disciplina del segreto”, 3 agosto 2007, in *G.U.* No. 187 del 13 agosto 2007, available at <http://www.camera.it/parlam/leggi/071241.htm>. According to art. 5 par. 2 “Il Comitato elabora gli indirizzi generali e gli obiettivi fondamentali da perseguire nel quadro della politica dell’informazione per la sicurezza svolta dagli organismi di intelligence”.

¹³⁷ D.C.P.M. 5 may 2010, *cit.*, art. 2, par.s 1(h).

develop appropriate guidelines/directives defining the procedures for liaising with NATO, EU and other international organizations, as well as procedures for carrying out particular activities, in crisis situations, planned by NATO agreements. These guidelines/directives should then be adopted within 6 months of publication of the decree.¹³⁸

2.1.2.1 The International Cooperation within NATO

Italy is member of the NATO. It both contributes to and benefits from the Organisation' CBRN response mechanism.¹³⁹ In case of a CBRN treat, Italy may rely on the support of the NATO Combined Joint Chemical, Biological Radiological, Nuclear (CBRN) Defence Task Force. As we have already described, the Task Force is a body specifically trained and equipped to deal with CBRN threats and consisting of a CBRN Joint Assessment Team (JAT) and CBRN Defence Battalion. The latter may be deployed following the authorisation of the North Atlantic Council, *i.e.* the principal political decision-making body within NATO. The Council can meet at the level of permanent representatives, at the level of foreign and defence ministers, and at the level of heads of state and government.¹⁴⁰

In case of a CBRN crisis affecting the Italian territory, the *CoPS* may activate the NATO response mechanism by requesting the authorisation to the North Atlantic Council. It will do it through its Ministry of Foreign Affairs, in particular through the IV Office of the Directorate General for Political Affairs and Security (*Ufficio IV della Direzione Generale per gli Affari Politici e Sicurezza*) – in charge of cooperation with NATO – and the Italian permanent Mission to the North Atlantic Council in Brussels.¹⁴¹ However, it has to be noted that there are other national organisms that are in charge of liaising and cooperating with NATO in Italy. One of this is the Ministry of Interior's Department of Fire Brigades, Public Rescue and Civil Protection (*Dipartimento dei Vigili del Fuoco, del Soccorso pubblico e della Protezione Civile del Ministero dell'Interno*) that is responsible for liaising with the Atlantic organisation with regard to matters falling within the scope of Civil defence. In particular, the Department has established the Office I of its (*Ufficio I della Direzione Centrale della Difesa Civile e Protezione civile*), that deals with International Organisations, the NATO included. In light of the above, in case of a CBRN threat determining a critical situation and activating the Civil defence mechanism, the national organism responsible for liaising with the NATO CBRN response mechanism will be the Office I of the Ministry of interior's Central Directorate for Civil defence and Civil Protection. At national level, coordination between the various Ministries and Departments that are involved in the response to the CBRN threat (the Ministry of Defence included) will be guaranteed by the *NISP*.

Once deployed the NATO structures will operate under the strategic command of the Supreme Allied Commander Europe (SACEUR). Operative command will be assigned to a deputy commander.¹⁴²

¹³⁸ *Ibidem*, art. 9 par.1 (a) (b), 2.

¹³⁹ Cf. *supra* Section I.

¹⁴⁰ Cf. also http://www.nato.int/cps/en/natolive/topics_49763.htm?

¹⁴¹ Cf. <http://www.esteri.it/MAE/IT/Ministero/Struttura/DGAffariPoliticiSicurezza/>.

¹⁴² Cf. *supra* Section I.

2.1.2.2 *The EU Cooperation Mechanisms and Procedures*

As we have already described, there are different tools and mechanisms that may be activated at the EU level in order to cope with crises or emergencies – CBRN threats included – affecting the Union or its Member States. These are: the Solidarity Clause mechanism, the Community Civil Protection Mechanism and the Crisis Coordination Arrangements (CCA); the Health Security Committee (HSC) and the European Centre for Disease Prevention and Control (ECDC) and Europol.¹⁴³ Overall, the above mechanisms aims to support Member States in countering potential or actual threats to their political, economic and societal integrity; threats that are generated by natural disasters or man-made activities.

In the following paragraphs, we will discuss how the Italian Civil defence authorities may activate and benefit from the above EU established mechanisms.

2.1.2.2.1 *The Solidarity Clause to Counter CBRN Terrorism*

According to what we have explained above, in the event of a terrorist attack, a threat of an attack or a natural or man-made disaster involving the release of CBRN agents, Italy may rely on the support provided by the EU and other Member States through the mechanism of the solidarity clause.¹⁴⁴ In order to benefit from that support, it should be requested by the Italian relevant “political authorities”, that are the Government on the basis of a decisions taken within the CoPS.¹⁴⁵

2.1.2.2.2 *The Union Civil Protection Mechanism to Counter CBRN Terrorism*

The Union Civil Protection Mechanism is designed to facilitate co-operation between Member States and other participating Third States in Civil protection assistance for major emergencies or threatened emergencies. As we have explained, it may be triggered to respond to acts of terrorism, among which terrorist attacks employing CBRN agents.¹⁴⁶

With regard to Italy, given that response to CBRN terrorism falls within its *Civil defence* mechanisms, that, as we said, is formally separated from the Civil protection, the obvious question to be asked is whether this separation may limit the possibility for the Italian authorities to ask for international support to the EU *Civil protection* mechanisms [emphasis added].¹⁴⁷ Indeed, there some inconsistency generated by the fact that the EU mechanism should be activated by the Italian Department of Civil Protection – International Relation Office and Service (*Dipartimento di Protezione Civile, Ufficio Relazioni Istituzionali, Servizio relazioni internazionali*) that is responsible for liaising with the EU ERCC – former

¹⁴³ *Ibidem*.

¹⁴⁴ *See supra* Section I.

¹⁴⁵ *Ibidem*.

¹⁴⁶ *Ibidem*.

¹⁴⁷ *Cf. supra* “Introduction”.

MIC.¹⁴⁸ In other words, the activation of the EU Civil protection mechanism for countering CBRN terrorism in Italy, would determine the simultaneous activation of both the Civil defence and the Civil protection mechanisms. This would be likely to generate some problems with regard to the interplay and coordination between the two mechanisms, as well as to the command and control chain. Indeed, as we will discuss later on, the Civil protection mechanisms has its own structures and organisms in charge of the strategic management of emergencies.¹⁴⁹

Actually, on the practical level, the above problems are solved by keeping the responsibility for the CBRN threat management to the structures and organisms established within the Civil defence mechanism, in particular to the Ministry of Internal Affairs and its depended local authorities. They will be responsible for the management of international assistance provided through the Community Mechanism for Civil Protection. The Italian Civil protection related organisms will contribute in liaising with the EU Mechanism and to provide international assistance with logistical support. At strategic national level, coordination between Italian authorities will be ensured by the *NISP*.

2.1.2.2.3 The Crisis Coordination Arrangements

Less “problematic” seems to be the activation of the Crisis Coordination Arrangements by the Italian Civil defence authorities. This is because the Arrangements deal with “crisis”, the latter meant like the *D.P.C.M 5 maggio 2010* does.¹⁵⁰ As we have explained above the CCA define rules for interactions between EU institutions and Member States during the most severe emergencies or crises affecting the EU directly or indirectly.¹⁵¹ With regard to Italy, the mechanism is triggered by the Prime Minister – most likely following a decision taken within the CoPS – through the EU *Joint European Union Situation Centre* (SitCen)¹⁵² that will inform the Presidency of the Council of the EU.

2.1.2.2.4 Europol

Europol contributes to counter terrorist or criminal activities involving CBRN agents as well as Explosives. In case of a crises or emergency stemming from the criminal or terrorist employment of CBRNE agents in one or more Member States, Europol may support national law enforcement (and intelligence) authorities in carry out investigations by sharing relevant information thought in force information

¹⁴⁸ Among its tasks, the International Relations Service of the Italian Department for Civil Protection organizes and manages the constitution of the “Task Force” of the European Mechanism, and relations with the Monitoring and Information Centre (now ERCC) of Bruxelles, and other various activities as reported by http://www.protezionecivile.gov.it/jcms/en/serv_rel_ist.wp;jsessionid=64A39FCFAC2B3FD230916CC8126E0CC5?request_locale=en. Cf. also *supra* Section I.

¹⁴⁹ See *infra*.

¹⁵⁰ Cf. *supra* par. 1 and 2.

¹⁵¹ Cf. *supra* Section I.

¹⁵² Cf. <http://www.focusproject.eu/documents/14976/0/CBRA+analysis+of+EU+Situation+Centre>. Cf. also M. K. Davis Cross, EU *Intelligence Sharing & The Joint Situation Centre: A Glass Half-Full*, 2011, available at http://www.euce.org/eusa/2011/papers/3a_cross.pdf

systems. Furthermore, Europol staff may participate in joint investigation teams to be deployed in the territory of the Member States affected by a criminal or terrorist act, or other form of serious crime.¹⁵³

It is up to the Ministry of Interior to liaise with Europol, in particular, to the 4th Division of its International Police Cooperation Service that serves as Europol National Contact point.¹⁵⁴

2.1.2.3 Other CBRN Crises and Emergency Management Cooperation Mechanisms

Finally, it should be noted that the activities promoted within the civil Defence by the entities operating at political-strategic level will necessarily have to take into consideration other eventual duties, which means that they should coordinate themselves with mechanisms and structures of intervention foreseen by bilateral or multilateral agreements that Italy has ratified, defined by other international juridical instruments of binding nature.

Among these, for instance, there is the assistance mechanism of the *Chemical Weapons Convention* or CWC adopted in 1993, of which Italy is a State party.¹⁵⁵ According to it, each Member State that is menaced by or is victim of a military action involving chemical agents has the right to ask for and receive assistance and protection against the use or the menace of employing chemical weapons.¹⁵⁶ Assistance and protection are given on voluntary basis by the other State Parties through the *Organization for the Prohibition of Chemical Weapons* or OPCW that has its headquarters at The Hague and has been established by the Convention itself.¹⁵⁷ Following the procedure described in Art. X CWC, the request is submitted to the General Director of the Technical Secretariat of the Organisation that will immediately transmit it to the Executive Council – the executive organ of the OPCW - and to the other State Parties. The object of such request will be the deployment of emergency assistance in case of military use of chemical agents or humanitarian assistance in case of a serious menace of using chemical weapons or agents for military purposes. At the same time, the General Director will open an investigation with the

¹⁵³ Cf. *supra* Section I

¹⁵⁴

Cf.

http://www.intern.gov.it/mininterno/export/sites/default/it/sezioni/ministero/dipartimenti/dip_publica_sicurezza/direzione_centrale_della_polizia_criminale/scheda_15772.html. Cf. also Council Decision 2009/371/GAI establishing the European Police Office (Europol), cit., art. 8.

¹⁵⁵ Cf. *supra* Section I. Italy implemented the Convention by Law 18 November 1995, No. 496, “Ratifica ed esecuzione della convenzione sulla proibizione dello sviluppo, produzione, immagazzinaggio ed uso di armi chimiche e sulla loro distruzione, con annessi”, in G.U. No. 276, 25.11.1995 s.o. 139, p. 1 ss. The Law No. 496/95 was amended by Law 4 April 1997 No. 93, “Norme di attuazione e modifiche della legge 18 novembre 1995, No. 496, concernente la convenzione sulla proibizione dello sviluppo, produzione, immagazzinaggio ed uso di armi chimiche e sulla loro distruzione, con annessi, adottata a Parigi il 13 gennaio 1993”, in G.U. No. 80, 7.04.1997, also available at <http://www.parlamento.it/parlam/leggi/970931.htm>.

¹⁵⁶ According to Art. X of the Convention, “assistance means the coordination and delivery to States Parties of protection against chemical weapons, including, inter alia, the following: detection equipment and alarm systems; protective equipment; decontamination equipment and decontaminants; medical antidotes and treatments; and advice on any of these protective measures”.

¹⁵⁷ *Ibidem*, art. XIII

aim of providing sound proofs for eventual further provisions. At the end of the investigation the Director will present a report to the Executive Council that will decide on the intervention.¹⁵⁸

The link among the State Parties of the Organisation is ensured by the institution or designation in each State of a national Authority.¹⁵⁹ According to the law, the function of national Authority is carried out by the Ministry of Foreign Affairs where there is the Office V – Disarmament and weapon control, non-proliferation of nuclear, bacteriological and chemical weapons on the Italian territory, National Authority Office for the prohibition of chemical weapons.¹⁶⁰ In case of a chemical attack on the Italian territory causing a situation of crisis, the CoPS will be able to decide to request assistance to the OPCW activating the relative procedures through the Ministry of Foreign Affairs.¹⁶¹ As stated above, the coordination between the promoted action and the action activated by the various ministries involved in the response to CBRN events (among which, considering the nature of NATO, the Ministry of Defence) will be guaranteed by the NISP.

2.2 The Tactical Level

From a tactical point of view, the response to CBRN crises is managed by the Minister of Interior through specific frameworks both at central and local (provincial) level.

Before examining such frameworks, it is necessary to observe that the Minister of Interior has set a National Plan of Civil defence defining menaces, possible scenarios and measures to adopt. The National Plan represents the general directive for the drafting of the sectorial and the specific Plans, defined by the public and private administrations, that provide essential services, and also of the 103 Plans defined at the provincial level by the Prefects.¹⁶² Both the National Plan and the plans at the provincial level are classified.¹⁶³ Among the sectorial plans, it is important to recall the general Plans for airports and the related implementing plans for each airport, the general plans for the harbours and the plans containing the procedures for the relations with the NATO and Allied basis.¹⁶⁴

¹⁵⁸ *Ibidem*, art. X, parr. 9 and 10.

¹⁵⁹ This Authority should serve as the national focal point for effective liaison with the Organization and other States Parties. *Ibidem*, art. VII par. 4.

¹⁶⁰ Law 18 November 1995, No. 496, *cit.*, art. 9 as amended by Law 4 April 1997 No. 93, *cit.*

¹⁶¹ It should be noted that the OPCW can intervene offering its own technical personnel (for instance, responsible operators for the assessment and for the drafting of reports of technical nature). The “operational” intervention teams are offered, instead, by Member States.

¹⁶² Cf. http://www.intern.gov.it/mininterno/export/sites/default/it/temi/soccorso_publico/sottotema004.html.

¹⁶³ It is important to observe that the drafting of civil defence plans is complex because, in addition to the intelligence issues and the connections with the State information services, such plans must consider scenarios related to the collapse of the society organisation systems caused by man-made actions – including terrorist attacks, aiming at destroying the foundations of civil settlements and infrastructures that are considered the most vulnerable, those that once hit amplify the critical aspects on society. See <http://servizio.vvftrento.it/specializzazioni/nbcr>.

¹⁶⁴ Cf. http://www.salute.gov.it/resources/static/ministero/usmaf/corso_11_ottobre_2011/FERRARI.pdf.

Also, talking about Civil defence planning, it is important to insert a brief excursus on the relevance, even if indirect because it is more connected to the civil protection, of the Internal and, most of all, External Emergency Plans of industrial infrastructures. Without anticipating too much of what will come next, the Legal Decree No. 334 of the 17th of August 1999 (Legislative Decree. 324/1999) states that the local public authorities have the task to elaborate an Internal Emergency Plan (*Piano di Emergenza Interna* or *PEI*) and an External one (*Piano di Emergenza Esterna* or *PEE*) for the industrial infrastructures present on their territory in order to guarantee a quick and efficient response in case of an accident and safeguard the public health and the environment.¹⁶⁵

Generally, an emergency plan is the sum of the operational procedures of an intervention to face a possible emergency event in a specific territory. It is the result of the preparatory and preventive activities for an emergency and it represents the tool that enables the authorities to organize and coordinate the interventions to protect the population and the goods in an area at risk. It states roles and responsibilities of the authorities and the individuals involved in the emergency response, defining specific competences and tasks. Also, it describes how to coordinate the actions, the relations among the entities on the ground and the strategies or techniques that should be applied to protect people and properties. Therefore, it identifies the personnel, the equipment, the funds and the other available resources to use during the operations, the initiatives to put in action to improve the life conditions of the, eventual, evacuated persons.¹⁶⁶ It is important to note that the plan represents a document that is continuously updated since it needs to take into account the evolution of the territorial structure and the variations of the expected scenarios.¹⁶⁷

In the context of a terrorist risk or sabotages, the involvement of industrial plants and infrastructures it is an hypothesis to take into serious consideration. It seems opportune to plan a response to an industrial “accident” that includes not only a conventional scenario but also a malicious event, be it of terroristic or criminal nature.¹⁶⁸ This implies that it is necessary to establish (or to integrate with) a close link between *PEIs* and *PEEs* on one side, and the Civil defence provincial Plans on the other side. On the practical side, this means, for instance, that the Fire Brigades, the 118 (National Health Service, Emergency Aid Unit), the mayor, the Prefect and the law enforcement agencies must always have an up-to-dated version of the cartography of the plants and of their internal and external viability.¹⁶⁹

Coming now to the structures and the mechanisms that define the tactical response to critical events involving the release of CBRN substances, it is important, first of all, to name, at central level, the **Crisis**

¹⁶⁵ “Implementation of the directive 96/82/CE related to the control of the dangers derived from relevant incidents connected to dangerous substances”, in *G.U.* No. 228 of 28 September 1999 s.o. No. 177, available at <http://www.camera.it/parlam/leggi/deleghe/99334dl.htm>. On such plans see also infra par. 3.1.

¹⁶⁶ Cf. http://www.protezionecivile.gov.it/jcms/it/piano_emergenza.wp.

¹⁶⁷ *Ibidem*. As written on the website also “the exercises contribute to the updating of the Plan since they validate the contents and assess the operational and managerial capacities of the personnel”.

¹⁶⁸ Cf. <http://www.vigilidelfuoco.pisa.it/11x/pdf/attacco.PDF>. Certain industrial plants present on the provincial territory, with machineries and deposits that contain dangerous substances, can lead to serious emergencies. Such emergencies, to be considered relevant accidents, can create: emission of toxic substances, fires or explosions caused by the industrial activity or by other causes that can bring serious damage, in the short and long term, to people inside or outside the plant and to the environment.

¹⁶⁹ *Ibidem*.

Unit convened by the Minister of Interior which, as defined by the Legal Decree No. 83 (D.L. 83/2002) of 6 May 2002, keeps constantly informed the Minister about the situation, who, then, immediately refers to President of the Council of Ministers for an eventual and subsequent coordination activity.¹⁷⁰ The Crisis Unit of the Ministry of Interior is chaired by the **Chief of the Police** and acts on the basis of what is stated in the National Plan for the management of terrorist events adopted through the Decree of the Minister of Interior of 6 May 2004.¹⁷¹ The Crisis Unit verifies and defines the seriousness of the menace and manages the aspects of the crisis related to the protection of the public order and security.¹⁷² At local level, the management and the coordination of the operations is guaranteed by the Prefect, who chairs the **Civil Defence Provincial Committee**, composed by the all the mayors of the municipalities involved, the President of the Province, the Police Commissioner, the provincial Commanders of the *Arma dei Carabinieri* and of the Financial Police, the Army, the Fire Brigades, and the representatives of the local ASL (Local Health Service) and of the 118. In taking decisions, the Prefect can benefit from the technical advice offered by the aforementioned Inter-ministerial Technical Commission for Civil Defence.¹⁷³

2.3 The Operative Level

As far as the operational level of the Civil defence response to CBRN event is concerned, several entities are involved. However, before analysing their essential functions, it is important to underline that such entities are the same ones that are also in charge of the operational response to CBRN events in the framework of the Civil protection system.¹⁷⁴ They are, mainly: the Fire Brigades, the law enforcement authorities (especially the State Police, the *Arma dei Carabinieri*, the Financial Police), the Army, the local health services, and the environmental protection agencies.¹⁷⁵ As it has been said before, the tactical management of such entities is dealt at the provincial level by the Prefecture.

¹⁷⁰ “Urgent dispositions on personal security matters and additional measures to ensure the functionality of the offices of the Interior’s Administration”, in *G.U.* No. 105 of 7.05.2002, Art. 6. The text of the decree, coordinated with the dispositions contained in the modifying law of 2.07.2002, No. 133 (in the same Official Journal at pag. 3) is available at http://www.intern.gov.it/mininterno/site/it/sezioni/servizi/legislazione/sicurezza/legislazione_412.html?pageIndex=8.

¹⁷¹ Cf. C. Lanniello, *Il Comitato di Analisi Strategica Antiterrorismo*, in *Polizia e Democrazia*, July-August 2011, available online at <http://www.poliziaedemocrazia.it/live/index.php?domain=archivio&action=articolo&idArticolo=2612>.

¹⁷² D.L. 83/2002, *cit.*, art. 6. To support the Crisis Unit, the Minister of Interior can also summon the Anti-terrorism Strategic Analysis Committee (*Comitato Analisi Strategica Antiterrorismo* or CASA.) that will provide all possible information regarding the situation. The Committee is permanent and is composed by the judiciary police and the intelligence and it takes care of the information sharing and evaluation regarding the internal and international terroristic menace. It was formally established, after a experimental phase (December 2003-May 2004), on the 6th of May 2004 through the Decree of the Minister of Interior on the National Plan for the management of the events of terroristic nature, also containing the Crisis Unit functional modalities. Cf. C. Lanniello, *Il Comitato di Analisi Strategica Antiterrorismo*, in *Polizia e Democrazia*, July-August 2011, available online at <http://www.poliziaedemocrazia.it/live/index.php?domain=archivio&action=articolo&idArticolo=2612>.

¹⁷³ See *supra*.

¹⁷⁴ See the next paragraph.

¹⁷⁵ On the basis of what it has been just said, it is evident that in Italy a civil Defence “Army” or a civil Defence “Division” does not exist. There are not civil Defence “corps” that intervene in the field, that participate and operate in the technical/decision-making organisms (except for the presence of the President of the CITDC at the table of the Inter-ministerial Situation and Planning Group).

Since the actors involved in the Civil defence and the Civil protection operational response to CBRN events are the same, the report will present them in a single section.¹⁷⁶

We want to stress that in case of a crisis - as well as of some kind of emergencies – private actors can be asked to contribute in response with their own resources. In other words, It is likely that private entities are requested to provide their support with their means and capabilities. In this regards it has to be mentioned a recent initiative promoted by the Italian Authority for Unification UNI (*UNI - Ente Nazionale Italiano di Unificazione*).¹⁷⁷ We refer to the adoption of the 2013 Standard named *Guidelines for establishing partnership agreements* (UNI 11500:2013) by the Societal security - public private partnerships – Group of the Italian Authority.¹⁷⁸ The Guidelines address principles, planning and development of partnership agreements with the objective of managing relations among relevant organizations, promoting interoperability, enabling governance and fulfilling of the agreement.¹⁷⁹ They have been drafted according to another International standard ISO 22397 - Societal Security - Guidelines for establishing partnering arrangements that should be approved in a month. The Guidelines aims to establish partnership agreements between any organizations to enhance coordination, collaboration and cooperation before, during and after destabilizing events. They apply to all organizations regardless of type, size and nature of activity in the public, private and voluntary sectors including not-profits or non-governmental organizations (NGOs). It is applicable to the global, national, regional and local levels.¹⁸⁰

3. Response to a CBRN Threat within the Civil Protection Framework

As described before, in case of CBRN events, natural or man-made (not intentional or accidental) that integrate an emergency situation, the Civil protection system is usually activated. Such system integrates different institutions and organisms that cooperate at national level – both centrally and peripherally - or at regional, provincial and municipal level according to the typology of event to cope with.

Their activation and subsequent action follows the “principle of subsidiarity”, according to which, if an operational entity at a subordinated level is unable to cope with an emergency situation, the afferent entity at the upper level intervenes automatically. Practically, this means that the first response to an emergency, of whatever nature and extension, is guaranteed at the local level (municipality). Therefore, the first responsible for Civil protection is the mayor. However, when the event cannot be coped with the means available at the municipality level, the upper levels – the Prefecture, the Province, the Region, the State – will intervene through a integrated and coordinated action.

From this point of view, the Civil protection appears as an organic and integrated system of functions and competences that refers to several entities, structures, offices (central and local) that cooperate in

¹⁷⁶ See *infra* “The Operational Framework of CBRN Response”.

¹⁷⁷ See <http://www.uni.com/index.php>.

¹⁷⁸ Available at http://store.uni.com/magento-1.4.0.1/index.php/uni-11500-2013.html?__store=en&josso_back_to=http%3A%2F%2Fstore.uni.com%2Fjosso-security-check.php&josso_cmd=login_optional&josso_partnerapp_host=store.uni.com&__from_store=it.

¹⁷⁹ *Ibidem*.

¹⁸⁰ *Ibidem*.

facing the emergency.¹⁸¹ Such system was defined at normative level by the Law No. 225 of 24 February 1992 (Law 225/1992) – which text was recently modified by the Legal Decree No. 93 of 14 August 2013 – that establishes the “National Civil Protection Service”.¹⁸²

Finally, from a normative point of view, it is important to note that Civil protection currently represents a concurrent issue between State and Regions, so, except for the determination of the fundamental principles, the legislative power is upon the regional governments.¹⁸³ Every region has implemented the principles of the Law No. 225 of 1992 in regional laws and has organised itself with a own Civil protection system.¹⁸⁴

In the next paragraphs, the report will schematically describe roles and tasks of the principal entities involved in the CBRN-response in the framework of Civil Protection. In order to guarantee a higher degree of orderliness and coherence in the analysis, especially with reference to the description of the CBRN-response in the framework of Civil defence, the report will be structured according to the different intervention levels of the civil Protection’s entities involved, which are: the (political)-strategic, the tactical and the operational level. Also, considering the territorial-administrative joint of the Civil protection structure, and the variety of the actors involved, of their roles and competences, it would be useful to integrate such report structure with one that, in addition to the level of intervention, takes into consideration the territorial and administrative competences. Nevertheless, to avoid an over-elaborated exposition that will complicate the comparison between the CBRN response mechanisms adopted in our country and those adopted by other European countries that are taken into consideration, the report will follow the distinction based on the strategic-tactical level and the operational level mentioned above but referring also to the national and local dimension of the Civil protection service (figure 3).

¹⁸¹ Cf. <http://www.protezionecivile.gov.it/jcms/it/sistema.wp>.

¹⁸² “Establishment of the National civil Protection Service”, 24 February 1992, in *G.U.* No. 64 del 17.03.1992, available in the consolidated version that includes the changes introduced by the Legal Decree No. 93 of 14 August 2013 “Urgent dispositions on security matters and to contrast gender violence, and regarding civil protection and compulsory administration of provinces”, in *G.U.* n.191 of 16.08.2013, at http://www.protezionecivile.gov.it/jcms/it/view_prov.wp?contentId=LEG1602. It must be noted that the modifying decree, to be converted in law within 60 days from its publication, introduces news in relation to the state of emergency duration, intervention areas defined by the civil protection orders and the definition of the necessary resources to face emergencies. For more information, please see http://www.protezionecivile.gov.it/jcms/it/view_new.wp?contentId=NEW40688. Instead, to examine in depth the historic-legal evolution of the establishment of the civil Protection in Italy cf. <http://www.protezionecivile.gov.it/jcms/it/storia.wp>.

¹⁸³ As reported on the civil Protection website, “the competence on civil protection matters has progressively shifted from the State to the regional governments and local autonomies. The fundamental steps of such process are the legal decree No. 112 of 1998 and the change of title V of the Constitution with the constitutional law No. 3 of 18 October 2001”. Cf. Legal Decree No. 112 of 31 March 1998, “Appointment of State functions and administrative tasks to the regions and local entities, implementing cap.I of the Law of 15 March 1997, No. 59”, in *G.U.* No. 92 of 21 April 1998 – s.o. No. 77, also available at <http://www.parlamento.it/parlam/leggi/deleghe/98112dl.htm>.

¹⁸⁴ *Ibidem*. For example, the Lombardia Region approved, in 2004, a single text on regional dispositions on civil protection matters- L. R. No. 16, 22 May 2004, in *Bollettino Ufficiale della Regione Lombardia* No. 22, s.o. of 24 May 2004. The Single Text also re-defines functions and responsibilities of the Province. The law is available at <http://www.provincia.milan.it/export/sites/default/protezionecivile/documenti/LR20maggion16.pdf>.

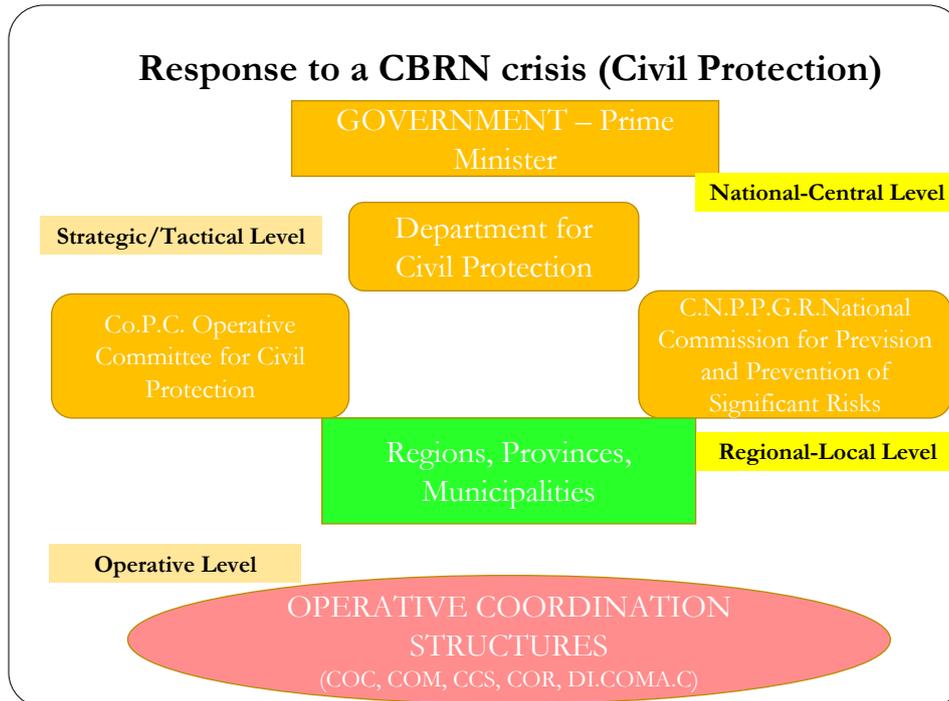


Figure 3.

3.1 The Strategic-Tactical Level

3.1.1 The National Dimension, Central and Peripheral

The aim of the National Service of Civil Protection is to “protect the integrity of lives, goods, settlements and environment from the damages and the danger derived from natural disasters, catastrophes and other calamitous events”.¹⁸⁵ The President of the Council of Ministers (or a delegated minister/under-secretary of the Presidency of the Council) is in charge of its central coordination and, in the exercise of his/her functions, is supported by the Civil Protection Department of the Presidency of the Council.¹⁸⁶

¹⁸⁵ Law No. 225 of 24 February 1992, *cit.*, art. 1. As it is possible to observe, the law, determining the aim of the Service, adopts a general definition of civil Protection. Also, it is important to add that from art. 3 clause 1 and 2 clause 1 *ibidem* it is possible to determine in a precise way the types of activities that fall under the scope of civil Protection, and the typology of events to which such activities are directed. They are “risk forecast and prevention”, “aid to disaster victims” and “any other necessary or compelling activity aims at contrasting and overcoming the emergency, and at mitigating the risk” (art. 3 clause 1). Such activities are directed to face events listed as a), b) o c). In particular: “a) natural or ma-made events that can be ordinarily managed by single entities and competent administrations; b) natural or ma-made events that, because of their nature and extension, necessitate the coordinated intervention of different entities and competent administrations in an ordinary way; c) natural or ma-made disasters that, because of their intensity and extension necessitate an immediate reaction and must be managed through extraordinary powers and means to be applied for limited and predefined periods of time” (art. 2 clause 1).

¹⁸⁶ *Ibidem*, art. 1. In case of events that, for their intensity and extension, must be immediately faced through extraordinary powers and means, it is the responsibility of the Council of Ministers, under the proposal of the President of the Council or of delegated minister or under-secretary, to declare the state of emergency, determining its duration and territorial extension. *Ibidem*, art. 5 clause 1. Cf. also art. 2 clause 1 letter c e *supra* note 61. As stated in art. 10 of Legal Decree No. 93 of 14 August 2013, the duration of the state of emergency cannot exceed 180 days and can be prolonged for other 180 days.

The purpose of the Department is to address, promote and coordinate the whole Service.¹⁸⁷ In other words, the Department is the central organ of guidance and coordination. It closely operates with decentralised entities (Regions and autonomous Provinces), it coordinates all actions directed to risk forecast and prevention, aid and assistance to the population hit by the calamity, and to face and overcome the emergency.¹⁸⁸ It carries out its tasks under the Chief of the Department's supervision that guarantees the orientation, the coordination and the control over the Department's activities.¹⁸⁹ With specific reference to the emergency situations that demand extraordinary powers and means, it is the Department's responsibility to coordinate the first response actions.¹⁹⁰ In particular, with the declaration of the national state of emergency by the Council of Ministers, the Chief of the Civil Protection Department issues the orders regarding the first actions to implement.¹⁹¹

Still at the central level we found two additional organs with different tasks: the **National Commission for the Great Risks Forecast and Prevention** and the **Civil Protection Operational Committee**. The latter is a collegial organ chaired by the Chief of the Civil Protection Department and assures the uniform orientation and the coordination of the response activities to the emergency.¹⁹² It is composed by the representatives of the Civil Protection Department and the Fire Brigades, the Army, the Police, the Forest Service, the Italian Red Cross, national Health Service structures, national volunteering Organisations, national Corps for mountain and speleological rescue, Port authority, Ispra – Superior Institute for environmental protection and research, Ingv – national Institute of geophysics and volcanology, Cnr – National Research Council, Enea – Entity for new technologies, energy and environment, unified Conference for State-Regions-Cities and local Autonomies. Also, it sees the participation of service companies' representatives, ex. Highways for Italy, National Railways, Enel. Each participant's role and responsibilities are stated in detail in the Directive of 3 December 2008 "Operational orientation for the emergency management" adopted by the President of the Council of Ministers.¹⁹³ Finally, it can also

¹⁸⁷ As stated in the official website of the Italian civil Protection, the Department was founded in 1982 to give the State an entity able to deploy and coordinate all useful national resources to ensure the assistance to the population in case of serious emergencies. Cf.

<http://www.protezionecivile.gov.it/jcms/it/dipartimento.wp;jsessionid=0E209DA06780DDACF8B874771F07D051>.

¹⁸⁸ Cf. <http://www.protezionecivile.gov.it/jcms/it/componenti.wp>.

¹⁸⁹ At the moment, the civil Protection Department is organised in 6 offices and 34 services. The inner structure has been modified several times to promote a greater efficiency. Detailed information on the Department's actual organisation and the references to the Department's modifying decrees can be found here: http://www.protezionecivile.gov.it/jcms/it/organigramma_ist.wp.

¹⁹⁰ Events of type (c). See Law No. 225 of 24 February 1992, *cit.*, art. 2 clause 1, and *supra* note 63.

¹⁹¹ Law No. 225 of 24 February 1992, *cit.*, art. 5. Based on the law, the orders issued within 30 days from the declaration of the state of emergency are immediately effective, while those subsequent to it require the Minister of Economy and Finances' control.

¹⁹² *Ibidem*, art. 10. The composition and the functional modalities of the civil Protection operational Committee are established by the D.P.C.M. of 21 November 2006, Constitution and functions of the Operational Committee, 21 November 2006, in *G.U.* No. 21 of 26.01.2007, also available on the website http://www.protezionecivile.gov.it/jcms/it/view_prov.wp?contentId=LEG21079.

¹⁹³ In *G.U.* No. 36 of 13 February 2009, also available on the website http://www.protezionecivile.gov.it/jcms/it/view_prov.wp?contentId=LEG21077. On the Directive see also *infra* par. 2.2.

include representatives of regional and local Civil protection authorities affected by specific emergencies.¹⁹⁴

The National Commission for the Great Risks Forecast and Prevention is, as well, a collegial organ of the national Service but it is independent from the Civil Protection Department; it has a consultative function on actions of technical and scientific nature directed to the forecast and prevention of hypothetical risks.¹⁹⁵

Civil protection activities will be then applied, according to the respective normative framework and competences, by the public administrations, the regions, the provinces, the municipalities and the mountain communities, and also by public entities, scientific research institutes and bodies with Civil protection aims, and any other public or private institution or organisation. In addition, such activities will be also implemented by civil volunteer citizens and association groups, and by professional classes and colleges.¹⁹⁶

To guarantee an effective response to calamities, local entities are in charge of the crisis management planning that shall identify the risk scenarios on the territory, the strategy and the intervention model, the responsibilities and the system to exchange information between central and peripheral level. The Civil Protection Department defines the general criteria for the planning of an emergency and sends them to the Regions that give instructions on the preparation of the plans at municipal and provincial level. Provinces and municipalities arrange the plans according to the risks on their territory.¹⁹⁷ Also at national level there is an emergency plan organised on multiple levels according to the type of risk and with reference to specific areas on the Italian territory.¹⁹⁸ Aim of the national Plan is to define and coordinate the rescue and assistance interventions for the population in case of natural or man-made disasters that require extraordinary powers and means.¹⁹⁹

More specifically, for what nuclear risks are concerned, the *National Plan for radiological emergencies* of 1 March 2010, drafted by the Civil Protection Department in collaboration with Ispra and subsequently approved with D.P.C.M. of 19 March 2010, identifies and regulates the necessary measures to face accidents in nuclear plants outside the national territory, serious enough to require coordinated actions

¹⁹⁴ D.C.P.M. of 21 November 2006, art. 2. The Committee lasts with power for three years. *Ibidem*, art. 3 clause 3.

¹⁹⁵ Law No. 225 of 24 February 1992, *cit.*, art. 9. For more information on the composition and tasks of the Commission, and on all the related legal references, see http://www.protezionecivile.gov.it/jcms/it/paragraphssione_grandi_rischi.wp. Cf. Also Directive of the President of the Council of Ministers of 3 December 2008, *cit.*, par. 3.

¹⁹⁶ Law No. 225 of 24 February 1992, *cit.*, art. 6.

¹⁹⁷ Cf. http://www.protezionecivile.gov.it/jcms/it/soccorso_servizio.wp. According to the what is stated on the Italian civil Protection website, the Law No. 100 of 12 July 2012 determines the duty for each municipality to approve the related municipal emergency plan within 90 days from the entry into force of the provision. Such plan must be drafted along the criteria and the modalities stated on the operational instructions of the civil Protection Department and the regional Councils. On the 12th of October 2012 the Department sent a note to the Regions and the Autonomous Provinces asking a first check on the municipal emergency planning. Information on the municipalities that, up to the 20th of September 2013, have drafted their municipal emergency plan is available on the website http://www.protezionecivile.gov.it/jcms/it/dati_di_dettaglio.wp.

¹⁹⁸

Cf. http://www.protezionecivile.gov.it/jcms/it/che_cose.wp?jsessionId=44A5AAEBA827727453A0B8DE888BFFA2?contentId=APP19969.

¹⁹⁹ Cf. Law No. 225 of 24 February 1992, *cit.*, art. 2 clause 1.

at national level.²⁰⁰ In particular, the Plan defines the actions that the local and national authorities should undertake to limit the effects of diffusion of an eventual radioactive cloud, and the procedures for the activation and the coordination of the principal components of the national civil Protection Service.

It indicates the modalities of the information exchange among authorities, and its dissemination to the concerned population.²⁰¹

With reference to the chemical risk – within the more general industrial risk²⁰² – and shifting our attention from the national to the local level, the Legislative Decree No. 334 of 1999 states that the local public authorities have the task to elaborate an Internal and an External Emergency Plan related to the industrial plant that can be subject to the danger of “relevant accidents”, to ensure a quick and effective response and to safeguard the public health and the environment.²⁰³ The first one (*PEI*) is drafted by the manager of the industrial plant and identifies the necessary actions to contain the accident with the help of his/her own teams and the Fire Brigades. The second one (*PEE*) is drafted by the competent public authority and identifies the civil protection response to mitigate the effects of the accident on public health and environment. The External Emergency Plan indicates the areas at risk, the alarms, and the behaviour to adopt by the population in case of an accident, the shelters or the evacuation.²⁰⁴ Its drafting is delicate and complex both because of the security objectives to be reached and the involvement of several competent institutions. To facilitate the drafting of External Emergency Plans by local authorities and to foster a uniform and coherent structure, the civil Protection Department has drawn up the Guidelines, adopted through D.P.C.M of 25 February 2005, on how to write an external emergency plan.²⁰⁵

²⁰⁰ “Approval of the National plan on protective measures against radiological emergencies”, 19 March 2010, in G.U. No. 119 of 24 May 2010, available at

http://www.protezionecivile.gov.it/resources/cms/documents/dpcm_del_19_marzo_2010_emergenze_radiologiche.pdf.

²⁰¹ The National Plan for Radiological emergencies is available at http://www.protezionecivile.gov.it/resources/cms/documents/Piano_nazionale_revisione_1marzo_2010.pdf. See also http://www.protezionecivile.gov.it/jcms/it/view_pde.wp?contentId=PDE23580.

²⁰² Per rischio industriale si intende la possibilità che in seguito a un incidente in un insediamento industriale si sviluppi un incendio, con il coinvolgimento di sostanze infiammabili, una esplosione, con il coinvolgimento di sostanze esplosive, o una nube tossica, con il coinvolgimento di sostanze che si liberano allo stato gassoso, i cui effetti possano causare danni alla popolazione o all’ambiente. Vedi http://www.protezionecivile.gov.it/jcms/it/descrizione_industriale.wp. In dottrina vedi B. Da Ronch, L. De Pietro, I. Mannino, E. Mattiuzzo, *Strategie e approcci per la gestione del rischio industriale. L'esperienza di Porto Marghera*, Milano, 2010.

²⁰³ Legislative Decree No. 334 del 17 August 1999, cit. See also *supra* par. 2.2. art. 3 lett. (f) of D.Lgs 334/1999 defines relevant accident as “an event as an emission, a fire or an explosion of great entity, [...] that leads to a serious danger, immediate or deferred, for the human health and the environment, inside or outside the plant, and in which one or more dangerous substances are present.

²⁰⁴ See http://www.protezionecivile.gov.it/jcms/it/attivita_industriale.wp?pagtab=2#pag-content.

²⁰⁵ In G.U. No. 62 of 16.3.2002 s.o. No. 40, available at http://www.protezionecivile.gov.it/resources/cms/documents/D.p.c.m._25_02_2005.pdf. To be noted that the Guidelines also deal with the theme of the language to be adopted for the drafting of external emergency plans, with the aim to foster uniformity on the national territory and, in this way, to ease the control and coordination activities by the central and peripheral administrations involved in the external emergency planning of the industrial plants.

3.1.2 The International Dimension (Multilateral-Institutionalised and Bilateral Cooperation)

Besides the national dimension (central, regional, provincial and municipal), the civil Protection Service presents an international projection, meaning that it participates to initiatives also involving structures and actors from other Countries.

Among these there is the aforementioned European Civil Protection Mechanism, a centralised form of institutionalised cooperation within the EU.²⁰⁶ To be noted that, from a European perspective, the EU has a complementary competence on civil protection matters.²⁰⁷ EU's goals and intervention areas on such matter are established under art. 196 TFUE that states that "The Union action shall aim to: (a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union; (b) promote swift, effective operational cooperation within the Union between national civil-protection services; c) promote consistency in international civil-protection work."²⁰⁸

The establishment and functioning of the European Union Civil Protection Mechanism is part of the Union's action in such matter. Without repeating what it has been already stated, the Mechanism envisages – on a voluntary basis – support and assistance from any EU State to any other EU State or Third Country that, being involved in an emergency, asks for it. The development procedures of the mechanism are partially different if the intervention is directed towards a Member State or a Third Country. In the first case, the request for the intervention can be submitted directly to other Member States or the ERCC – former MIC – that informs all Countries participating to the Mechanism.²⁰⁹ The various EU Countries communicate through the CECIS e-platform.²¹⁰ In case of an intervention to support and assist a Member State, the ERCC eases the deployment of evaluation and/or coordination teams, experts, civil protection modules and ensures the co-funding to transport the assistance offered by the participating States, leaving, nevertheless, the overall management to the State that made the request.²¹¹ In case the deployment is towards a Third Country, instead, the request is formulated to the ERCC. The High Representative for Foreign Affairs and foreign politics together with the Member State that holds the Presidency of the European Council, coordinates the political response in connection with the Commission that is in charge of the operative coordination.²¹² In case United Nations agencies are also actively involved in delivering assistance, they will head the operations.²¹³

²⁰⁶ Cf. *supra* par. 1.1.2.2.

²⁰⁷ Cf. Art. 6 and Art. 2, par 5 TFUE. Complementary competence means that "the Union is competent for carrying out actions to support, coordinate or complete the actions of member States, without substituting their competence in such sectors". *Ibidem*.

²⁰⁸ Cf. Art. 196 par. 1 TFUE.

²⁰⁹ Cf. *supra* par. 2.1.2.2.

²¹⁰ *Ibidem*.

²¹¹ As stated in the Decision 1313/2013/EU, *cit.*, art. 15, par. 5: "The requesting Member State shall be responsible for directing assistance interventions. The authorities of the requesting Member State shall lay down guidelines and, if necessary, define the limits of the tasks entrusted to the intervention teams or modules. The details of the execution of those tasks shall be left to the person in charge appointed by the Member State rendering assistance".

²¹² *Ibidem*, art. 16.

²¹³ *Ibidem*, par. 2, "[...] The Union coordination shall be fully integrated with the overall coordination provided by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), and shall respect its leading role".

The Service could be also activated through the mechanism of the solidarity clause described above “to give assistance to a member State on its territory, upon request of its political authorities in case of natural or man-made calamities”.²¹⁴

Besides the form of multilateral-institutionalised cooperation just described, the Italian National civil Protection Service is involved in different forms of bilateral cooperation. There are several juridical instruments and technical agreements of cooperation on civil protection between the Italian State and foreign States, or rather between the civil Protection Department and homologated institutions in foreign States and international organisations. The juridical instruments of reference (Treaties, Memoranda, Protocols, Letter exchanges, etc.) promote the development of common programmes and projects, in particular in the field of forecast, prevention and mitigation of natural and man-made risks, management of emergency situations and mutual assistance in case of calamities.²¹⁵

3.2 The Operational Level and the Coordinating Structures

The National Fire Brigades, the Army, the Police, the State Forestry Corp, the scientific Community, the Italian Red Cross, the National Health Service, the volunteer organisations, the National Alpin and Speleological Rescue Corp are the operational actors of the Civil protection in Italy.²¹⁶ Each of them contributes to the implementation of the interventions defined by the operational committees activated at national, regional, provincial and municipal scale, in respect to their own competences and procedures.

The operative coordination of the measures and the actions undertaken in response to emergency situations by the aforementioned operational structures of the National Service, is ensured by dedicated entities. Such entities are: the Municipal Operative Centre that carries out its coordination activities at municipal level; the Mixed Operative Centre (*Centro Operativo Misto* or *C.O.M.*) that acts at the level of several municipalities; the Aid Coordination Centre (*Centro Coordinamento Soccorsi* or *C.C.S.*) established at provincial level; the Regional Operative Centre (*Centro Operativo Regionale* or *C.O.R.*) and the Command and Control Board (*Direzione di Comando e Controllo* or *DI.COMA.C*), the latter operating at national level (but established in the place in which the emergency occurs or in the immediate vicinity).²¹⁷ In addition, there are the following entities: the Aerial Unified Operative Centre (*Centro Operativo Aereo Unificato* or *C.O.A.U.*) that coordinates the interventions of the State air force regarding the fight against forestland fires, and the Maritime Emergency Operative Centre (*Centro Operativo per le Emergenze Marittime* or *COEM*).²¹⁸

Finally, it is important to signal that within the civil Protection Department, there is the “Italy Situation Room coordination centre” that monitors the emergency situations on the entire national territory (also called “the System”). The System’s organization and functioning were defined by the Directive of 3

²¹⁴ Cf *supra*. In tenet, see also M. Gestri, cit., p. 110 ss.

²¹⁵ A detailed list of such agreements is available at http://www.protezionecivile.gov.it/jcms/it/accordi_internazionali.wp.

²¹⁶ Law No. 225 of 24 February 1992, cit., art. 11.

²¹⁷ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/it/2-it-1.html#orga.

²¹⁸ Cf. <http://www.protezionecivile.gov.it/jcms/it/competenze.wp>.

December 2008 “Operative guidelines for emergency management” adopted by the President of the Council of Ministers.²¹⁹ Aim of the Directive, that represents an orientation instrument, is to “optimize the alert, activation and intervention capacities of the civil protection national Service”.²²⁰ According to what it states, the System guarantees the collection, the evaluation, the elaboration and the dissemination of information and news on calamitous events already occurred, forecasted or on-going, as well as critical situations, on the Italian territory or abroad, with the aim to alert immediately, and therefore quickly activate, the diverse components and structures related to the emergency management.²²¹ It seems then that the System represents an informative tool that guarantees national institutions the knowledge on potential, actual or occurred emergency events, be they of national or international origin, requiring a civil Protection response, in other words critical and implying the activation of Civil defence structures.

It operates 24/7 and sees the presence of the personnel of the Department and the aforementioned national civil protection Service operative structures (which are the same activated in case of critical event, under Civil defence).²²² The following entities contribute to the System’s supply of information: the national operative rooms of the institutional forces appointed to rescue activities and/or of public utility, the operative civil protection rooms of regions and provinces, where activated, the Territorial Offices of the Government-Prefectures, the operative national rooms or the central control structures of entities and administrations that manage the networks and the service infrastructures, as well as, in case of emergency, the civil protections operative and coordination centres activated on the territory.²²³

Coming now to the operational intervention modalities of the aforementioned actors and the coordination structures previously described, they are specified in the Directive of the President of the Council of Ministers of 3 December 2008 mentioned above.²²⁴ According to what is stated in the Directive, “unless there are events that annul the reacting capacity of the territory, the first response to the emergency, of whatever nature and extension, must be guaranteed by the local structure, starting from the municipality, preferably through the activation of a Municipal Operational Centre where all the different components acting at local level are represented”.²²⁵ At municipal level, it is then the Mayor that assumes the leadership and manages the coordination of rescue and assistance services to the affected population and ensures the first necessary interventions to cope with the emergency, implementing what is envisaged in the emergency planning.²²⁶ Depending on the intensity and extension

²¹⁹ In G.U. No. 36 of 13 February 2009, also available at http://www.protezionecivile.gov.it/jcms/it/view_prov.wp?contentId=LEG21077.

²²⁰ *Ibidem*, par. 1.

²²¹ Cf. *Ibidem*, par. 1.1 e 1.2.

²²² *Ibidem*, par. 1.1. As indicated in the Directive “If the emergency situation requires the participation of the operating activity of other entities and administrations, the System Room, organised along a modular structure, is able to fully satisfy the need”.

²²³ *Ibidem*, par. 1.3.

²²⁴ In G.U. No. 36 of 13 February 2009, also available at http://www.protezionecivile.gov.it/jcms/it/view_prov.wp?contentId=LEG21077.

²²⁵ *Ibidem*, par. 2.

²²⁶ *Ibidem*. Cf. also Law No. 225 of 24 February 1992, *cit.*, art. 15, clauses 3 and 4 and legislative Decree No. 112 of 31 March 1998, *cit.*, art. 108. In particular, using the power given by the law, the Mayor, through the personnel of its municipal structure and with the aid of the civil Protection operational components present on the territory, will: identify the most adequate seat for the C.O.C., the waiting areas and the recovery areas for the population (where not already foreseen during the emergency

of the event, as well as the response capacity of the local systems, operational and coordinating centres, where the components and operational structures of Civil protection national Service are represented, will be activated on the territory, at the different level of responsibility.

At provincial level, according to the model adopted by each Region, the Rescue Coordination Centre (C.C.S.) is activated and includes, besides the Region, the Prefecture-Territorial Office of the Government and the Province, the bodies, administrations and the operational structures functional to the emergency management with the task of: evaluating the needs on the territory, employing the resources already available in a reasonable manner; defining the typology and the extent of regional and national resources necessary to integrate those available at provincial level, identifying, where it is not envisaged in the emergency planning, the sites dedicated to assistance gathering.²²⁷

C.C.S. has the task to ensure the uniform supervision of the interventions and their coordination with those implemented by the Mayors of the affected municipalities. In case the model adopted by the Region does not clearly indicate which Authority has the responsibility for the C.C.S and there are no applicable and suitable Memorandum of Understandings between the Prefecture and the Province, such function is assigned to the Prefect of the Province as State representative on the territory. In any case, having in mind what is stated in the regional organizational model, the Prefect has the task to activate and employ the State resources available on the provincial territory, to guarantee the order and the public security and to issue orders exercising, when necessary, the function of subsidiarity towards the Mayors. Differently, the President of the Province has the duty to immediately activate and employ his/her own resources, to manage the problems related to the viability and the networks and service infrastructures, and, if foreseen by regional norms, the coordination of civil Protection volunteers through the constant connection with the municipalities affected by the event.²²⁸ The organizational model at provincial level must foresee a single and integrated operational room that on one side implements what decided in C.C.S. and, on the other side, collects, verify and disseminate information on the event and the civil Protection response through a constant connection with the different operational centres activated on the territory, the regional operational room and the System.²²⁹

Depending on the extension of the affected area and the population to be assisted, to support the activity of the municipal operational centres and to connect the actual interventions at municipal level with the provincial ones, the Inter-municipal Operational Centres (as the Mixed Operational Centres – C.O.M.) are activated, located in suitable structures previously identified, to which one or more municipalities refer to. Such Centres are activated by the authority responsible of C.C.S., unless a

planning phase); identify the dangerous situations and secure the population, also planning the evacuation; offer health assistance to the wounded; distribute meals and assign alternative shelters to the “homeless” population; inform the population on the situation and the behavior to adopt also through the activation of a municipal information office; control the municipal viability with particular attention to the possibility of the first responders’ arrival and of an evacuation of the affected or at risk population; control the territory to follow the evolution of the event. See Directive of the President of the Council of Ministers of 3 December 2008, *cit.*, par. 2.

²²⁷ Directive of the President of the Council of Ministers of 3 December 2008, *cit.*, par. 2.

²²⁸ *Ibidem.*

²²⁹ *Ibidem.*

Delegated Commissioner is nominated subsequently to the declaration of the state of emergency or it is delegated to the Chief of the Civil Protection Department.²³⁰

At regional level, each Region affected by the event ensures the immediate activation and employment of its own logistic and human resources (including volunteering), the management of health emergency interventions, according to its own organization, in coherence with what defined in the general Criteria and in the Directives of the President of the Council of Ministers regarding the organization of health aid during catastrophes.²³¹ Contextually, the Region, on the basis of the real needs of the territory and the requests arrived from the local bodies, if extraordinary means and powers become necessary, proceeds requesting the declaration of the state of emergency. The regional operational room, that during the emergency must ensure its activeness 24/7, guarantees the System an information update on the on-going activities, communicates the typology and the entity of the necessary national resources to integrate the territorial ones, and maintains the connection with the operational centres activated at municipal and provincial level.²³²

In case an event (events of type c) that requires extraordinary means and powers is foreseen or has occurred, its coordination is led by the President of the Council of Ministers that, for the implementation of the interventions, can be supported by delegated Commissioners once the Council of Ministers has declared the state of emergency.²³³ If then a serious danger for the lives of the affected population appears that leads to an emergency to be coped with extraordinary means, the President of the Council of Ministers, upon the proposal of the Chief of the civil Protection Department and after consulting the President of the affected region, even before the declaration of the state of emergency, can ask the involvement of the national operational structures of the Service, assigning its coordination to the Chief of the civil protection Department.²³⁴ As described above, the direction and the operational coordination will be assigned to the civil Protection Operational Committee.²³⁵

²³⁰ *Ibidem.*

²³¹ *Ibidem.*

²³² *Ibidem.* Cf. also par. 1.3.

²³³ Law No. 225 of 24 February 1992, *cit.*, art. 5 parr. 1 and 4.

²³⁴ Directive of the President of the Council of Ministers of 3 December 2008, *cit.*, par. 3.

²³⁵ Cf. *supra* par. 2.1.1.

THE OPERATIONAL FRAMEWORK IN RESPONSE TO CBRN CRISIS: ACTORS AND PROCEDURES

1. The Operational Structures and the Related Tasks²³⁶

a. The Italian National Fire-Fighters Corp

The Italian National Fire-Fighters Corp intervenes to protect human lives and safeguard the goods and the environment from damages or danger caused by different typologies of events.²³⁷ In case of events involving an emergency/crisis situation, the Fire Brigades can be immediately activated as operational structure of the national Civil Protection or Civil Defence System.²³⁸ Their task is to ensure the first technical and urgent interventions of their concern, respecting the coordination levels set by the aforementioned normative framework.

Among the various scenarios, there are those characterized by the presence or dispersion of chemical, bacteriological, radiological and nuclear agents.²³⁹ The Fire Brigades' action modalities in such scenarios were made official by the Circular No. 6 of 22 May 2002 adopted by the Ministry of Interior (Circular n.6).²⁴⁰ According to what is stated in the document, the Italian National Fire-Fighters Corp's organisation, when contrasting critical or emergency events as CBRN events, is based on three intervention levels, to which correspond four competence levels of the employed operators (see Figure 4).²⁴¹

²³⁶ It is important to note that the drafting of the present session of the report, as the following one, has benefited from the significant contribution offered by the Fire Brigades, the law enforcement agencies (Police, *Arma dei Carabinieri*), as well as the experts from the Army and the competent personnel of the Prefecture of Pisa that have shared information and experience with the research team through questionnaires, participation in project meetings and subsequent revision of the entire content of the report. We warmly thank all the people and the institutions that have kindly contributed to the drafting of the report.

²³⁷ Cf. <http://www.vigilfuoco.it/asp/ReturnDocument.aspx?IdDocumento=282>.

²³⁸ See *supra* parr. 1.3 and 2.2 On the role of the Fire Brigades as operational structure of the civil Protection, see in particular the Law No. 225 of 24 February 1992, *cit.*, art. 11.

²³⁹ Among the normative sources that recognize the Fire Brigades' competence on CBRN matters, particularly on RN, there surely is the Law No. 469 of 13 May 1961 "*Ordinamento dei servizi antincendi e del Corpo nazionale dei vigili del fuoco e stato giuridico e trattamento economico del personale dei sottufficiali, vigili scelti e vigili del Corpo nazionale dei vigili del fuoco*", in G.U. No. 145 of 15 June 1961 *s.o.*, available at <http://www.vigilfuoco.it/asp/ReturnDocument.aspx?IdDocumento=2894>, where art. 1 indicates, among the tasks of the Ministry of the Interior, and through it, the Fire Brigades, the "technical services for the protection of people's safety and the preservation of goods also from the dangers derived from the use of nuclear energy". As stated in a recent study, the legislator's sensitivity in 1961 was certainly influenced by the attention given to the nuclear-radiological risk generated by the Cold War, from which the explicit reference in the norm to the "risks connected to the use of nuclear energy" (peaceful and military use). Such attitude brought to the realization of training programmes, only for the National Corp's officers, in collaboration with the Army. Therefore, the RN competence was limited to a few persons, with some specialized centres of excellence in Rome, Milan and Venice. E. Cavalieri d'Oro, S. Noci, G. Giunti, F. Priori, D. Fratantonio, I. Scifoni, R. Caccavo, R. Paoletti, e A. Giribaldi, *Il Rischio NBCR: La Risposta Italiana agli Attacchi non Convenzionali*, 2005, available at http://www.protezionecivile-com2-mi.org/Tesina_NBCR_.pdf. See also <http://ita.arpalombardia.it/ita/console/files/download/11/VVF.pdf>.

²⁴⁰ Prot. No. EM 2952/24205, available at <http://www.vvflanzo.it/N.B.C.R.1.htm>.

²⁴¹ Cf. E. Cavalieri d'Oro, S. Noci, *cit.*, p. 3 ss. See also <http://ita.arpalombardia.it/ita/console/files/download/11/VVF.pdf>.

Intervention Level		Competence Level	Proposed Composition
Regional Unit		Level 3 (operational/managerial)	
Provincial Expert		Level 2	“someone” for each Provincial Command
Basic Team	Team Leader	Level 1	All team leaders
	Operator	Level 0	All permanent fire-fighters

Figure 4.

Source: The CBRN Risk: The Italian Response to non-Conventional Attacks, 2005 (in footnote)

Looking at the intervention levels, the “basic team” represents, normally, the first entity that is called to give assistance where the event has occurred, not necessarily of CBRN nature. It, and in particular, the team leader, is in charge of the first assessment of the event with the aim to evaluate the typology and the severity, as well as its possible evolutions. It is important to note that all operators composing the basic team have received a training that includes basic notions on how to recognize and manage the risks and the consequences of a CBRN event.²⁴² From this point of view, the basic team is able to offer a prompt response to an event that right from the beginning it appears as CBRN. Also, in every Provincial Fire-Fighters Department, there is at least one “expert” operator, that has the knowledge, the means and the specific tools to deeply examine and assess a CBRN event and knows the right contrasting measures to be adopted.²⁴³ In addition, in the Provincial Departments (but this time those placed in the regional administrative centre) there are operational experts with advanced competences in CBRN matters and personnel with functions of coordinating the intervention with other Bodies that will be likely involved in the emergency scenario (usually the Public Security, first aid services etc.).²⁴⁴

²⁴² Competence levels “0” and “1” indicated in the Table in Figure 4. For detailed descriptions of the training typology corresponding to such levels and to level “2” and “3”, please see E. Cavalieri d’Oro, S. Noci, et. alii, *cit.*, p. 5 and 6. To sum up, at competence level “0” the operator member of the basic team has minimal knowledge on: the CBRN risk; classification criteria of the substances; their label and signalization; the area delimitation criteria. However, he has the capacity to: use the individual protection devices (DPI) and the assessment and decontamination tools that are part of the equipment; implement the basic procedures for the approach, the isolation, the anti-contamination and decontamination. At competence level “1”, that the team level should have, corresponds greater knowledge on the product security sheets and the defending techniques of containment and protection. At the same level corresponds, as well, the capacity of: analysing the severity of the incident, quickly assessing the impacted areas, suitability judgment and choice of DPI, communicating with the Operational Room and higher interlocutors, feasibility, evolution, progress assessment; post-intervention operations management.

²⁴³ The provincial expert has a competence level “2”, in other words, in synthesis and without pretending to be exhaustive, he has: knowledge, capacity of analyzing and assessing in deep the CBRN risk, capacity to use instruments and simple techniques of identification, collection and technical and instrumental data interpretation, capacity of forecasting the evolution of the risk and of assessing the promoted action; de-briefing and post-intervention operations management; special equipment control and management.

²⁴⁴ The regional expert is required to have the competence level “3”, which corresponds to: analysis of complex incidents, planning actions also in collaboration with other experts; intervention leading; adequate protection level approval; emergency local plans implementation; technical supervision and intervention management, assessment of the effects from the promoted and future actions.

Coming now to the operational procedures of an intervention, they follow the so-called “eight steps” model that consists of: 1. Site control and management; 2. Involved material identification; Risk and danger analysis; 4. Equipment and protective clothes assessment; 5. Resource and information coordination; 6. Product control, confinement and containment; 7. Decontamination; 8. Closure of the intervention. It is important to observe that the implementation of the aforementioned procedural model is independent from the dimension and the gravity of the event. Therefore, it will be adopted both in the hypothesis of small scale events – where the “eight steps” will be implemented by the basic team with the means available – and in those complex situations, articulated or delicate. In the latter case, it will be nevertheless necessary to employ greater resources in relation to competence levels and number of operators.²⁴⁵

Always from an operational point of view, the Fire Brigades’ action in CBRN scenarios is characterized also by the concrete site management, in particular its geographic determination and allocation in territorial areas of competence or intervention zones. It is the so-called “zonification” of the area of intervention that is among the Fire Brigades’ exclusive competences. It consists in the subdivision of the concerned territory in different zones delimited by a concentric rings scheme; each ring circumscribes a specific portion of territory to which a color is symbolically assigned that corresponds to the degree of danger of the area and to the possibility for different categories of subjects to operate inside. In particular, the area is distinguished in: “red” zone, also called “hot” or “contaminated”, that delimits the nucleus of the CBRN event – the access to which is denied to any operator because highly dangerous -, and in which only trained and equipped operators to manage the substance can intervene; the “orange” zone, also called “lukewarm”, potentially dangerous and where the decontamination of the first responders and all the contaminated personnel is carried out by the CBRN teams of the National Fire-Fighters Corp (and the health operators) with the adequate protection devices; the “yellow” zone or “cold”, not dangerous where the Fire Brigades Command has its headquarter and its operators wear the ordinary protection (see figure 5); and finally, the “white” or “external” zone, not dangerous and not operational, not subject to the control and access limitation to the public (in this zone there could be a “green” area intended for the Authorities, the media and as waiting second level zone for the reserve teams and the families of the persons directly involved in the event.²⁴⁶

Contextually to the implementation of the “zonification” procedure, the Fire Brigades adopt the necessary measures to guarantee the first responders’ security inside the operational zones. Also, they take care of numbering and classifying their own operators, the rescue of the victims in the contaminated area and the technical rescue operations, the treatment of dangerous substances (identification, neutralization, rescue), the decontamination and operators’ rehabilitation and the water supply. In addition, of fundamental importance are the measures directed to guarantee the constant link

²⁴⁵ E. Cavaliere d’Oro, S. Noci, *et. alii, cit.*, p. 10.

²⁴⁶ In general, Fire Brigades’ CBRN operators are equipped with particular suits for the personal protection, fire suits with auto-protectors for breathing and for intervening in contaminated environment. They are also equipped with anti-gas masks, dangerous substances detectors, electrochemical sensors and particular means as mobile units specifically designed to detect chemical or nuclear agents, to decontaminate people, vehicles and ground, as well as for the dangerous substance waste management. On the choice and the use of DPI by Fire Brigades’ operators, please refer to the table in *ibidem*, p. 12. On this issue see also cf. <http://ita.arpalombardia.it/ita/console/files/download/11/VVF.pdf>.

between the law enforcement agents, the other operators that take care of the health aid and, in general, with the various Authorities involved (mayors, prefectures, coordination centres etc).

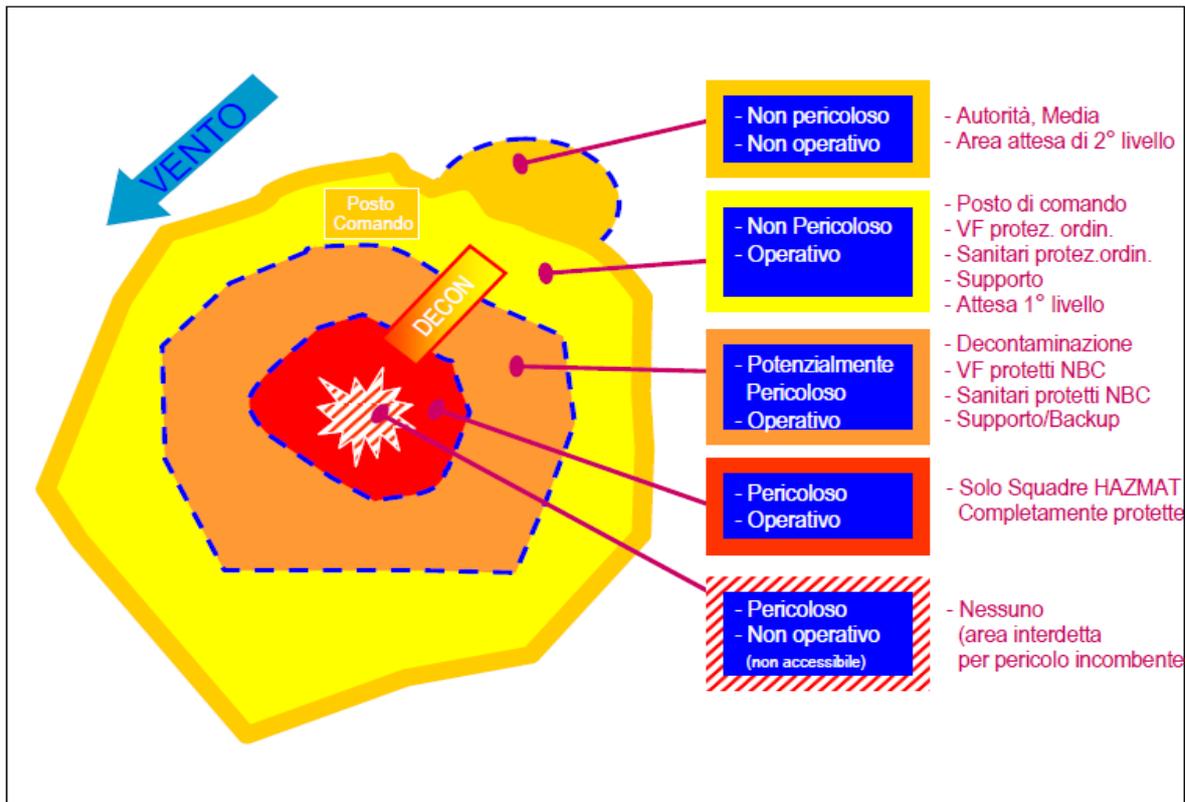


Figure 5.

Source: The CBRN Risk: The Italian Response to non-Conventional Attacks, 2005 (in footnote)

The Italian National Fire-Fighters Corp, as fundamental actor of the Italian system of Civil defence, is requested to intervene also in response to CBRN events of intentional or malicious nature, as those deriving from sabotage or a criminal or terroristic action involving the use of such substances. With specific reference to terrorist attacks, the Ministry of Interior, through the National Department of the Fire Brigades, the Public Rescuing and the Civil defence, adopted in September 2002 the “Guidelines for the chemical, biological, nuclear and radiological intervention following a terroristic attack.”²⁴⁷ The aim of the guidelines is to define uniform procedures for the quick identification of a CBRN event of terroristic nature and to efficaciously set up the operational response that, from the technical point of view of the rescuing, it does not seem to differ too much from the response to similar events having a natural or accidental origin. However, it is necessary to highlight that the content of the guidelines of 2002, in

²⁴⁷ Available at <http://www.vfmontelanico.it/docs/tecnica/linee%20guida%20NBCR.pdf>. Cf. also <http://www.vigilidelfuoco.pisa.it/11x/pdf/attacco.PDF>.

particular the operational intervention procedures, should be uniformed, coordinated and coherent with that set up in the Civil defence provincial plans drafted by the Prefects.²⁴⁸

Analysing the content of the 2002 Guidelines, it seems interesting to observe the significant role adopted by the operational room that receives the request for help – in case of Fire Brigades “115”, but the same can be said for the operational rooms of other national first responders “112”, “113”, “117”, “118” – in the prompt recognition of the terroristic nature of a certain CBRN event.²⁴⁹ Besides suggesting indicators that could be useful to the personnel of the operational room “115” in order to identify the possible terroristic origin of the event, the document proposes the information that should be collected by such personnel, as well as the information to give to the related service.²⁵⁰

As defined in the Guidelines, it is the task of “115” to alert and/or mobilize: the CBRN Provincial Unit (competent basic team on the territory, other basic available teams, provincial Experts, Responsible for the intervention with adequate means and technology; the CBRN Regional Operational Unit and other eventual regional resources (through the Regional Inspectorate); and other CBRN Regional Operational Units, in other words other extra-region resources (through the Operational Centre of the Ministry of the Interior). It is always the task of “115” that receives the request for help to alert the other entities that contribute to the operational response to a possible CBRN terrorist attack, which are: the Health Emergency Service (118) (eventually it is necessary that hospitals are informed on the event and on the possibility that some contaminated victims have already left the scene and could show up directly to the health structures on the territory); the Law Enforcement agents; the Governmental Territorial Office (Prefect’s Cabinet); the Operational Centre of the Minister of the Interior; the Fire Brigades’ Regional Inspectorate, the concerned municipality (Mayor’s Cabinet and/or Municipal Police); the Service of Public Hygiene and Environment protection (A.R.P.A.) (in cases where hazardous waste or effects on the environment can be foreseen).²⁵¹

Since the CBRN event determining the intervention scenario originates from a criminal circumstance, in this case a terrorist action, the Guidelines put particular emphasis on the necessity to forbid the transit in the concerned area to personnel not explicitly authorized, to preserve eventual evidence besides taking into consideration that the terrorists could be among the subjects that receive aid or among those deceased.²⁵² Of particular importance is then the connection between the law enforcement agents, mostly for the delimitation and access control of the attacked site, the identification and the control of the persons involved or present, the evidence collection and conservation and the first phases of the investigation.²⁵³

²⁴⁸ *Ibidem.*

²⁴⁹ *Ibidem.* As explicitly indicated in the Guidelines, the recognition and the communication to all first responders regarding the type of incident, the possible related menace and the precautionary measures to be adopted, are fundamental aspects that guarantee the safety of the first responders themselves and enable the rescue of the persons involved and the confinement of the event.

²⁵⁰ *Ibidem.*

²⁵¹ *Ibidem.*

²⁵² *Ibidem.*

²⁵³ *Ibidem.*

To conclude the present dissertation on the organisation and intervention modalities of the Fire Brigades in case of CBRN scenarios, it is important to highlight a recent initiative that will likely affect such organizational and intervention structure. It is the “Review Project of the National Fire-Fighters Corp’s aid structure” that, among other things, intends to promote also the reorganization of the specialized sectors of the Corp and to improve, through a careful rationalization of the equipment, the operational response regarding the deployment for great calamities.²⁵⁴ For what the specialized services are concerned, the Project aims to a better integration and coordination, as well as a more effective interoperability with other operational structures of the civil Protection system. The expected result should consist in a significant managerial simplification of such services. Among the specialized services there is the one to contrast the CBRN menace, on which the project foresees a general review and updating “starting from the head offices of the Central Emergency Management and also involving Circular 6/2002, in the perspective of a global rationalization and the optimal use of economic resources”.²⁵⁵

The Project, nevertheless, reiterates the opportunity to “preserve the former structure of the National Corp’s CBRN response, with its characteristics of flexibility and functionality deriving from the modular structure typical of the National Fire-Fighters Corp and from the diversification of the competence and capacity levels”.²⁵⁶ More specifically, the organization of the National Fire-Fighters Corp’s CBRN response will benefit from a review of instruments, materials and DPI of Regional and provincial units, besides a greater integration between RN and CB sectors.²⁵⁷ For what the equipment is concerned (DPI, tools and means), the Projects proposes the review of the “available means and material sheets” of circular 6, also with reference to the territorial distribution of resources. On training, the content and length update of certain courses will be promoted. To be noted the attention given to the organization of the international response to CBRN emergencies or crisis. On this regard, the Project recalls “the economic and cultural interest in participating in the European context of organization of CBRN emergency response”.²⁵⁸

b. Law enforcement authorities

The Italian law enforcement authorities (Police, *Carabinieri*, the Italian Finance Police, the Coast Guard, the Correctional Department Police, the local police) contribute to the prevention from and the response

²⁵⁴ *Revisione del dispositivo di soccorso del corpo nazionale dei vigili del fuoco criteri e modelli organizzativi*, 17.04.2012, p. 1 and ss., available at http://vigilidelfuoco.usb.it/fileadmin/archivio/vigilidelfuoco/Revisione_dispositivo_soccorso_-_RELAZIONE_2013.04.17.pdf.

²⁵⁵ *Ibidem*, p. 26.

²⁵⁶ *Ibidem*.

²⁵⁷ *Ibidem*, p. 27 and 28.

²⁵⁸ *Ibidem*, p. 29. In particular, according to what is stated in the text of the Project: “It is considered strategic to follow the registration already filed in a preliminary way of a “National Fire-Fighters Corp’s CBRN module” in the scope of the “European civil protection Mechanism”. It is foreseen, also based on the experience made during exercises, to consolidate the formal aspect of the module registration with an inner organizational context that would valorize the resources and the flexibility of the Fire-Fighters Corp, making at the same time available to the Administration the international resources. Similarly, it is foreseen to continue participating to international exercises, taking on also the direct role of organizers (on already financed exercises) or, even better, applying for European calls for new exercises with the possibility to have access to more relevant financial resources.

to emergencies and critical events -hence both Civil defence and Civil Protection- each of them according to their staffing level, logistics and equipment.²⁵⁹ They guarantee the presence of their personnel at the operative and coordination centers activated on the territory, for the Civil defence: the Provincial Committee for the Civil defence; for the Civil Protection, the C.O.C, the C.C.S. and the C.O.R..²⁶⁰

Law enforcement authorities provide staff and tools to enact the rescue mission, the immediate evacuation and the transportation of the wounded towards safe areas and hospitals. They are also in charge of maintaining or restoring the public order, guaranteeing the safety of the rescue teams, ensuring access to the roads, protecting the population, the areas where the affected people are recovering and the operational centers. Law enforcement authorities arrange the adoption of measures to enable the evacuation, the overriding mobility of the rescue teams. Moreover, the law enforcement authorities supervise the access to the areas where rescue activities are underway, they also preside over the evacuated areas.²⁶¹ Law enforcement authorities set up the team responsible to identify the corps; in addition to that they provide dog-units to help with different activities, customs personnel at the airports and seaports. They indicate the areas which can be used to gather the rescue teams and stockpile equipment and goods.²⁶² Finally, they are responsible for the investigation of the crimes which allegedly triggered the emergency.

It is important to note here that some of the law enforcement authorities have set up specialised departments and they have acquired the necessary skills to face all the threats to the public safety and the environment, which derive from emergencies and high-risk events, including the emission of CBRN elements.

Among the above mentioned agencies it is worth to flag also the Carabinieri's Command for the Safeguard of the Environment (CCTA) established (and previously referred to as the Ecological Operative Unit, afterwards modified in CCTA by Law 23 March 2001, No 93)²⁶³ by Law No 349, 8 July 1986.²⁶⁴ The CCTA, composed by personnel specialised in environmental law that exercise the functions of the Correctional Department Police and Public Safety in this specific sector, responds to the Ministry of the Environment. Generally speaking the CCTA plays an important role over the whole national territory with regard to the activities of security, prevention and repression of the threats to the environment.²⁶⁵ More

²⁵⁹ See Law No. 225, February 24, 1992. *Supra*, Art. 11.

²⁶⁰ See *supra*.

²⁶¹ See http://www.protezionecivile.gov.it/jcms/it/forze_polizia.wp.

²⁶² *Ibidem*.

²⁶³ "Disposizioni in campo ambientale", Art. 17(1) in *G.U.* No. 79 4 April 2001, which is available at: <http://www.parlamento.it/parlam/leggi/010931.htm>

²⁶⁴ "Institution of the Ministry of Environment and norms on the environmental damage", Art. 8 (4), *G.U.* No. 162, s.o. No. 59, 15 July 1986, (Text updated by D.Lgs. 31 March 1998, No. 112; Art. 1 (438 -442) of Law 23 December 2005, No. 266 and the D.Lgs. 3 April 2006, No. 152), available at: <http://www.ambientediritto.it/Legislazione/V.I.A/L%201986%20n%20349.htm>. See also Law 31 March 2000, No. 78, in *G.U.* No. 79, from 04.04.2000 (in particular, Art. 11 on the specialized activities of the different administrations) available at: http://www.difesa.it/Legislazione/Norme_in_rete/Pagine/urn_nir_parlamento_legge_2000-03-31_78_2003-06-0901_06_2011_15_09_18.aspx.

²⁶⁵ The structure of the CCTA appears as follow. The Command rests with a General of Brigade and it is divided in: a central structure (located in Rome), in turn divided in a Command Office, an Operational Department and a Centre for the Elaboration of the Data; a peripheral structure composed of 29 Ecological Operative Units (*Nuclei Operativi Ecologici*, N.O.E.), unified under 3 "Groups CC TA", a competence based on the area (North - Centre - South) located in Treviso, Rome and Naples. The

in detail, the CCTA perform, through its operative unit, the same functions as the Correctional Police Department, with the exclusion of the scientific verifications, which are carried out by the following bodies: ISPRA and ARPA, the National Health System and the Ra.C I.S. Among the sectors where the CCTA intervenes it is important to flag the employment of dangerous substance, which include all the activities where the risk of an incident is high (risk “C”) or radiological materials have been used (risk “RN”).²⁶⁶ With regard to the latter category it is worth to note that the CCTA is listed as support body for the investigations of the Police in the plans concerning radiological emergencies at the provincial level. However, the capabilities of the CCTA in those instances focus mainly on prevention and response, but the Command does not qualify as “first responder”.

Moving to the operational framework adopted by the CCTA to play its role, it shall be noted that the modalities of the intervention vary according to the level of risk and to the kind of event. The modalities chosen to respond to an event are based on the contents of specific protocols, which are classified. It is important to highlight that such protocols foresee and discipline the cooperation and the communication among the CCTA and the other actors involved. If a “NR” event occurs the cooperation between the CCTA and the other stakeholders is established by local and national plans of Civil defence and Civil Protection. The Government’s Territorial Office will be in charge of deploying the CCTA, which will be assisted by its Operational Unit, in particular by the RAD and the Ecological Operational Units, active at the local level.²⁶⁷ If a “C” event affects an industrial plant devoted to the stockpiling and the manufacturing of chemical substances, the coordination of the actors involved, including the CCTA, is outlined by the internal and external emergency plans in place at the industrial plant. In this case the Government’s Territorial Department will be responsible for requesting the CCTA’s intervention, which will benefit from the specific competence of its Air Pollution Section, IAR (High-risk Industries) and Ecological Operative Unit.²⁶⁸

If the CCTA autonomously identifies a “C” or “RN” risk, through the deployment of its peripheral structures, it will have to alert the other competent authorities. More in detail, if the risk is of a “RN” nature the CCTA will contact the ISPRA and the Centre for the Inter-forces Studies and Application of the Navy (CISAM),²⁶⁹ the Fire Brigades, the A.S.L., the ARPA and the countries part to the G8 (*see infra*); the

Operational Department and the 3 CCTA Groups respond to the Deputy Commander of the Command for the Safeguard of the Environment. The Operational Department is in charge of coordinating the N.O.E. and conducting the most complex investigations. Under the Operational Department there are: a Central Operative Section, which mainly investigates cases of crimes against the environment that involve also international actors; a Radioactive Pollution Section, which focuses on the illicit traffic of radioactive waste and materials; an Air Pollution, High Risk Industry and Water, Waste Soil Section, which controls the industries subject to a specific regulation; an Analysis Section, which handles the flow of information. On the structure see the Decree of the Ministries of Environment and Defence, 19.01.1996, which has established the Radioactive Pollution Section; the Decree of the Ministry of Defence 5.6.2001, adopted upon request of the Ministry of Environment together with the Ministry of Interior, on 5.06. 2001 (registered at the Court of Auditors on 14 September 2001, registry No. 12, Ministry of Environment, sheet No. 56). Generally see http://www.carabinieri.it/Internet/Cittadino/Informazioni/Tutela/Ambiente/01_Organizzazione.htm.

²⁶⁶ Also http://www.carabinieri.it/Internet/Cittadino/Informazioni/Tutela/Ambiente/02_Compiti.htm.

²⁶⁷ Cf. nt. 265.

²⁶⁸ *Ibidem*.

²⁶⁹ The CISAM is the relevant body for the Defence in the environmental sector, as far as the response to radiations is concerned. See Decree 11 December 2006, by the Ministry of Defence. To absolve the institutional activities the CISAM is organised in Departments, Divisions, Offices, Services and Sections. In the Nuclear Sector 3 divisions operate, the personnel

CCTA will contact only in writing the Judicial authority, Europol, the Interpol and the IAEA. If there is a “C” risk, the CCTA will inform, most likely in writing, the judicial authority, if a crime occurred, the Prefecture, the Regions, the Provinces and the Commons, if violations of an administrative nature occurred; finally the CCTA will alert the ISPRA and the Fire Brigades concerning the technical aspects.

According to what has described so far, it seems blatant that the activities carried out by the CCTA do have also an international dimension.²⁷⁰ In fact, in the international cooperation framework dealing with the prevention and response to the illicit traffic of nuclear material which is organised within the *G-8 Non-Proliferation Experts Group (G8-NPEG)*, the CCTA cooperates with the Ministry of Foreign Affairs, in particular with regard to the sharing of relevant information. The CCTA represents the “internal contact point” of the information system established within the *G8-NPEG* and therefore it is in charge of receiving and dealing with the information flow stemming from national bodies, i.e. the Ministries of the Interior, Defence and Economic Development, the Information and Security Service, the ISPRA, ENEA and the Custom House.²⁷¹ After verifying and analysing the information gathered, the CCTA sends it to the Ministry of External Affairs, which represents the “external contact point” for the cooperation within the *G8-NPEG*. The Ministry of Foreign Affairs in turn informs, and receives information from, the other countries parties to the G8 regarding all the matters relevant to the issues of prevention and response to the illicit traffic of nuclear material. Moreover, the already mentioned RAD Unit is among the very few bodies allowed to access the information portal of the Working Groups for the analysis of the illicit traffic of nuclear material established at the IAE, which is an important tool for sharing experiences and information. Finally, the CCTA and in particular the RAD Unit acts as the Carabinieri’s General Command’s referee for the illicit traffic of radioactive substances at Europol and Interpol.²⁷²

To conclude this paragraph on the intervention of the law enforcement authorities in case of CBRN events, it is important to highlight the crucial contribution that can be offered by the Police Force’s artificers. As mentioned above, alongside the risk of CBRN events, there is risk of –E events, i.e. the one deriving from the use of substances which contain a high energy level to trigger the release of contaminated agents or to steer their diffusion.²⁷³ Such risk, i.e. the one that represents an autonomous threat, is dealt with by the Police’s artificers, who can be divided into: anti-sabotage artificers, or *I.E.D.D. (Improvised Explosive Device Disposal)* that are competent for all the so-called “improvised” devices, i.e. the devices used for terrorist purposes; ordinary artificers or *E.O.D. (Explosive Ordinance Disposal)*, who are competent for all the military material classified as “regular”, i.e. the devices used by the Armed

undertakes exclusive functions in the field of the Defence with regard to the protection from risks deriving from ionizing radiations and the removal of radioactive waste. Among the main fields of intervention there are: the intervention of radioprotection, the decontamination of places, labs, equipment and instruments which interest the Defence; medical radioprotection and the toxicology control of the personnel, also of the personnel working for other authorities; campaign of radiological clearance, certification of the various tools, (to measure doses and level of intensity of the ionizing radiations). See <http://www.marina.difesa.it/conosciamoci/comandienti/scientifici/cisam/Pagine/default.aspx>.

²⁷⁰ For more info read the First Report on Fighting Environmental Crimes, by the Ministry of Environment in 2009, pp. 115 e ss., available at: http://www.minambiente.it/sites/default/files/archivio/comunicati/Rapporto_Illegalitx_Ambientale.pdf.

²⁷¹ See the note No. 53/5/4/ Sector of International Relations, 22.12.2000, by the Ministry of Interior, which assigns to the CCTA the function of National Point of Contact, for the Programme of Prevention and Fight against the Illicit Traffic of Nuclear Material, elaborated by the G8b group of experts for the non-proliferation during the meeting of Denver in 1997.

²⁷² See First Report on Fighting Environmental Crimes supra, p. 115.

²⁷³ See <http://www.poliziadistato.it/articolo/23297/>.

Forces, the NATO, including the war surplus. Normally, both kinds of artificers intervene for inspections, clearing operations, manifestations, improvised devices, war surplus and, of course, the destruction of explosive material (e.g. the material which has been confiscated).²⁷⁴ Artificers are in charge of: deactivating and neutralising the improvised explosive devices; intervening after an explosion; tracking down traces and any other elements useful to the investigation; identifying all the security measures to apply in case explosive devices, of whichever nature, are found; contributing to the activities of the police; supporting the investigation units, to prevent and prosecute crimes committed using weapons, munitions and explosive material; assisting with the activities which aim to increase prevention (i.e. official visits, national and international demonstration; instructing the Police personnel about prevention, self-defence and the measures to adopt in cases where an explosive device is found, be it ordinary or improvised. Finally, the artificers are responsible for verifying and or destroying the explosive material.²⁷⁵ It is also important to highlight the fact that the Police artificers are slowly building a strong expertise in CBRN-E, which can be particularly valuable to face the so-called “dirty bomb”.²⁷⁶

c. The Armed Forces

According to D.Lgs 15 No. 66, March 2010, “The Code of the Military Order”, among the activities conducted by the armed forces one should mention also the contribution to the safeguard of the free institutions and the ability to deal with “ specific tasks in circumstances where a public crisis and other kinds of emergency occurred”.²⁷⁷ In particular, if an emergency or a high risk event happens, in peace and war time, the Armed Forces, i.e. the Italian Army, the Navy, the Air Force (the *Carabinieri* see the paragraph above) provide logistics and operational support, qualified personnel, tools and equipment to ensure the safety of people and goods.

²⁷⁴ *Ibidem*.

²⁷⁵ *Ibidem*. From the technical point of view the artificers use sophisticated equipment which, alongside the training and preparation of the personnel, serve the purpose of guaranteeing the safety of the tasks performed. The artificers use the same equipment as the police, therefore it is important to ensure a constant exchange of information.

²⁷⁶ It shall be noted that with the inclusion in the Italian system of the *Explosive Ordnance Disposal Publication (EODP3)* and *Allied Explosive Ordnance Disposal Publication (A-EODP3)* operative standard the current denomination of the artificers has been broadened to add to the already mentioned *EOD – I° and II° Level*, also the *EOR specialists (Explosive Ordnance Recon)*, who participate in patrol and evaluation activities when there is a risk of possible military explosive devices; the *WMD specialists (Weapons of Mass Destruction)*, who intervene in cases of incidents caused by the usage of weapons of mass destruction; the *C-IED specialists (Counter Improvised Explosive Device)*, who are qualified to fight against IED; specialized instructors *CBRN and instructors C-IED* who are in charge of the training of the personnel deployed in activities connected to C-IED and *CBRNe*.

²⁷⁷ Art. 89 (3), in *G.U.* No. 106, 8.5.2010 – *s.o.* No. 84, available at http://www.difesa.it/Content/Documents/Codice_aggiornato_con_DLgs_24febbraio2012.pdf.

It is important to flag that the Code of the Military Order mentioned above has been adopted through Law No. 246 from 2005, which has outlined a complex procedure of simplification and re-organisation of the Italian existing framework. In addition to the Code a Consolidated Act of the Regulations has been adopted, see D.P.R. No. 90, 15 March 2010, in *G.U.* No. 140 del 18.6.2010 – *s.o.* No. 131, available at: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:presidente.repubblica:decreto:2010-03-15:90>. All these provisions deal with the discipline of the defence, the State’s military security and the functioning of the Ministry of Defence and the Army. The Code does not regulate the Finance Police, the system of information for the security of the State, the Administration of the Public Security, the Police Force, the Fire Brigades. The Cabinet approved it on 12 March 2010. The Code and the Consolidated Act entered into force on 9 October 2010.

The cooperation of the Armed Forces is ensured through the operational units located all over the national territory, which is divided in areas of responsibility (the military regions) e areas of intervention (the local military commands). The connection with the institutions and the high level structures is guaranteed by the Defence Chief of Staff, at the national level, and by the Regional Military Command at the regional level.²⁷⁸

In case of natural catastrophes and other significant emergencies, the Armed Forces ensure the presence of their personnel at the coordination and operative centres set up within the Civil defence and the Civil Protection. The Armed Forces immediately deploy their resources, men and instruments, to start the rescue operations, the removal of the rubble, the construction of camps for the rescuers and recovery areas for the population affected. Moreover, the Armed Forces supply all kinds of resources to help the intervention of the rescuers and the transport of the wounded. The Armed Forces regulate the flights over the areas at risk, deploy the mobile units which control the air missions and activate the instruments necessary to run the air survey, also in infrared during the night. Moreover, the Armed Forces initiate the activities to set up a reserved net of communication, indicate the logistics and military structures that can be used as areas to gather the rescuers and to stockpile the equipment.

Similarly to the Law Enforcement Authorities, also the Armed Forces have established specialized units to react to particular typologies of emergencies , such as the emergencies deriving from the release of CBRN agents. For example, the 7th Regiment Defence CBN “Cremona” which is located in Civitavecchia and it is part of the Italian Army.²⁷⁹ The Regiment contributes to the delimitation, decontamination, containment and, possibly, the elimination of the threats of CBRN events. In playing its role the Regiment is equipped with specific instruments.²⁸⁰

Within the activities aiming at the training of the personnel deployed to respond to CBRN threats, a pivotal role is played by the School of Inter-forces for the CBRN Defence, which is based in Rieti. The School undertook the role of “Focal Point Inter-forces for the CBRN Defence” and has been assigned new tasks, including the duty to draft and disseminate, upon approval of the Army Inspector, all the publications concerning this specific subject. The contents of such publications adopt the directives issued by the NATO and the Armed Forces.²⁸¹

With regard to the response to CBRN events, a crucial role is played also by the Pharmaceutical Military Plant (*Stabilimento Chimico Farmaceutico Militare*, hereinafter “SCFM”) which is located in Florence and

²⁷⁸ See <http://www.protezionecivile.gov.it/jcms/it/fa.wp>.

²⁷⁹ The Regiment is composed of: a Regiment Command, a Command and Logistics Company and a CBN Defence Battalion. See http://www.esercito.difesa.it/Organizzazione/Organizzazione%20Centrale/Comando%20delle%20Forze%20Operative%20Terrestri/Brigata%20Artiglieria/7_rgt_cremona/Pagine/default.aspx. The 7th Regiment has taken part in all the main events, from the Pope’s funeral to the Aquila’s earthquake and it is present in all the operative frameworks alongside the Italian Armed Forces.

²⁸⁰ The technologies are: the clearance apparatus, the apparatus of sampling and alarm “B, CAM” (Chemical Agent Monitor), the *Intensimetro tattico polivalente*, *Intensimetro RA 141/B*, *Cassetta RAC/83*, the clearance apparatus Sanijet C921, the chemical apparatus M8A1. For each equipment a detailed description is provided at http://www.esercito.difesa.it/Organizzazione/Organizzazione%20Centrale/Comando%20delle%20Forze%20Operative%20Terrestri/Brigata%20Artiglieria/7_rgt_cremona/Pagine/default.aspx.

²⁸¹ See http://www.difesa.it/SMD/_ENTIMI/SCUOLANBC/Pagine/Storia.aspx. It shall be noted that upon specific authorization issued by the Defence Chief of Staff also the personnel of the Armed Forces, the personnel under the Service of the Civil Defence (Ministry of Interior) and the Civil Protection participate in the training CBN.

cooperates with the Ministry of Health by producing medicines and antidotes. The SCFM stocks provisions of vaccines and medicines necessary to respond to contagious diseases, moreover it provides consultancies on technical issues.²⁸² The cooperation between the SCFM and the Ministry is disciplined by a Decree from 17 October 2007 and it has been recently broadened by the Decree of the Ministry of Health, dated 27 December 2012. More precisely, according to the latter “the SCFM is in charge of safekeeping and handling medicines, including vaccines and antidotes necessary to ensure the protection and treatment if acts of terrorism committed by resorting to unconventional weapons, incidents or pandemics occur.”²⁸³ Upon request of the Ministry of Health the SCFM will: produce raw materials, antidotes and other kind of medicines to be distributed to treat those affected; import medicines not existing in Italy, devices for the individual protection, medical equipment and other products which are not available in Italy or in Europe; stock raw pharmaceutical materials to preserve them.²⁸⁴

The SFCM contributes to the administration of the national stockpile of antidotes (*Scorta Nazionale Antidoti*, hereinafter SNA) and more precisely it deals with the procurement of antidotes and raw materials to replace the expired medicines. The SFCM is also in charge of: managing two storages which are operative 24/7/365 and transporting the medical supplies upon request of the Ministry of Health.²⁸⁵ The SFCM contributes to the activities of research about the procedures adopted by the Ministry of Health which concern CBRN, the SFCM acts as consultant on several technical issues and participate in the training focused on toxic substances and in the activities which interest the Civil defence. Finally, it is worth to note that the artificers of the Army’s Corps of Engineers can also provide a valid contribution to the response to CBRN events and crises connected to the misuse of explosives.²⁸⁶

d. The National Health Care System

The Italian National Health Care System (*Sistema Sanitario Nazionale*, SSN) is composed by the whole range of functions and activities carried out by the regional health services, the State, the national bodies and institutions which guarantee the health protection. The National Health System includes a number of different stakeholders: the Ministry of Health, national bodies and institutions (The Advanced Council of Health, the Advanced Institute of Health, the Advanced Institute for the Prevention and Safety on the

²⁸² See <http://www.farmaceuticomilitare.it/index.aspx?AspxAutoDetectCookieSupport=1>. Currently the SCFM is under the Agency of the Industries (to which it belongs as stated in D.M. Difesa 24 April 2001), established through D.Lgs. No. 300, 30 July 1999, *supra*, art. 22. See also

[http://www.agenziaindustriedifesa.it/\(S\(jitch2efjgnmtiyrcbtu1u32\)\)/file_brochure_amm/21_pagine%20da%201%20a%204.pdf](http://www.agenziaindustriedifesa.it/(S(jitch2efjgnmtiyrcbtu1u32))/file_brochure_amm/21_pagine%20da%201%20a%204.pdf).

²⁸³ *Ibidem*, Art. 1(1-2).

²⁸⁴ It is important to note that the SFCM participate in the above mentioned activities upon request of the Health Military Authority, when they take place in a military context. *Ibidem*, at para 3.

²⁸⁵ The SNA can be accessed by a number of actors, which coordinate themselves to manage it. Those are: the Ministry of Health (DG Prevenzione Sanitaria Ufficio III e Ufficio di Gabinetto Segreteria Principale Nato- UE – S); the Ministry of Interior (Cabinet, Fire Brigade, Public Rescue and Civil Defence, Central Direction of the Civil Defence and Civil Protection); the Anti-Venom Foundation “S. Maugeri” IRCCS Pavia; the Red Cross (Central Committee, Department of Health and Social Activities); the General Command of the Seaport Authority, the Command of the 7th Regiment Cremona and the Regional Health Services.

²⁸⁶ See also the Chief of the Army General Staff, Guidelines for the Selection, the Training and the Deployment of the Personnel in the Sector *Eod Iedd/C—led*, 2011. Available at: http://www.forzearmate.org/sideweb/2011/circolari/ei/direttiva-EOD-IEDD-C-IED-rev%2005_2011.pdf.

Work Place, the Agency for the Regional Services, the Institute for the Recovery and Treatment, the Veterinary Epidemiology Center, the Italian Agency of Drugs) and the regional health services (which include the autonomous regions and provinces, the Local Health Agencies and the Hospitals).

If an emergency occurs which derives from a CBRN event, the National Health system provides its structures and equipment to rescue the population and assist the rescuers who have been exposed to the CBRN agents. On the site of the event the rescuers working for the 118 promptly intervene as their job is to step in in case of medical emergency.²⁸⁷ Very important in such contexts is the adoption of specific equipment that can significantly facilitate the work of the rescuers.

e. The Italian Red Cross

The Italian Red Cross, (*La Croce Rossa Italiana*, CRI), is the National Society of the International Red Cross and Red Crescent Movements. It is an international humanitarian movement with approximately 97 million volunteers, members and staff worldwide which was created to protect human life and health, to ensure respect for all human beings, and to prevent and alleviate human suffering, both in time of peace and war. Among its duties fall the preparation and the response to disaster and situations of emergency.²⁸⁸ To fulfil its mission the Red Cross is endowed with a proper structure and organisation which allows it to provide prompt and effective relief to the populations affected by an emergency. It is important to observe that the interventions of the Italian Red Cross can take place both in Italy and abroad and they can occur within, or outside, the National Service of the Civil Protection, as long as the situations require timely response.²⁸⁹ It does not fall within the competences of the Italian Red Cross to conduct activities that pertain to the Civil defence.²⁹⁰ However, this does not imply that the intervention of the Italian Red Cross cannot be necessary in cases that interest the system of Civil defence, especially when the Italian Red Cross provides relief to the population affected.²⁹¹ Despite the specificity of the context where the Italian Red Cross operates, it is important to stress that it always acts alongside the other institutions and bodies.²⁹²

The organisation of the entire structure of preparation and response to emergencies in place at the Italian Red Cross is described by the Regulation for the Organisation and the Activities of the Emergency Sector adopted in 2010.²⁹³ According to it the resources and the volunteers of the Italian Red Cross can be deployed to perform all the functions connected to prevention and assistance, also in cases of massive events and highly attended demonstrations.²⁹⁴ Both for the activities of preparation and planning and for the ones which regulate the operational framework, the Regulation foresees the role of

²⁸⁷ On the “118” emergency service see <http://www.118italia.net/>.

²⁸⁸ *Supra* <http://cri.it/emergenze>. See also <http://cri.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/6458>

²⁸⁹ For example the assistance provided to the immigrants who reach the Italian shores.

²⁹⁰ See also *infra*.

²⁹¹ See what will be said in the text later on.

²⁹² Adopted with the *Ordinanza Commissariale* No. 387, 22 July 2010. The text is available at <http://cri.it/emergenze>

²⁹³ See the Regulation for the Organisation of the Activities in the Emergency Sector. According to it “the Regulation is not the emergency plan of the Italian Red Cross”. *Ibidem*, p. 4.

²⁹⁴ *Ibidem*, Art. 1.

the “Delegate of the Italian Red Cross for Emergencies” (previously referred to as the Civil Protection Delegate). The Delegate is an individual person who operates, according to the specific territorial competences, as “national delegate”, “regional delegate” or “local delegate”.²⁹⁵

The Delegate of the Italian Red Cross contributes to the initiation of the response activities agreed on by the Italian Red Cross’ body in charge of the strategy, namely the Crisis Unit which can be established at the national, regional or provincial level, depending on the degree of the event to face.²⁹⁶ The Crisis Unit is assisted by the Evaluation and Coordination Team of the Italian Red Cross, which, once reached the territory interested by the event, gathers all the information available, evaluates the typology of the intervention required, the entity of the resources needed and so on.²⁹⁷ As far as the operative management is concerned, this is left to the Operative Department of the Italian Red Cross, organised on a different scale according to the level of emergency attributed to the event.²⁹⁸

Given the possible integration of the tasks conducted by the Italian Red Cross within the organisation of the national service of Civil Protection and due to the necessity to avoid overlapping, if the Civil Protection system is activated the bodies of the Italian Red Cross conform their activities to the ones decided by the Civil Protection. This is established in the Regulation which, in several provisions,²⁹⁹ specifically prescribes the cessation of the work of the Evaluation and Coordination Team whenever the Civil Protection’s DI.COMA.C is activated.³⁰⁰

Going back to the operative intervention of the Italian Red Cross in case of emergencies, in general it can be said that this consists of deploying resources and personnel to contribute to clearing out, rescuing and providing health assistance to the people affected, setting up hospital camps and ambulances. In addition to organizing the sanitary defence, which includes the use of the devices to make the water drinkable, the Italian Red Cross participates in the research and re-union of the displaced persons, moreover it guarantees the distribution of food and supplies to the people involved in the rescue operations and provides psychological assistance.³⁰¹

Among the activities conducted by the Italian Red Cross to respond to emergencies, it is important to include also the tasks that the Movement fulfils with regard to CBRN events. In those instances the Italian Red Cross is equipped with specialised CBRN Units composed by qualified personnel who

²⁹⁵ *Ibidem*, Art. 3(2), according to which “ the National Delegate of the Italian Red Cross for the emergency activities is appointed by the President ...”. Para 3 specifies that “[...] the regional, provincial and local delegates are appointed by the respective Presidents of the Territorial Committees.”

²⁹⁶ *Ibidem*, Art. 6. See para 1 according to which at the national level the Central Unit of Crisis (*Unità di Crisi Centrale*, U.C.C.) of the Italian Red Cross is activated when an event occurs that falls under the definition enshrined in Art 2(1)(c) of Law No. 225 del 24 February 1992, *supra.*, or when according to the principle of subsidiarity the territorial structure of the Italian Red Cross necessitates support to respond to the emergency. See also para 10, concerning the establishment of the Crisis Unit within the Regional and Provincial Committees.

²⁹⁷ *Ibidem*, Artt. 7, par. 1-3.

²⁹⁸ *Ibidem*, Art. 9.

²⁹⁹ *Supra*, *ibidem* Art. 3(8), Art. 6 (4 and 9) and Art. 11.

³⁰⁰ *Ibidem*, Art. 7(6) on DI.COMA.C *cf. supra* par. 3.2.

³⁰¹ *Ibidem*.

underwent a thorough training, in particular with regard to the decontamination.³⁰² Moreover, such Units guarantee the widest distribution, among those operating in this sector, of the most basic techniques of self-protection and first response in unconventional places and circumstances which characterise CBRN events.³⁰³

The Units can be established both at the regional and at the provincial level. They are composed by volunteers or employers of the Italian Red Cross who gained the necessary and specific skills.³⁰⁴ The structure of the Units is based on 3 different levels each of them corresponds to specific qualifications and tasks.³⁰⁵ In particular the CBRN Units of the Italian Red Cross consist of: a “Team of Individual Protection Devices” (*Dispositivi di Protezione Individuale, DPI*); a “Health Team” which is in charge of decontaminating the patients who have not been brought to the hospital; a “Team of Advanced Operators” which should provide reliable information and operate a triage prior to the decontamination to ease the evacuation of the victims handled by the Fire Brigades; a “Technical Team” which is responsible for the use and maintenance of the machineries; finally a “Logistics Team” that should keep safe and functioning the structures and the equipment.³⁰⁶ Those in charge of each team are identified and nominated by the Regional or Provincial Delegate of the Italian Red Cross.³⁰⁷

Consistently with what has been said above with regard to the important role played by the Italian Red Cross in situations of emergency, the deployment of the CBRN Units happens in case of events which fall within the responsibility of the Civil Protection. If the event falls under the aegis of the Civil defence the intervention of the CBRN Units can be authorized by the competent Italian Red Cross Delegate. According to the provisions embedded in the Regulation “whenever the National Service of the Civil Protection is called to contribute to the activities of the Civil defence, the National, Regional or Local Delegate of the Italian Red Cross will act consistently with the current document and will enact the procedures foreseen for all the emergencies, following the specific instructions provided by the competent authority.³⁰⁸ Finally, it is worth to emphasize that the Italian Red Cross has been involved for a long time in the training organised by the Civil defence to test the response to CBRN events.³⁰⁹

f. The Volunteers

Among the operative structures in cases of emergency there is also the work of the volunteers, which is based on a large number of organisations created and managed by private citizens, who, without earning

³⁰² Guidelines for the Activities of the CBRN Units n.0143-11, 4 April 2011, available at: <http://cri.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7407>. See Art. 1, parr. 1-3.

³⁰³ *Ibidem*, par. 4.

³⁰⁴ *Ibidem*, Artt. 2 e 3.

³⁰⁵ *Ibidem*, Art. 3.

³⁰⁶ *Ibidem*, Art. 11 par. 1. *supra*. also Art. 3.

³⁰⁷ *Ibidem*, Art. 11 par. 3.

³⁰⁸ Regulation for the Activities in the Emergency Sector, Art. 17 par. 2.

³⁰⁹ See the recent exercise of Civil Defence “MERCrad13” organised by the Ministry of Interior, the Fire Brigade. See the exercise of Fire, Public Relief and Civil Defence where participated: the Prefecture of Messina, the Prefecture of Reggio Calabria and the Ministry of Interior (through the Technical Inter-Ministries Committee for the Civil Defence). More info at: <http://cri.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/17654>.

any salary, assist the population affected by natural or man-made disasters. The corps of volunteers are disciplined by Law 225, 1992, which establishes the national system of Civil Protection.³¹⁰ Within such system the volunteers participate in the “activities of forecast, prevention and rescue, in sight of or if a natural catastrophe or disaster occurs.”³¹¹ The requirements that the groups of volunteers should meet in order to take part in the activities of the Civil Protection are established by the Decree of the President of the Republic No. 194, 2001.³¹² The Decree adopted in 2001, besides defining what is meant by “organisation of volunteers of the Civil Protection”, foresees the registration in a specific national registry, which consists, according to the Directive from 9 November 2012, in one centralised list and several territorial lists, kept at the Regional and Autonomous Provinces.³¹³ The registration in such lists guarantees the efficiency of the groups of volunteers, whose requirements are checked on a regular basis.³¹⁴ As long as the central list is concerned, it is established at the Civil Protection Department and it includes only the organisations which, due to their characteristics and diffusion, have achieved a high relevance in case of events that affect the national territory.³¹⁵ The territorial lists, kept by the regions, include instead the organisations to deploy for events that affect regions or local territories.³¹⁶

The activation of the organisations registered in the central list and of the ones included in the territorial lists (which are launched by the regional structures of the Civil Protection) is decided by the Department of the Civil Protection for activities of national and international relevance. Such activation can be ordered by the Department of the Civil Protection autonomously, or upon request of the regional and local authorities of the Civil Protection.³¹⁷ The organisations included in the local lists participate in activities which take place at the regional and local level. The modalities are disciplined by Article 9(1) of the Regulation.³¹⁸

³¹⁰ *Cit.* See Art. 6 according to which “citizens and groups of volunteers contribute to the activities of Civil Protection”. See also Art. 11

³¹¹ *Ibidem*, Art. 18.

³¹² “Regolamento recante nuova disciplina della partecipazione delle organizzazioni di volontariato alle attività di protezione civile”, 8.02.2001, In *G.U.* No. 120 5 May 2001, available at http://www.protezionecivile.gov.it/jcms/it/view_prov.wp?contentId=LEG20554

³¹³ See *ibidem* Art. 1. In particular according to parr. 1 and 2 of the same provision: “its reckoned as an organisation of volunteers of the Civil Protection each body freely established, non-profit, including the local groups which promote activities of prevention and rescue in case of emergency, in addition to training on the same subject”. As far as the management of the lists is concerned see the Directive from 9 November 2012, in *G.U.* No. 27, 1 February 2013, available at http://www.protezionecivile.gov.it/jcms/it/view_prov.wp?toptab=2&contentId=LEG37466#top-content

The Directive applies to the whole national territory, with the exclusion of the Autonomous Provinces of Trento and Bolzano, according to the Special Statute, (see D.P.R. No. 670, 31 August 1972) and the implementation norms thereof. The Directive tends to emphasise the participation of the volunteers in the activities of the Civil Protection, promote the full responsibility of the Regions and the local authorities; simplify the procedures to apply the benefits envisaged by D.P.R. 194/2001; integrate the national system and the regional systems for the recognition and coordination of the groups of volunteers.

³¹⁴ See Directive 9 November 2012, *cit.*, par. 1.1.

³¹⁵ *Ibidem*, par. 1.3. The denomination and the references to the organisation of volunteers that are included in the central list are available at http://www.protezionecivile.gov.it/jcms/it/elenco_centrale_delle_org.wp

³¹⁶ See Directive 9 November 2012, *cit.*, par. 1.2. It shall be noted that “the registrations, the withdraws and all the variations in the territorial lists are notified to the interested Commons in order for the Mayors to have an updated picture of the situation on their territories.” *Ibidem*.

³¹⁷ Directive 9 November 2012, *cit.*, par. 2.2.1.

³¹⁸ *Ibidem*, par. 2.2.2.

CONCLUSIVE REMARKS

The main aspects of the Italian framework of response to CBRN events have emerged from the present Report. Without repeating what has already been described above, it is important to highlight the key peculiarities. In particular, it is important to stress that one of the fundamental features of the Italian system is the fact that it is based on two different models of emergency management and response. Those two models are formally divided, but in practice they appear connected and intimately entwined. On the one hand we have the Civil Protection system which is activated to deal with “natural or accidental man-made disasters”. On the other hand stands the Civil defence system which outlines the response to “critical situations” stemming from natural or man-made disasters, either unintentional or intentional. Both systems envisage the appointment of different institutional actors which are responsible for the “forecast”, the “prevention”, the “response to” and the “recovery from” critical events.

Leaving aside every considerations on the efficiency of such model, that can be defined as “dual” or bi-dimensional”, it is interesting to observe that both systems demand the involvement of, more or less, the same institutional actors. This is evident at the political and strategic level where, for both systems, the “final word” rests to the Prime Minister. Instead, at the tactic level there are a few differences regarding the attribution of responsibilities, in particular the role of “coordinator” in the response varies according to the system in place. In cases which trigger the activation of the Civil defence system the Ministry of Interior acts as the response coordinator. He or she plays this role through the Units of Crisis and the prefectures which preside the Provincial Committees of the Civil defence. When the response is handled by the Civil Protection, the ultimate power is attributed to the Department of the Civil Protection, whilst at the local level it lies with the Regions, the Provinces, the Prefectures and the Mayors. What has been said so far does not entail that the Civil Protection’s response excludes a security dimension. Security aspects do exist, however they seem to qualify more as “safety” than “security”. In a nutshell, if in the Civil defence is activated the relevance of the technical rescue is added to the importance of maintaining the public order and safety. Several aspects are at stake, including also the investigation and prosecution of crimes, the cooperation of the different police bodies, the coordination of national and international intelligence authorities. Within the Civil Protection’s framework those aspects are less marked and, as far as the maintenance of the public order is concerned, it appears that less emphasis is placed on the struggle against crimes and more on the rescue of the population affected. Finally, with regard to the operational framework, it is rather evident that both systems rely on the same actors.

That said, in order to identify the strengths and the shortcomings of the Italian system, it is crucial to briefly reconsider the normative, institutional and operational frameworks altogether.

Starting from the normative framework, it shall be observed that it is outlined in several laws and regulations, which have been adopted over a long lapse of time, also in accordance to international duties. Such articulated framework seems to rise a large number of concerns as it can be negatively described as “fragmented”. As widely known, a fragmented normative framework can lead to judicial uncertainty and can bring major difficulties to the beneficiaries of the provisions, who are uncertain about their duties and responsibilities. The uncertainty becomes more troublesome when the

beneficiaries of the norms are asked to cooperate to achieve a common goal. In particular, for the specificity of the subject dealt with in this study, it would be crucial to count on an harmonious and smooth cooperation of all the stakeholders involved in the response to CBRN events. It would be highly recommended to initiate a complete rearrangement of the normative framework regulating the response to CBRN events to make it more sound, rational and accessible. In fact, both the doctrine and the practice confirm that the Italian response system, as tested in several exercises, does work. The recommended rearrangement should focus on the rationalisation and organisation of the existing laws and regulations in one text (a Consolidation Act?), able to encompass all the laws and principles that discipline the response to CBRN events. Such tool should also establish or rearrange the laws and procedures which regulate the issue of the incoming international assistance operating on the Italian territory, especially with regard to the rights and duties of the foreign authorities. This would require the mapping of the existing national laws that implement international obligations, enshrined in customary or treaty law. Whenever gaps emerge, ascribable to the lack of international laws or lack of implementation thereof, it important that the national authorities step in. This should happen not only at the international level (through the adoption of the necessary instruments), but also at the national level.

The analysis of the Italian framework of response to CBRN events has also showed a limited attention towards the issue of “communication” in situations of crisis or emergency. Communication in this case should not be referred to the one which takes place among the different institutions and bodies involved, as the inter-institutions’ communication is thoroughly disciplined by the law and the procedures enshrined in the emergency plans. We are rather looking at the communication with the public, meaning the ability to report timely and accurate information and share them with the affected population. Such form of communication represents a crucial tool to guarantee an efficient response to emergencies, and more specifically to CBRN events. Therefore, the adoption of a more sound framework to define and discipline the principles which regulate the communication in cases of emergency, is strongly encouraged. Such initiative should address both the authorities and the media (television, radio, newspapers and Internet).

With regard to the institutional framework governing the response to CBRN events, it is worth to stress here that the majority of the actors involved, including the military, have specific competences and resources which, altogether, contribute to the response. The link between the different activities, political, administrative or merely technical, is facilitated through the establishment of bodies, at the national or local level, specifically devoted to guarantee the coordination among the stakeholders.

It is important to underline that the authorities in charge of directing the response, both at the political and at the tactical level, can benefit from an instrumental tool, particularly useful to make decisions: the so-called “System” established in the Department of the Civil Protection. The purpose of such tool is to gather, verify, elaborate and share all the data collected, in Italy and abroad, about emergencies and critical situations. The System works 24/7/365 and it sets up a continuous connection among the technical rooms of all the different stakeholders involved in the rescue operations. These include national institutions, regional and local departments of the Civil Protection, the Government’s Territorial Offices, the Prefecture’s Territorial Offices, the operative and coordination centres of the Civil Protection. Thanks to the System all of them can promptly share information.

Finally, it should be highlighted that all the actors which play a role in the response to CBRN events rely on highly qualified units, whose components regularly undergo specialised training. Such dedicated units are responsible of identifying the kind of threat to face and activating the relevant procedures. The specialized units of course have to cooperate and the mutual support is guaranteed through the above mentioned coordination centres. It is worth to emphasise that the specialized units are provided with a technological park, however, as emerged from the current study, it seems that the park needs to be potentiated to better face “C”, “B”, “R” or “N” threats or events; this, of course, will require additional economic strains from the Government.

BELGIUM

Abstract

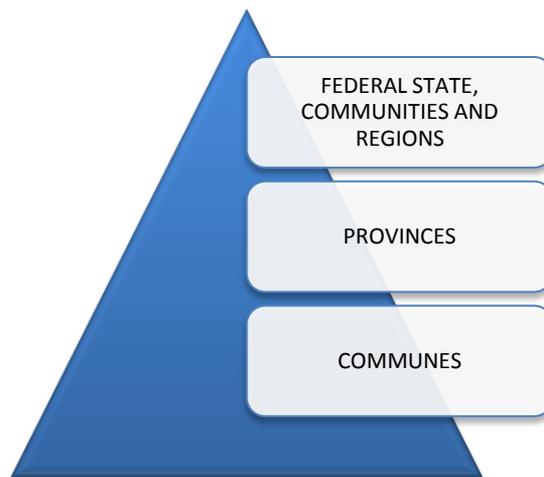
The Belgian normative framework dealing with prevention and response to emergencies involving the release or fusion of CBRN substances is rich and detailed, especially in regard to nuclear and radiological events. In case of CBRN event the Minister of Interior coordinates the overall crisis management and bears responsibility for it at federal level. The Minister assumes the role of Emergency Director for the authorities and is supported by the Governmental Crisis and Coordination Centre that is composed by a Committee and various units with specific expertise.

At the operational level, in order to assure prompt assistance and coordination, emergency plans have been established at municipal, provincial and federal level. Therefore, according to the level of emergency, the mayor, the Province Governor or the Minister play a key role in the crisis management and in the overall coordination of the actors involved. The main legal instruments that the actors at the operational level should refer to in the event of a CBRN crisis are the “Emergency Planning and Crisis Management in Belgium” and the “Nuclear Emergency Plan”.

BELGIUM' S LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRN CRISES

1. Overview

Belgium, which is a parliamentary monarchy, is a federal state composed of three communities and three regions.³¹⁹ The country is then further divided into 10 provinces and 589 municipal councils, thus the structure of the State consists of three levels:



At the top level the Federal State, the Communities and the Regions are equal from the legal viewpoint but have powers and responsibilities for different fields.³²⁰

At the next level the provinces are supervised by the higher government authorities, in the context of the federal, community or regional powers.

At the bottom of the pyramid, the communes, like the provinces, are supervised by higher authorities. Depending on the powers exercised, they are supervised by the Federal State, the Community or the Region.

2. The Legal Framework

Belgium has two commercial nuclear sites and a total of seven reactors generating about half of its electricity and the legal framework regulating CBRN prevention and response is rich and detailed, especially in regard to the nuclear and radiological aspects. The most relevant regulations at national level are:

- Law on civil protection, 31.12.1963;

³¹⁹ Constitution of Belgium (1993), art. 1. The three communities are: the Flemish Community, the French Community and the German-speaking Community (art. 2), while the three regions are: the Flemish Region, the Brussels Capital Region and the Walloon Region (art. 3).

³²⁰ Communities and Regions mainly deal with cultural and educational matters and cooperation among communities/regions.

- Law on major accidental risks, 22.05.2001;
- Law on the analysis of the menace, 10.07.2006;
- Law on security and protection of critical infrastructures, 01.07.2011;
- Law on civil security, 15.05.2007;
- Law on the information and protection³²¹ services, 30.11.1998;
- Royal decree on crisis management at national level, 31.01.2003;
- Royal decree establishing a high-level Institute of emergency planning, 05.12.2011;³²²
- Royal decree on Belgian first aid and support team, 28.02.2003;
- Royal decree on the national plan on nuclear and radiological emergencies, 17.10.2003;³²³
- Royal decree on the emergency and intervention plans, 16.02.2006;³²⁴
- Royal decree on the creation of the Governmental Centre of Crisis Coordination (CGCCR)³²⁵, 18.04.1988;
- Ministerial directive MF05 on the mission of local police, 23.12.2002.

At international level, Belgium is party to all the relevant treaties which regulate the issue of CBRN events.³²⁶

3. The Institutional Framework

It must be noted that most instruments and planning documents regulate the response to nuclear and radiological events, nevertheless the institutional and operational framework that is presented below apply to different kind of crisis, from hazardous transports to terrorist attacks.³²⁷

Without prejudice to the prerogatives of the Prime Minister, the **Minister of Home Affairs** coordinates the overall crisis management and bears responsibility for it. Indeed, for the duration of the crisis the responsibility for the role of **Emergency Director for the authorities** lies with the Minister of Home Affairs or with his representative.³²⁸ The Minister of Home Affairs can call upon and engage all civilian

³²¹ Renseignement et sécurité.

³²² Institute Supérieure de Planification d'Urgence. Modifying the Royal decree of 29.07.1991.

³²³ Such plan is also activated for other emergency situations (hazardous transports and terrorist attacks) that occur either on the Belgian territory or in the neighboring countries.

³²⁴ See also CIRC MIN NPU1 26/10/2006 and CIRC MIN NPU2 30/03/2009.

³²⁵ Centre Gouvernemental de Coordination et de Crise.

³²⁶ The (1968) Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the (1972) Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC), the (1992) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC), the (2005) International Convention for the Suppression of Acts of Nuclear Terrorism. With regard to the international conventions dealing with transboundary cooperation and assistance in case of nuclear and radiological emergencies originating from civilian use of related material, Belgium has ratified all of them, namely: the (1986) Convention on Assistance in Case of a Nuclear Accident or Radiological Emergency, the (1986) Convention on Early Notification of a Nuclear Accident, the (1994) Convention on Nuclear Safety.

³²⁷ Royal decree establishing the nuclear and radiological emergency plan of 17 March 2003, art. 1.3.1.

³²⁸ This competency is governed by the law of 31 December 1963 on Civil Protection, the Royal Decree of 23 June 1971 organising the civil protection missions and the coordination of operations during emergencies, disasters and catastrophes, the Royal Decree of 20 July 2001 laying down the General Regulation for the protection of the public, workers and the environment

and military resources in order to control or limit the emergency situation³²⁹ and is authorised to execute the provisions of bilateral and international assistance and notification agreements in the event of serious catastrophes and accidents, signed with Belgium and other countries and organisations.³³⁰

At federal level, other Ministers play an important role in crisis management, specifically:

- The Minister for Public Health is responsible for organizing and ensuring the smooth running of the medical emergencies services.³³¹
- The Minister for Employment and Labour exercises control over the safety of workers for whom the emergency situation may represent a danger.³³²
- The Minister of Agriculture is in charge of proposing measures specific to agriculture, horticulture and sea fishing. He/she also participates in implementing the practical provisions in the this field.
- The Minister of Foreign Affairs participates in collecting information available abroad.
- The Minister of Finance monitors imports and exports of contaminated material.³³³
- The Minister of Defence ensures the preparation and execution of measures to be taken within the armed forces, in the event of an accident.³³⁴
- The Minister of Economic Affairs and Energy takes all necessary measures so that the energy supply is assured and the economic activities are maintained, where possible.

The involvement of Ministries at federal level can be visualized as follows:

against the hazards of ionising radiation and the Royal Decree establishing the nuclear and radiological emergency plan of 17 March 2003.

³²⁹ Law of 31 December 1963 and Royal Decree of 3 March 1934 regarding the use of army equipment and personnel for non-military work.

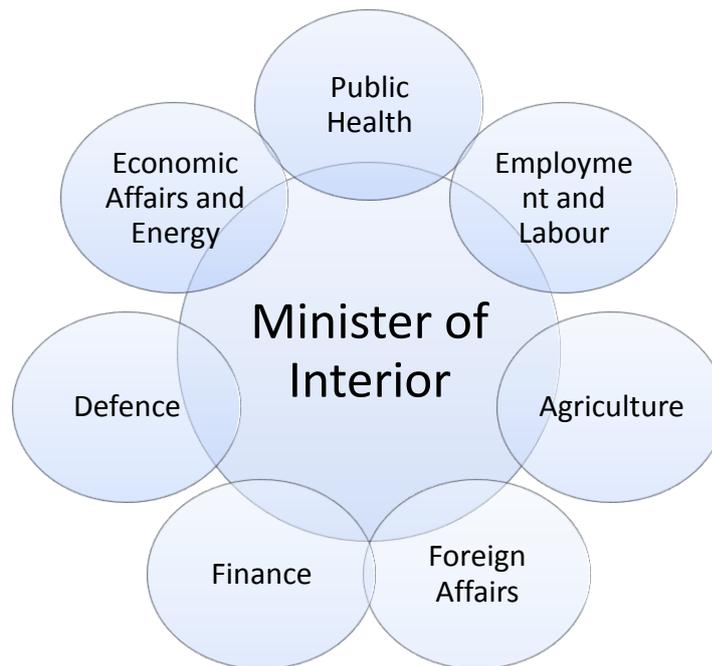
³³⁰ Royal decree establishing the nuclear and radiological emergency plan of 17 March 2003, art. 2.1.1.

³³¹ Law of 7 July 1964. The directorate-general for “animals, plants and food” is also represented in various units of the crisis management (CGCCR). In addition, the Belgian Red Cross is in charge of organizing healthcare for the civilian population in the event of disasters, and in particular establishing and training a group of competent rescue workers.

³³² Royal decree of 25 April 1997.

³³³ Foodstuff and feeding stuff.

³³⁴ All measures to protect the public and the environment shall fall under the emergency plan.



At **local level**, also the **Provincial Governors** play an important role. The Governor of the Province concerned is **responsible for the implementation of the actions decided at federal level** and the management of the intervention teams. In addition, for the lowest warning level³³⁵, the Governor takes immediate measures under his/her own authority.³³⁶ Coordination is achieved with the mayor of the municipality where the accident occurred and with the mayors of the zone of intervention.³³⁷ Municipality authorities maintain competences in matters of public safety and hygiene, however it is supposed that highly risky CBRN events exceed municipal borders and supposes direct coordination at the provincial level or even national level.

In case of an emergency the off-site operations are directed by the **“Governmental Crisis and Coordination Centre” (CGCCR)**, under the authority of the Minister of Internal Affairs. It provides continual support for the government and is in charge of:³³⁸

- Implementing the practical provisions of the emergency plan;
- informing the responsible people and services in accordance with the warning level;
- hosting the various committees and units on its premises;
- broadcasting the information prepared by the various units;
- taking logistics measures, including for means of communication;

³³⁵ UR.

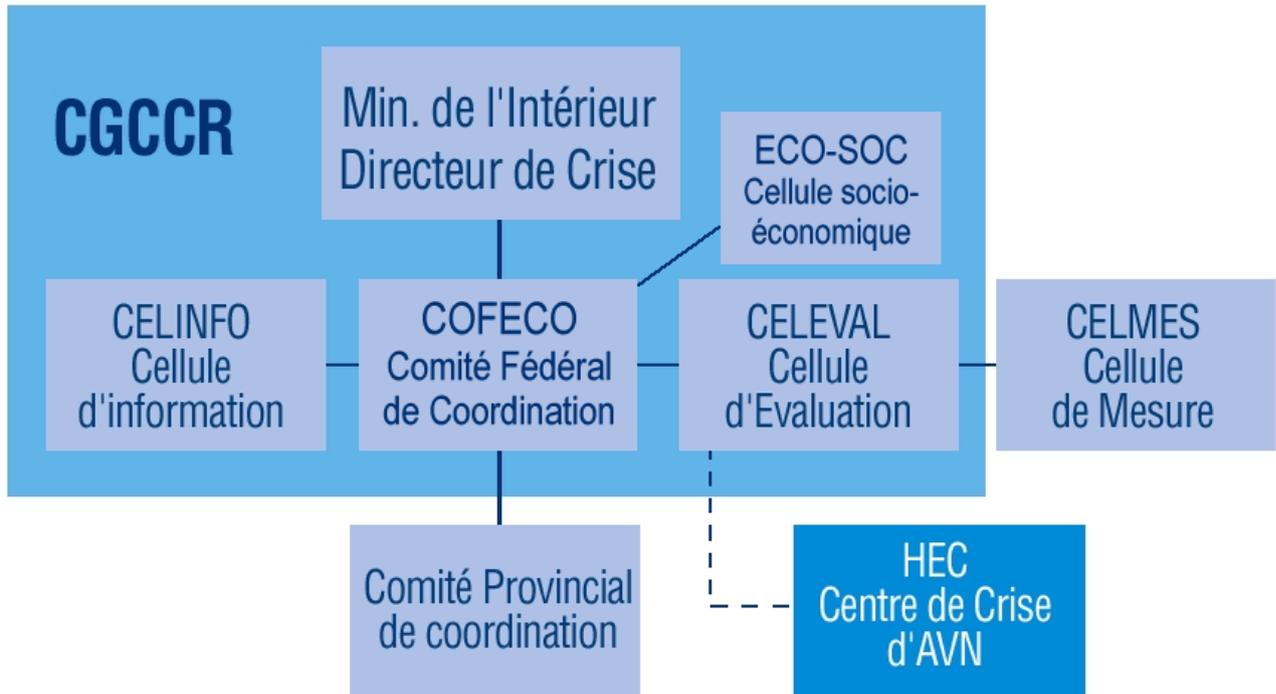
³³⁶ This does not exclude that, if needed, the Provincial Governor may call upon the Emergency Director of the authorities to ensure federal coordination. The law of 31 December 1963 on Civil Protection and the Royal Decree of 23 June 1971 organising civil protection missions and the coordination of operations during emergencies, disasters and catastrophes are used as a basis for the definition of competencies.

³³⁷ Area in which the measures are effectively applied. The intervention zone is established by the Emergency Director of the authorities.

³³⁸ Royal decree establishing the nuclear and radiological emergency plan of 17 March 2003, art. 3.2.1.1.

- acting as a point of national contact under the agreements with the IAEA and the EC or any ad hoc bilateral agreement.

The CGCCR is composed by a Committee and various units with specific expertise. Its structure can be visualized as follows:



The **Federal Coordination Committee (COFECO)** defines the general crisis-response strategy, takes the fundamental decisions and assumes the political responsibility for them. It is composed of the Ministers listed above and assisted by the Governor(s) of the Province(s) concerned. It is set up by the Emergency Director of the authorities. The COFECO is informed permanently by the assessment unit and the socio-economic unit, then, it sends the information unit the data to be provided to the general public via the media and a liaison agent from the information unit sits on the COFECO.

The **Assessment Unit (CELEVAL)** is in charge of determining the radioactive measurements in the environment and of advising COFECO on such matter. In general, for any type of emergency, the President of CELEVAL proposes a warning level to the Emergency Director of the authorities. It is composed of public service representatives.

The **Measurement Unit (CELMES)** executes the measurement strategy proposed by CELEVAL and coordinates all the activities related to the collection and validation of information transmitted either by the field measurement teams or by the monitoring network. It is organized around two operational levels (federal and local). It is comprised of institutions and organisations availing of the principal measurement resources. The measurement unit is in contact with the assessment unit, with the local coordinator, with the laboratories and with all places where the personnel of the measurement unit is deployed.

The **Socio-Economic Unit (ECOSOC)** advises COFECO on the socio-economic consequences of the decisions taken or to be taken, is in charge of the management of these consequences, informs COFECO on the follow-up of the decisions in the sectors concerned and ensures the return to a normal socio-economic situation after the accident.

The **Information Unit (CELINFO)** is in charge of communication and proposes a spokesperson to the Emergency Director of the authorities. In particular, CELINFO ensures that:

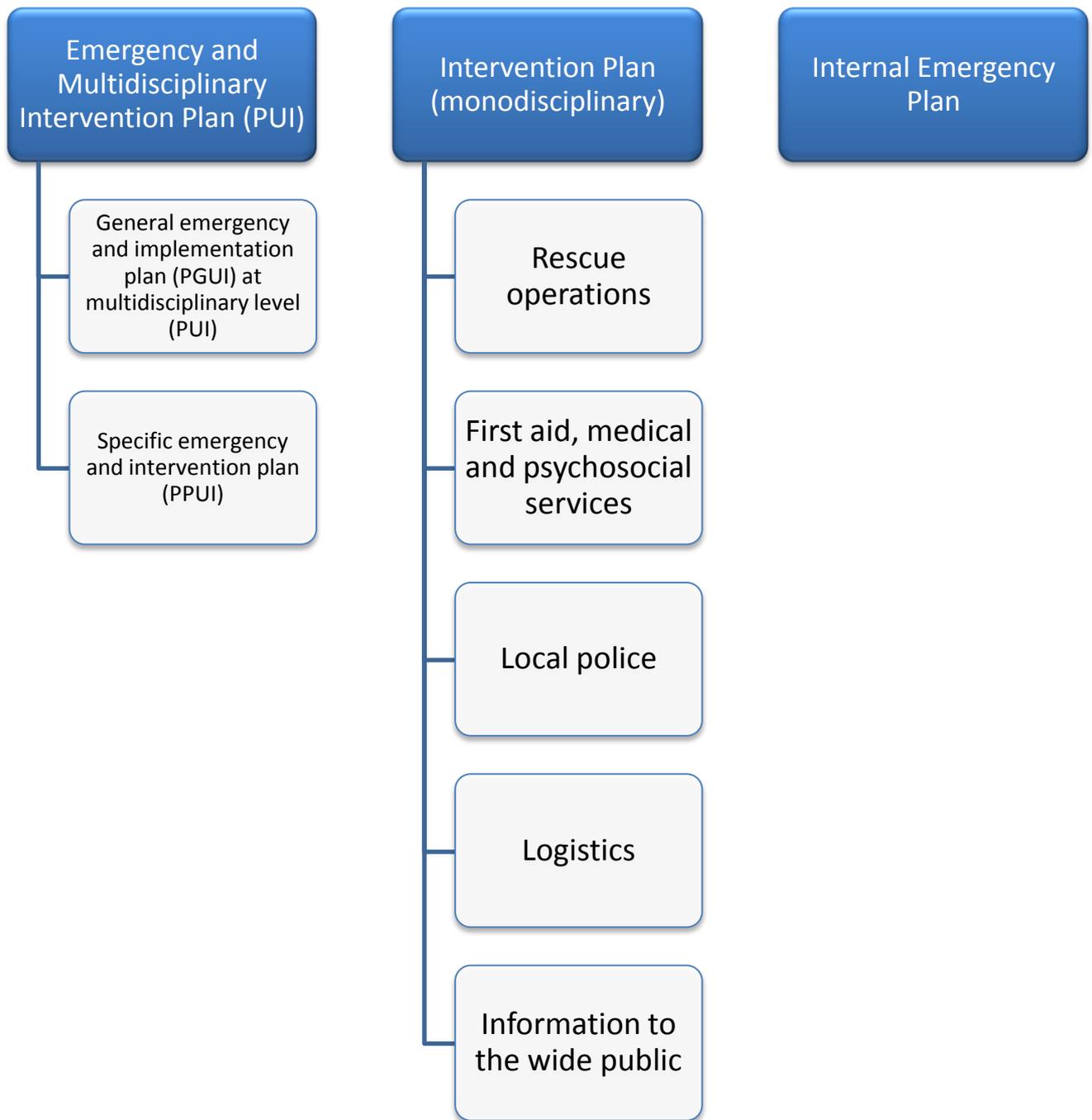
- the general public is informed of the protective measures to be taken;
- the media are informed unequivocally;
- a suitable information system is organized;
- appropriate monitoring of the population and the media is organised to be able to evaluate the reactions in real time;
- neighbouring countries receive necessary information;
- the authorities concerned are informed.

THE OPERATIONAL FRAMEWORK IN RESPONSE to CBRN CRISIS: ACTORS and PROCEDURES

The **main legal instruments** that the actors at the operational level should refer to in the event of a CBRN crisis are the “**Emergency Planning and Crisis Management in Belgium**”³³⁹ and the “**Nuclear Emergency Plan**”³⁴⁰. In order to assure prompt assistance and coordination, emergency plans have been established at municipal, provincial and federal level. The types of intervention are:

³³⁹ Planification d’Urgence et gestion de crise en Belgique, Service public federal Interieur, 21 January 2013.

³⁴⁰ Established by the Royal Decree of 17 October 2003.



According to the type of emergency and the risks, the general plan can be complemented and adapted to the situation with a specific plan. In fact, the PUI and the PGUI contain the general directives and the basic information on crisis management, while the PPUI completes the PGUI with additional specific directives related to a specific risk. Also, the general plans take into consideration the different international agreements and bilateral treaties according to the issue, therefore they can slightly differ from one another. Moreover, the Intervention Plans determine the intervention modalities of each

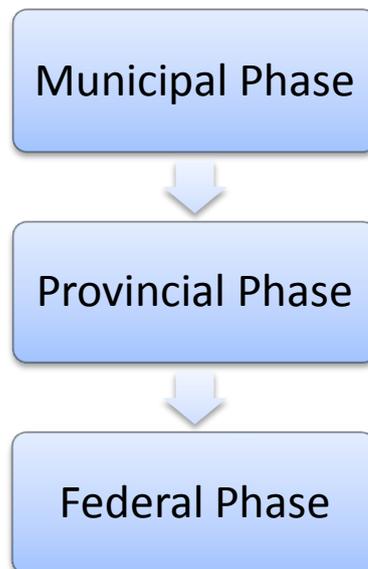
service (according to the existing PUI). It is important to notice that the psychosocial services are highly taken into consideration among the frontline services needed in case of a crisis.

Then, the Internal Emergency Plans are addresses to the institutions or the enterprises that face a CBRN risk.

The level of the crisis management and, consequently, of the emergency planning is determined by a set of criteria, which are:

- The facts
- The geographical scope
- The number of victims
- The effects on the environment
- The social repercussions
- The necessary tools
- The nature of the emergency (terrorism, nuclear explosion,..)

As a rule, if the emergency situation can be managed at the municipal level, the mayor takes control over it and inform the Provincial Governor. If the emergency situations or its direct effects encompasses several municipalities then the Provincial Governor is in charge of the crisis management and has the obligation to inform the Minister of the Interior. Lastly, if more than one province is involved in the crisis or if the means available by the Provincial Governor exceed those required, the crisis management reaches the federal level and the Minister of the Interior becomes the coordinator.



Furthermore, each discipline of the Intervention Plan is coordinated by a specific service of intervention and has clear goals:

Discipline 1: Rescue Operations	
Goals	<ul style="list-style-type: none"> • To manage the emergency and to neutralize the related risks; • To protect, help and rescue people and goods; • To requisite people and goods
Actors involved	<ul style="list-style-type: none"> • Fire Brigades • Civil protection operational units
Coordination	<ul style="list-style-type: none"> • Director of the Fire Brigades

Discipline 2: First aid, medical and psychosocial services	
Goals	<ul style="list-style-type: none"> • To start the medical chain; • To deliver medical and psychosocial aid to victims and to those concerned; • To transfer victims; • To take actions to protect public health
Actors involved	<ul style="list-style-type: none"> • First aid services • Any other service that is included in the Intervention Plan
Coordination	<ul style="list-style-type: none"> • Federal hygiene inspector (administrative authority for all medical facilities) • Director of medical aid (operative coordination)

Discipline 3: Local Police	
Goals	<ul style="list-style-type: none"> • To maintain and restore the order; • To clear the exits; • To define the perimeter and to control the access to the area of intervention; • To evacuate the population; • To identify deceased persons; • To assist in case of judiciary investigation
Actors involved	<ul style="list-style-type: none"> • The local and/or the federal police
Coordination	<ul style="list-style-type: none"> • Chief of the police

Discipline 4: Logistics	
Goals	<ul style="list-style-type: none"> • To guarantee reinforces in terms of people and goods and to provide the special means and tools in relation to assistance and rescue operations; • To organize the technical channels to

	ensure proper communication among the disciplines <ul style="list-style-type: none"> To organize the food and water supply for the population and the actors involved.
Actors involved	<ul style="list-style-type: none"> Civil protection operational units Fire brigades Public and private specialized services The army
Coordination	Chief of the logistics

Discipline 5: Information to the wide public	
Goals	<ul style="list-style-type: none"> To transmit the information and the recommendations to the population (through the media) To transmit the information on the actions to be taken in order to return to a non-emergency situation
Actors involved	<ul style="list-style-type: none"> Crisis communicators
Coordination	<ul style="list-style-type: none"> Director of the information

The interdisciplinary coordination operates at two levels: the operational level and the strategic level:

The coordination at the operational level	
Goals	<ul style="list-style-type: none"> To draft an initial report on the operational aspects of the situation; To regularly inform the authorities concerned; To advise the authorities concerned and to apply the decisions taken by such authorities; To organize the field operations, to establish the area of intervention;
Actors involved	<ul style="list-style-type: none"> All disciplines' directors
Chief	<ul style="list-style-type: none"> On the field is the director of the operations, the fireman with the highest degree present on the field. The competent authority can designate the director of another discipline according to the situation (ex. Police)

The coordination at the strategic level	
Goals	<ul style="list-style-type: none"> To assess the crisis;

	<ul style="list-style-type: none"> • To advise the mayor, the Province Governor or the Minister on decisions to take; • To organize the delivery of the information to the population; • To take all necessary actions to ensure the protection of the population and to coordinate the implementation of such actions
Actors involved	<ul style="list-style-type: none"> • The mayor, the Province Governor or the Minister • Representatives of each discipline • Other experts if necessary (ex. Environment, industry)

Finally, all these crisis management plans are regularly practiced. The Nuclear Emergency Plan, for instance is exercised at least four times a year and can include the participation of foreign countries.³⁴¹

CONCLUSIVE REMARKS

The legal and institutional framework adopted by Belgium to respond to a CBRN crisis is clear and detailed. The system, the regulations and the plans are mainly focused on the response to a nuclear and/or radiological crisis, however, they have been developed to be easily transferred to other types of crisis, related for instance to a terrorist attack or to the transport of dangerous material.

On the operational level, the instructions, the role of the actors involved, the responsibilities and the coordination strategy are clearly outlined and divided by level of emergency (municipal, provincial or federal). Appropriate attention is given to the aspect of information (to the wide public and to the actors involved) which strategy is tackled in a specific discipline. Moreover, Belgium highlights the importance of psychosocial services at the burst of a crisis and includes them in the intervention plan.

Finally, as far as the coordination with foreign countries in the event of a crisis is concerned, regulations and plans only refer to bilateral agreements (with neighbouring countries) or to the solidarity clause.³⁴²

³⁴¹ Usually neighbouring countries.

³⁴² Introduced by Article 222 of the Treaty on the Functioning of the European Union (TFEU), provides the option for the Union and its Member States to provide assistance to another Member State which is the victim of a terrorist attack or a natural or man-made disaster.

CZECH REPUBLIC

Abstract

In the Czech Republic the framework which generally govern disaster response and preparedness applies also to CBRN events. At the central level the National Security Council, which comprises the Prime Minister and other members of the Government and is chaired by the Minister of the Interior, bears the responsibility to coordinate the Czech Republic's security issues and prepare draft measures to ensure the country's safety. Crisis management and response concern all bodies and components of the state administration, including regional and local authorities. At the regional level there are a Regional Commissioner, in charge of managing the crisis, and a Regional Security Council. At the municipal level a distinction should be drawn between delegated municipalities (i.e. municipalities with extended powers) and municipalities. The operational framework is defined by the civil protection plans, which are controlled by the General Directorate (GD), the Fire Rescue Service (FRS) and the Regional FRS. Operational organisations and civil protection authorities are all part of the GD Fire Rescue Service and perform their tasks as one organisation. The Fire Rescue Service has a unified approach to all types of emergencies and other authorities could be involved according to the kind of crisis at stake. When more authorities are involved in an operation an "Integrated Rescue System" is adopted.

CZECH REPUBLIC'S LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRN CRISES

1. Overview

The Czech Republic, which is a parliamentary democracy, consists of 13 regions (Kraje) and 1 capital city (Prague).³⁴³ The Cabinet, consisting of the Prime Minister and the Ministers, performs the executive powers. The Cabinet, appointed by the President, is responsible to the Chamber of Deputies. The bicameral Parliament consists of the Senate and the Chamber of Deputies.

The governmental advisory board for the security of Czech Republic is the National Security Council, established under Article 9 of Constitutional Act No. 110/1998 on the security of the Czech Republic.³⁴⁴ As stated in Article 9 the National Security Council comprises the Prime Minister and other members of the Government in accordance with a Government decision, the chairperson is the Minister of the Interior. The National Security Council is responsible for coordinating the Czech Republic's security issues and preparing draft measures to ensure the country's safety. To perform its tasks, the Council has established four permanent working committees:

1. The Defence Planning Committee;
2. The Civil Emergency Planning Committee;
3. The Foreign Security Policy Co-ordination Committee; and
4. The Intelligence Activities Committee.

At the international level the Ministry of the Interior coordinates the interaction with the external stakeholders and provides future policy guidance and directions for the civil protection process.

The Czech Republic is party to all the main international treaties related to CBRN events and has ratified several bilateral agreements on disaster response with its neighbour states. According to Article 7 (1b) of the Law No. 239/2000 on the Integrated Rescue System, the Ministry of the Interior (in cooperation with the Ministry of Foreign Affairs) is involved in engaging the Czech Republic in international rescue operations during emergencies and in providing humanitarian assistance abroad. Moreover, according to Article 7 (2i) of the Law, the Ministry of the Interior decides, in agreement with the Ministry of Foreign Affairs, on humanitarian assistance provided by the State to foreign countries and on engagement in international rescue operations.³⁴⁵ On the territory of the Czech Republic two nuclear power stations,

³⁴³ Jihocesky (South Bohemia), Jihomoravsky (South Moravia), Karlovarsky, Kralovehradecky, Liberecky, Moravskoslezsky (Moravia-Silesia), Olomoucky, Pardubicky, Plzensky (Pilsen), Praha (Prague), Stredocesky (Central Bohemia), Ustecky, Vysocina and Zlinsky.

³⁴⁴ More info is available at: <http://www.vlada.cz/en/ppov/brs/office-of-the-government-of-the-czech-republic-23851/>

³⁴⁵ See the Czech Republic Emergency planning in the Civil Protection Vademecum, which is available at: http://ec.europa.eu/echo/civil_protection/civil/vademecum/cz/2-cz-2.html#cipro

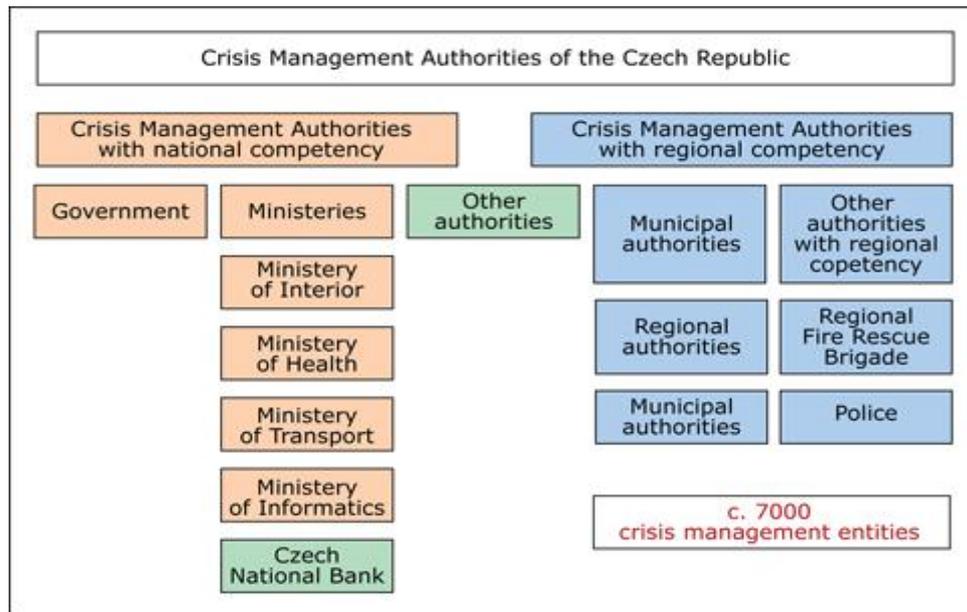
Temelín and Dukovany, currently operate. The first one is located only 50 km away from the Czech–Austrian border, where several anti-nuclear protests took place. In particular it shall be noted that Austria, which is nuclear-free, was concerned that the Soviet-designed reactors, similar to those involved in the 1986 Chernobyl disaster, could be unsafe. In the past Austria has even threatened to block the Czech Republic's entry into the European Union until the two countries reached 2000 Melk Agreement on safety at Temelín. So far no incidents related to the use or transport of CBRN materials have occurred.

2. The National Response to a Crisis

Preparedness and response to an emergency, including those involving CBRN materials, are regulated by the following laws:

1. **The Law on Crisis Management No. 240/2000 and the Law on Integrated Rescue System No. 239/2000.** These two laws define the responsibilities of the Government, the central administrative offices and the territorial administrative offices plus elements of the Integrated Rescue System. In addition, they lay down crisis preparedness measures and the derogations to individual rights during a crisis. According to the Law on Crisis Management “a crisis situation shall denote an emergency event according to the Integrated Rescue System Act, disruption of critical infrastructure or another threat when the state of danger, the emergency state or the state of State menace is declared”, this definition includes also CBRN events;
2. **The Law on Securing the Defence of the Czech Republic**, which came into force in December 1999, stipulates the tasks and responsibilities of the Central Administrative Offices, the Territorial Administrative Offices and legal bodies and citizens in order to meet the defence requirements;
3. **The Law on Economic Measures for Solving Crisis Situations.** The law determines the preparatory economic measures to be taken in crisis situations and adopts economic measures after a crisis situation announcement.

It is worth underlining that the first two laws, namely the Law on Crisis Management and the Law on the Integrated Rescue System, cover all levels of government, from national to local and represent the key provisions regulating the legal framework of crisis management and response in Czech Republic.



3. The Local Response to a Crisis

Crisis management and response concern all bodies and components of the state administration, regional and local governments, legal entities and citizens. Therefore, one of the most important aspect of the Czech system is that the regional and municipal authorities work in close cooperation with the central level. If a major disaster occurs a Crisis Staff at the municipal, regional or even national level is established to give orders to the “on-site commander”. The Crisis Management Act outlines the tasks of the main stakeholders if a crisis, including a CBRN event, occurs. In the first place the state of danger shall be declared: if it affects a Region or part of it, it shall be declared by the Regional Commissioner (in Prague by the Mayor of the Capital city of Prague). The Regional Commissioner, after announcing the state of danger, must immediately notify the Government, the Ministry of Interior, neighbouring regions and other regions which may be affected by the situation. At the regional level the Regional Commissioner ensures preparedness of the Region to respond to crises. In particular he/she is in charge of managing and controlling preparatory measures, activities leading to solve the crisis and to mitigate its consequences.

The Regional Commissioner:

- a) establishes and manages the Security Council of the Region,
- b) establishes and manages the Crisis Staff of the Region,
- c) approves the Regional contingency plan after being discussed in the Regional Security Council,
- d) requires from the Regional Fire Rescue Service data concerning the population.

As stated above the Regional Commissioner sets up and supervises the **Regional Council** which ensures the Region’s preparedness and prompt response in case of crisis. In particular it:

- a) provides interoperability with the Fire Rescue Service of the Region at the time of processing the Regional contingency plan,
- b) fulfils the tasks according to the Regional contingency plan.

At the Municipality level the system distinguishes between: **A.** Delegated Municipalities (or “municipalities with extended powers” which exercise authority over Municipal administrative districts) and **B.** Municipalities. At the delegated municipalities level the two main actors are the Mayor and the Security Council:

A) The Mayor of the Delegated Municipality. In case of crisis he or she:

- establishes and manages the Security Council of the Municipality with extended powers within the area of the administrative district of the Municipality,
- organizes preparation of the administrative district of the Municipality with extended powers and participates in their solution,
- approves the contingency plan of the Municipality with extended powers after discussion in the Security Council of the Municipality.

The Delegated Municipality Security Council:

- provides interoperability with the Fire Rescue Service of the Region at the time of processing the regional contingency plan and the contingency plan of the Municipality with extended powers,
- fulfils the tasks according to the contingency plan of the Municipality with extended powers,
- keeps the register of temporary changes of residence and submits stored data to the Fire Rescue Service of the Region,
- keeps the data register of temporary changes of residence of persons during the state of danger and transfers the registered data to the Fire Rescue Service of the Region,
- keeps the overview of potential sources of risks and in the scope of prevention according to special legal regulations removes deficiencies which could lead to creation of the crisis situation.

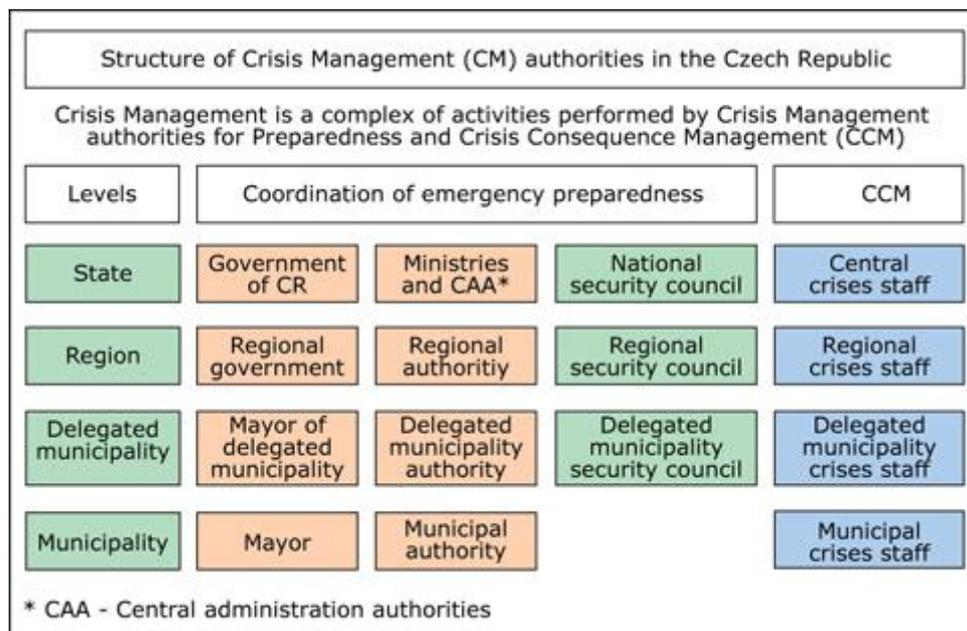
At the Municipality level the main stakeholders are the Mayor and the Municipal Crisis Staff. No Security Council is established at this level.

B) The Municipality Mayor during a crisis:

- provides warning and informs the persons, staying on the Municipal territory, of imminent danger and notifies the authorities of crisis management, in case it had not been done by the Regional Fire Rescue Service,

- orders and organizes evacuation of persons from the endangered Municipal area,
- organizes activities of the Municipality under conditions of emergency survival of the population,
- ensures organization of other measures inevitable for crisis situation solution

The Municipal Crisis Staff can be established by the Mayor if he or she needs assistance in dealing with the crisis. The role of the Municipal Crisis Staff is, hence, to help the Mayor and contribute to the solution of the crisis.



THE OPERATIONAL FRAMEWORK IN RESPONSE to CBRN CRISIS: ACTORS and PROCEDURES

Civil protection plans are controlled by the General Directorate (GD), the Fire Rescue Service (FRS) and the Regional FRS. Operational organisations and civil protection authorities are all part of the GD Fire Rescue Service and operate as one organisation. The Fire Rescue Service has a unified approach to all types of emergencies and other authorities could be involved according to the kind of crisis at stake. When more authorities are involved in an operation an “Integrated Rescue System” is adopted. This involves the Fire Rescue Service, the Police, the Medical Rescue Service, NGOs³⁴⁶ and the municipal police. Commands on site are given by the authority with the largest part in the emergency response, which is usually the Fire Rescue Service.

³⁴⁶ For a list of the NGOs located in Czech Republic see <http://kormidlo.cz/index.shtml?apc=c1616a- --&cat=3396>.

Crisis management is considered not only as a set of tasks to crisis preparedness and their solutions, but also as a complex of activities to rehabilitate the infrastructures of the affected territory. The principles of crisis management are codified in the above mentioned Law on Crisis Management No. 240/2000. According to it a crisis is articulated in three phases:³⁴⁷

- Crisis preparedness, which comprises the creation of: organizational structures, emergency and crisis planning, technical equipment and building competence (training and education);
- Solution to the crisis, which refers to the implementation of rescue and relief work. This encompasses the development of measures to protect the affected population and the establishment of emergency survival measures to ensure functional public administration and critical infrastructure.
- Prevention of crisis situations, which is mainly linked to protection of critical infrastructure.

The Regional Fire Rescue Service plays a crucial role as first responders. During preparedness for a crisis situation and its solution, the Regional Fire Rescue Service is in charge of: a) organising interoperability between administrative authorities and Municipalities in the Region; b) keeping the overview of potential sources of risks and carries out risk analysis; c) processing the contingency plan of the Region; d) preparing the contingency plan of Municipalities; e) fulfilling the tasks stated by the Ministry of Interior and by the Regional Commissioner; f) submitting to the Ministry of Interior, to the Regional Commissioner and to the Mayor of the Municipality the data collected, which concern the event itself, the structures affected and the information regarding the population (identity of the victims, number, location etc..).

The Regional Fire Rescue Service in the course of processing the contingency plan of Municipality with extended powers requires the cooperation of Regional and Municipal authorities, organisational governmental units and so on. This includes also the Police of the Czech Republic which is directly controlled by the Ministry of Interior. The Police Force consists of the Police Presidium, that has a national-wide competence, and fourteen Regional Police Directorates. All the stakeholders who operate on the emergency site are, therefore, coordinated by the Fire Rescue Service. As far as the media are concerned according to Article 30 of the Law on Crisis Management No. 240/2000, the operator of television or radio broadcasting is obliged, without any compensation and on request of the crisis management authorities, immediately and without any modification of the content and the meaning, to publish information about the crisis, including the orders issued by the authorities.

³⁴⁷ The text of the Act, in English, is available at <http://www.hzscr.cz/hasicien/article/crisis-management-in-the-czech-republic.aspx>

CONCLUSIVE REMARKS

The legal and institutional framework adopted by the Czech Republic to respond to a crisis, including a CBRN event, appears sound and well organised. However, the interplay among the authorities operating at the municipal level (*i.e.* municipalities with extended powers and other municipalities) is not always clearly outlined.

As far as the operational framework is concerned, the Czech Republic has in place an “Integrated Rescue System”. This system is meant to coordinate the interaction of the stakeholders involved in a rescue operation, in particular when the situation requires the intervention of several bodies, e.g. fire fighters, police force, medical rescue service and other bodies. Operations are managed at different levels, national, regional, municipal with extended powers and municipal. The Ministry of Interior, the Regional Commissioner, the Mayor with extended powers or the Mayor, are the individuals in charge of administering the crisis and organising the response. At the operational level the Fire Rescue Service, especially the Regional units, plays a prominent role in putting into effects the contingency plans adopted at the institutional levels. Moreover the Fire Rescue Service normally acts as the command on site and supervises the work of the other stakeholders. The Fire Rescue Service serves as the key actor in the response to a crisis and the exercises and training which take place on a monthly basis reflect the predominance of this stakeholder. In fact each municipal fire station and each regional Fire and Rescue Brigade have their own exercise plans, which are coordinated at the national level to ensure that other actors (*i.e.* the Medical Rescue Services, the police, the army, ministries and other bodies of the Integrated Rescue System etc.) are incorporated into these plans.

ESTONIA*

Abstract

The Estonian normative framework dealing with prevention and response to emergencies involving the release or fusion of CBRN substances consists of different regulations adopted at the national and international level. From an institutional point of view, prevention and response is provided by authorities and agencies that operate at the national-central, regional and local level, according to their competences and functions. In case of CBRN events that do not require the official declaration of an “emergency situation”, it is the Ministry of Interior that has the overall co-ordinating responsibility. Under its jurisdiction operate the Rescue service agencies, i.e. the Estonian Rescue Board and the Emergency Response Centre. In case of an emergency situation formally declared, the Government may appoint the “Head of emergency situation”, i.e. the Minister that is responsible for the direction and coordination of the overall response actions. At the regional level, response is principally provided by the County Governors and the Estonian Rescue Board, while at the local level, it is up to Rural or City Government Councils. With regard to the operative side of crisis management, the Rescue Board Brigades, the Police and Boarder Guard, Estonian Health Care Providers, the Estonian Defence Forces or the Defence League are the main actors at stake. Clear roles and responsibilities for national first responders, a pretty sound direction and coordination framework for their response actions at national-central, regional and local level, a set of basic principles and rules governing the duties and functions of foreign first responders providing their assistance in Estonia, and established policies and strategies on crisis communications management are the most remarkable features of the Estonian framework dealing with response to CBRN events or emergencies.

* Figures 1 may not be used separately from this publication or without making explicit reference to it.

ESTONIAN LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRN CRISIS

1. The Normative Framework

The Estonian normative framework dealing with prevention and response to events involving the release or fusion of CBRN substances consists of different regulations adopted – and successively amended – over the last 20 years.³⁴⁸ At the domestic level the most relevant legal instruments are: the Emergency Act (2009),³⁴⁹ the Rescue Act (2010),³⁵⁰ the State of Emergency Act (1996),³⁵¹ the Regulation on Crisis Management Training (2009),³⁵² the Participation in International Civilian Missions Act (2011).³⁵³ In the civil protection field, several other regulations also apply: the Peace-Time State Defence Act (2002),³⁵⁴ the Health Services Organisation Act (2001),³⁵⁵ the Police and Border Guard Act (2009),³⁵⁶ as well as

³⁴⁸ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/ee/2-ee-1.html. Please, consider that not all the reported references to national legislation seem being updated. A useful website providing both the Estonian official and the English text of national legislation is available at <https://www.riigiteataja.ee/tutvustus.html?m=3>. Needless to say that only the original Estonian text has legal effect.

³⁴⁹ *Hädaolukorra seadus*, 15 June 2009, in *Riigi Teataja (State Gazette)* I 2009, 39, 262, last amendment 17.10.2012, consolidated text as 2013 available in English <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=XXXXX26K1&keel=en&pg=1&ptyyp=RT&tyyp=X&query=h%E4daolukorra+seadus>. For more information about its content see *infra* in the text.

³⁵⁰ *Päästeseadus*, into force 01.09.2010, in *RT* I 2010, 24, 115 consolidated text as of 1 January 2012 available in English at <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=2012X23&keel=en&pg=1&ptyyp=RT&tyyp=X&query=p%E4steseadus>. “The Act provides the functions, organisation and rights of a rescue service agency and the rights and obligations of persons participating voluntarily in the activity of a rescue service agency”. *Ibidem*, Ch. 1, par. 1 No. (1).

³⁵¹ State of Emergency Act, 10 January 1996, into force as 16 February 1996, in *RT* I 1996, 8, 164, and amended four times after its adoption (most recent amendment 19.06.2002, in *RT* I 2002, 63, 387), available in English at <http://legislationline.org/documents/action/popup/id/7648>. The Act defines the basis and conditions for proclaiming the state of emergency, and the tasks and rights of responsible people and organisations during the state of emergency.

³⁵² The Act lists the requirements for organising regional and local training.

³⁵³ *Rahvusvahelisel tsiviilmissioonil osalemise seadus*, 09 February 2011, in *RT* I, 04.03.2011, 1, consolidated text as 2013 available at <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=XXXXX05K1&keel=en&pg=1&ptyyp=RT&tyyp=X&query=rahvusvahelisel>. This Act regulates the participation of the Republic of Estonia in international civilian missions and the rights, obligations and social guarantees of experts seconded to a mission. It does not apply to participation in international rescue or explosives removal carried out on the basis of a request for assistance submitted under an international rescue agreement or a request for assistance submitted by a Member State of the European Union. In such an event the fulfilment of the request for assistance is decided under the Rescue Act. *Ibidem*, Ch. 1 par. 1.

³⁵⁴ *Rahuaaja riigikaitse seadus*, 12 June 2002, in *RT* I, 2002, 57, 354, consolidated text as 2013 available in English at <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X90030K4&keel=en&pg=1&ptyyp=RT&tyyp=X&query=rahuaja+riigikaitse>. This Act provides for the peacetime organisation of national defence.

³⁵⁵ *Tervishoiuteenuste korraldamise seadus*, 09 May 001, in *RT* I 2001, 50, 284, consolidated version as 2013 available in English at <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X40058K11&keel=en&pg=1&ptyyp=RT&tyyp=X&query=tervishoiuteenuste>. This Act provides the organisation of and the requirements for the provision of health services, and the procedure for the management, financing and supervision of health care. *Ibidem*, Ch. 1, par. 1 No. (1).

³⁵⁶ *Politsei ja piirivalve seadus*, 6 May 2009, in *RT* I 2009, 26, 159, consolidated version as 2013 available in English at <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=2012X03K3&keel=en&pg=1&ptyyp=RT&tyyp=X&query=politsei>

other legislation dealing with prevention and management of C, B, RN events, *e.g.* the Radiation Act (2004)³⁵⁷ and the Chemicals Act (1998),³⁵⁸ and the Contagious Diseases Prevention and Control Act (2003).³⁵⁹

According to the above cited legislation, “emergency response plans” should be developed at the national and, if necessary, at the regional and local government level.³⁶⁰ Such plans should address the organization and the management structure of responding to emergencies; the responsibilities of the agencies or persons involved; the system to be adopted to share information among first responders as well as the crisis communication policies and strategies; the organization of international cooperation in responding to emergencies; and other relevant issues.³⁶¹ The Government has approved a list of emergencies in the case of which emergency resolution plans should be drafted. Presently, there are a total of 19 types of emergencies or major accidents that require a plan of action. Among others, they include radiation accidents and epidemic.³⁶² With regard to emergencies stemming from the release of nuclear or radiological material, the Government adopted the 2011 Radiological Emergency Response Plan (nREP).³⁶³ The Plan address the functions and responsibilities of all state authorities and response organizations to be involved in response to a radiological emergency.³⁶⁴

At the international level, Estonia is party to all the relevant multilateral treaties dealing with prevention and response to CBRN events.³⁶⁵ It takes part to international “institutionalised” mechanisms aimed at fostering cooperation among States to counter these events, like those established within UN, NATO and

i. The Act provides for the functions, rights and organisation of the police and the legal bases of police service. *Ibidem*, Ch. 1, par. 1, No. (1).

³⁵⁷ Entry into force on 01.05.2004, RT I 2004, 26, 173, also available in English at <https://www.oecd-nea.org/law/nlb/nlb-76/SUPPLEMENT.pd>.

³⁵⁸ Entry into force on 07.06.1998, RT I 1998, 47, 697.

³⁵⁹ Entry into force 01.11.2003, *ibidem* I 2003, 26, 160. Cf. also the Infectious Animal Disease Control Act (*Loomatauditõrje seadus*), 16 June 1999, in RT I 1999, 57, 598, available at <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X30064K11&keel=en&pg=1&ptyyp=RT&tyyp=X&query=loomataudit%F5rje>.

³⁶⁰ Cf. in particular The Emergency Act, *cit.*, par. 7.

³⁶¹ *Ibidem*.

³⁶² Cf. <http://valitsus.ee/en/government-office/government-communication/handbook/crisis-communication>.

³⁶³ Cf. the IAEA’s *Emergency Preparedness Review (EPREV) Report “Peer Appraisal of the Arrangements in the Republic of Estonia Regarding the Preparedness for Responding to a Radiation Emergency”*, 2011, p. 11, available at http://www.keskkonnaamet.ee/public/Final_EPREV_Report_1.pdf. According to the Report: “The nREP approved by the Government on the 4th of August 2011 and draft Regulation on the Intervention in the Situation of Accidental or Lasting Exposure, based on the Draft Amendment of the Radiation Act (the Act has been endorsed by all concerned state authorities and submitted to the Parliament of Estonia for consideration in autumn of 2011)”. As far as the draft Regulation is concerned, it was adopted by the Estonian Parliament in 2012. Emphasis added. Cf. also The Radiation Act., *cit.*

³⁶⁴ IAEA’s *Emergency Preparedness Review (EPREV) Report*, *cit.* p. 11. Although not dealing with response to R an N emergency specifically, It is also worth quoting that in 2008 the Ministry of Environment issued, after consultations with all other responsible authorities, the “National Radiation Safety Development Plan 2008 – 2017” (NRSDP), which is a ten year programme for developing and enhancing radiation safety in Estonia. The NRSDP has been elaborated based on the Radiation Act, *cit.*, provisions and taking into account all the relevant regulations in the field. For more information cf. IAEA’s *Emergency Preparedness Review (EPREV) Report*, *cit.*

³⁶⁵ See *supra* Section I.

EU.³⁶⁶ Furthermore, it has ratified bilateral agreements on cooperation in the field of civil protection with Finland, Sweden and Latvia.³⁶⁷

Broadly speaking, the above cited normative framework defines an articulated system aimed at preventing and responding to natural and man-made events – defined either as “rescue events” or as “emergencies” depending on their magnitude and severity – which jeopardise people’s life or health, or causes proprietary or environmental damages, or determine severe and extensive disruptions to the provisions of vital services by public or private entities (in the latter case one should speak only of emergencies).³⁶⁸ As acknowledged by the above framework, countering these events or emergencies requires the co-ordinated actions of authorities and agencies that operate at the national-central, regional and local level, according to their competences and functions (see figure 1).³⁶⁹

Overall, the Estonian rescue work and emergency management system is bi-dimensional and applies functional responsibility and area responsibility. Functional responsibility implies that the ministry/administration in charge of a specific function directs and co-ordinates the response at all levels (national, regional and local). Area responsibility implies that responsibilities are allocated to the different administrative levels (national/central, regional and local) and that response operations are handled according to the degree of competence that exists at each different level.³⁷⁰ The system is based on an all-hazard concept.

³⁶⁶ *Ibidem*.

³⁶⁷ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/ee/2-ee-1.html.

³⁶⁸ The framework legislation governing the way Estonia deals with emergencies, including CBRN events, is the Emergency Act, *cit.*, adopted in 2009. The Act “provides the legal bases for crisis management, including preparing for emergencies and responding to emergencies as well as ensuring the continuous operation of vital services”. It also “regulates the declaration of, the response to and the termination of emergency situations and the use of the Defence Forces and the National Defence League in responding to emergencies, performing rescue operations and ensuring security”. *Ibidem*, Ch. 1, par. 1, No. (1). It applies in an emergency situation and a state of war to the extent to which other specific legislation applies as *lex specialis*, in particular the (1996) State of Emergency Act, *cit.*, and the the War-Time National Defence Act. The Emergency Act, *cit.*, No. (2). As specified the Act does not regulate the preparation for emergencies arising from military threat, and responding to (*such*) emergencies. *Ibidem*, par. 3. Its provisions should also be coordinated with other rules established by regulations governing the responsibilities of State and local government agencies and persons dealing with preparation for and response to emergencies. *Ibidem*, No. (4). For a definition of “emergencies” see *ibidem*, par. 2, No. (1). Cf. also the Rescue Act, *cit.*, par. 3 No. (1) which defines “rescue events” as unexpected situations endangering the life, health or property of persons or the environment, and that occur in case of a fire, natural disaster, explosion, traffic accident, environmental pollution or other similar situation.

³⁶⁹ Administratively, Estonia is divided into 15 Counties (*maakond*). Each county is headed by a county governor (*maavanem*), who represents the national government at the regional level. Governors are appointed by the government for a term of five years. There are 227 local governments (rural municipalities and cities) in Estonia. Cf. also Territory of Estonia Administrative Division Act, 22 February 1995, in *RT I* 1995, 29, 356, available in English at <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X2017K3&keel=en&pg=1&ptyyp=RT&tyyp=X&query=haldusjao> tuse.

³⁷⁰ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/ee/2-ee-1.html.

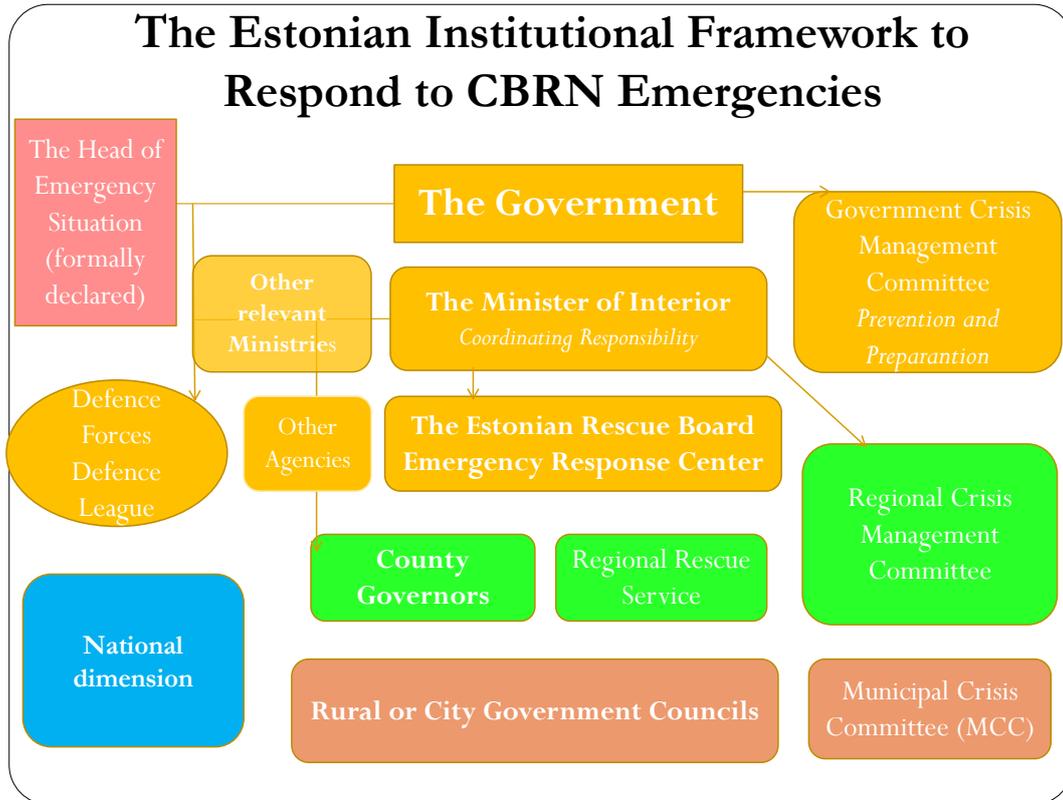


Figure 1.

2. The Institutional Framework

2.1. The national-central level

At national-central level, rescue work and emergencies management is the responsibility of the Government of the Republic of Estonia. In case of events that do not require the official declaration of an “emergency situation” by the Government (*see infra*), it is the **Ministry of Interior** that has the overall co-ordinating responsibility for the response measures. Under its jurisdiction operate the Rescue service agencies, *i.e.* the **Estonian Rescue Board** and the **Emergency Response Centre**.³⁷¹ The latter agency is responsible for responding to and handling emergency calls (N. 112), sending out rescue teams and ambulance brigades to the place of accident, arranging co-operation with other services, companies or organizations, and organizing operative transmission of information and documentation.³⁷² The Estonian Rescue Board plays the leading role in planning preparedness for emergencies and the operational management of Regional Rescue Centres (*see infra*).³⁷³ It represents also Estonia in bilateral and

³⁷¹ The Rescue Act, *cit.*, par. 4. Overall, the main area of activity of the Estonian rescue service are: Rescue Works; National fire safety supervision; Crisis management; Emergency prevention; Explosive ordnance disposal; Handling emergency calls. *Cf.* http://www.rescue.ee/index.aw/set_lang_id=2.

³⁷² The Rescue Act, *cit.*, par. 5 No. (1). *Cf.* also <http://www.rescue.ee/23023>.

³⁷³ The Rescue Act, *cit.*, par. 5 No. (1). As far as response operations are concerned, the Estonian Rescue Board has the responsibility to promote the necessary and urgent activities to counter and eliminate a threat, to mitigate the effects of a

multilateral cooperation in the field of civil protection and cooperates with the emergency management and civil protection bodies of UN, EU, NATO, and other relevant organisations.³⁷⁴ Participation of the Estonian Rescue Board in international rescue mission is regulated by law.³⁷⁵ The law also provides for the Estonian Rescue Board to involve an administrative authority of another country in rescue operation (and explosive ordnance disposal) on the territory of the Republic of Estonia. The competence and powers of this authority should be established (and detailed) by international agreement.³⁷⁶

Depending on the type of emergencies, other Ministries and agencies have a stake in the definition of preparedness, management and response measures. For example, the Ministry of Environment and the Environmental Board – working under the former auspices – contribute to the preparedness and response to nuclear or radiological emergencies.³⁷⁷ In particular, the Ministry of Environment has functions of the National Regulatory Authority. The Environmental Board is the National Competent Authority in the area of radiation protection. It acts as an adviser and response organization in the area of radiation protection. It is also responsible for providing environmental and individual radiation monitoring in the Estonian territory.³⁷⁸

In case of an emergency situation, the Government may also decide to employ the **Estonian Defence Forces** or the **Defence League** for carrying out response operations.³⁷⁹ The tasks both organisations may fulfil are those expressly listed in the Emergency Act 2009. They are: 1) the performance of rescue work and emergency situation work; 2) the regulation of traffic during an emergency situation and ensuring of safety in an emergency situation area; 3) the prevention or countering of specific criminal offences like terrorism established by the Estonian Penal Code; 4) the prevention or countering of damage to an object with high risk of attack; 5) the temporary restriction on or suspension of crossing of the state border according to the State Borders Act.³⁸⁰ With the exception of the first above cited task, the fulfilment of the other tasks by the Defence Forces or the Defence League should be requested by the Minister of the Interior who should previously obtain the approval by the Minister of Defence. Their employment is then decided by the Government with the approval of the President of the Republic. Furthermore, both organisations may be employed for a limited period of time, only in case a competent authority is unable to perform the duty and there are no other means for performing the duty.³⁸¹

rescue event, and to resolve a rescue event in coastal waters in cooperation with the Police and Border Guard Board. It is also responsible to counter a bomb threat, an ammunition threat and a threat of explosion (explosive ordnance disposal).

³⁷⁴ Cf. <http://www.rescue.ee/>

³⁷⁵ The Rescue Act, *cit.*, Ch. 6, par. 31. Cf. also *supra* ft. 353. For this kind of missions the Rescue Board has established the Estonian Disaster Relief Team. It is a multifunctional rescue unit that is capable of international cooperation and can operationally participate in international rescue and humanitarian operations and, if necessary, react to possible emergencies in Estonia. Depending on the type of the disaster, the rescue team is composed by specialists with different expertise. During the past few years, the Estonian Disaster Relief Team has participated in missions to Indonesia, Pakistan and Latvia, and taken part in many international training exercises. Cf. <http://www.rescue.ee/23022>.

³⁷⁶ The Rescue Act, *cit.*, par. 3.

³⁷⁷ IAEA's *Emergency Preparedness Review (EPREV) Report*, *cit.*, p. 11.

³⁷⁸ *Ibidem*.

³⁷⁹ The Emergency Act, *cit.*, par. 31.

³⁸⁰ *Ibidem*, No. 1.

³⁸¹ *Ibidem*, Nos. (3) –(7).

It should be noted that the **Government** has also established its permanent **Crisis Management Committee** (GCC) that is chaired by the Minister of Interior and is in charge of supervising the entire national crisis management system, including the preparation for and response to emergencies.³⁸² With regard to emergencies having extensive impact or being particularly severe to require centralised crisis management, the Committee is responsible for coordinating the actions of Estonian responders agencies as well as facilitating the exchange of information among them.³⁸³ The Crisis Management Committee of the Government is also responsible for other sensitive tasks during an emergency. It can make proposals to the Government to apply for international assistance. Furthermore, it is in charge of informing the public about the emergency, its development and any other relevant information that may be disclosed.³⁸⁴ It also plays a consultative role meaning that it provides opinions to the Government with regard to the necessity to declare formally the rise and conclusion of an “emergency situation”.³⁸⁵

As stated by the Emergency Act of 2009, the declaration of an emergency situation by the Government may follow the occurrence of a natural disaster, a catastrophe or the spread of infectious diseases that requires the central coordination of the response actions.³⁸⁶ It is worth noting that the term “catastrophe” refers also to large/scale accident involving “extensive chemical, biological or radioactive contamination of environment”.³⁸⁷ The declaration of an emergency situation may concern the entire country or the territory of one or several counties or local governments (*emergency situation area*).³⁸⁸ In case of an emergency situation formally declared, the Government of the Republic may appoint the **Head of emergency situation**, *i.e.* the Minister that is responsible for the direction and coordination of the overall response actions.³⁸⁹ In turn, the head of emergency situation may appoint one or more **Heads of emergency situation work** who are deployed in the emergency area, with the responsibilities to ensure public order and road safety, and fulfil other duties given to them by the head of emergency situation.³⁹⁰

³⁸² For a definition of “crisis management”, see The Emergency Act, *cit.*, No. (2). It should be noted that the role and function of the GCC as well as a similar Committee established at regional level (see *infra* in the text) – the South-Estonian Regional Crisis Committee (RCC) - were tested during EU CREMEX - Chemical and Radiological Emergency Management Exercise 2011 (<https://www.siseministeerium.ee/cremex2011eng/>). In particular, the Project provided an opportunity to test the role played by both type of Committees during a simulation of a chemical radiological accident, and a hostage situation. However, as it was pointed out, the pervading idea of the Emergency Act and the emergency management system of Estonia is that the crisis management Committees (GCC and RCC) play an important role in the phase of prevention of and preparation for emergencies and a very small role in responding to emergencies. This view was confirmed also by a sub-exercise, which proved the well-established view that the main action during an emergency takes place in the emergency management structures at various levels, involving all the agencies concerned. See EU Cremex 2011, Evaluation Report (final Version 2011), p. 13.

³⁸³ The Emergency Act, *cit.*, par. 3, Nos. (1) e (2).

³⁸⁴ *Ibidem*, par. 3, No. (2) 12 and 13.

³⁸⁵ *Ibidem*, Ch. 3, par. 13 ff.

³⁸⁶ *Ibidem*.

³⁸⁷ *Ibidem*, No. 2.

³⁸⁸ *Ibidem*, par. 14 No. (3).

³⁸⁹ *Ibidem*, par. 18 No. (1). The head of emergency situation is entitled to address orders to the head of emergency situation work and the state and local government authorities. *Ibidem*, No. (2).

³⁹⁰ *Ibidem*, par. 18 No. (2) – (5), and (1) stating that “Emergency situation work is 1) emergency, rescue and recovery work in the event of a natural disaster and catastrophe; 2) work for preventing the spread of communicable diseases; 3) work in the

2.2. The national-regional level

Turning now to the regional dimension of response to rescue events or emergencies – CBRN events included – in Estonia, there are different authorities and agencies that are involved or have a stake. Among these authorities, there are **County Governors** that are directly responsible to the Minister of the Interior. Country Governors assist all regional agencies that carry out rescue or emergency situation work. As described before, the Estonian Rescue Board is in charge of coordinating the activities carried out by four Rescue Services Centres that operate at regional level – Northern, Southern, Western, and Eastern. Each **Regional Rescue Service** supervises the work of professional rescue brigades and volunteer fire units operating in the area affected by the event. The Director of each Regional Rescue Center chairs the **Regional Crisis Committees (RCC)** appointed by the Minister of Interior and that is responsible for providing assistance to agencies responding to an emergency. In particular, the Regional Crisis Committee facilitates the exchange of information among these agencies and contribute to the coordination of their action.³⁹¹

2.3. The national local level

At the local level, the **Rural or City Government Councils** are the highest administrative authority. They form a **Municipal Crisis Committee (MCC)** to operate in the territory of the local government affected by the rescue event or emergency. The chairman of the MCC shall be the rural municipality mayor or the city mayor.³⁹²

3. Focus area: the Estonian Crisis Communication System

As widely known crisis communication is a fundamental element of crisis management. As acknowledged by the Government of the Republic of Estonia, good and efficient crisis communication solutions are the key element for solving an emergency situation.³⁹³

In Estonia, crisis or emergency communication is ensured by local governments, regional rescue centres and government authorities.³⁹⁴ These actors have (or should have) appointed communications specialists or establish a crisis communication team that must be ready for starting crisis communication at any

provision of assistance to victims in the event of a natural disaster and catastrophe, and in preventing the spread of communicable diseases”.

³⁹¹ *Ibidem*, par. 4 Nos. (1) and (2).

³⁹² *Ibidem*, par. 5 Nos. (1) – (3).

³⁹³ As reported by the official website of the Estonian Government “A crisis is characterized by its uncertain nature, the resulting insecurity of the public and suddenly growing need for information. If true and precise information does not reach the people affected by the crisis (to crisis communication target groups), it might significantly hinder the crisis’s solution and reduce state authorities’ credibility. Some crises, such as terrorism, may activate groups who, incited by self-profit or other reasons, send out information that intensifies the crisis and misleads the public. Therefore it is the obligation of government bodies to gather and distribute correct and precise information as soon as possible, avoid speculations and refute false information”. Cf. <http://valitsus.ee/en/government-office/government-communication/handbook/crisis-communication>.

³⁹⁴ Cf. *ibidem*.

time and be prepared to work 24 hours a day. In order to coordinate the cooperation of different agencies and bodies, the Governmental Crisis Management Committee (GCC) and the Regional Crisis Management Committee (RCC) form a permanent crisis communication team in the respective area of operation.³⁹⁵ This team support the agencies responsible for providing response to rescue events or emergencies in communication with the population and other stakeholders.

In Estonia, crisis communication is regulated by different laws: the Emergency Act³⁹⁶ and its implementing provisions detailed in the “Procedure for notification of the public of the impending risk of emergency or the emergency and resolving the emergency and the requirements for the information to be communicated”, the State of Emergency Act³⁹⁷ and the Estonian Public Broadcasting Act.³⁹⁸ With regard to the implementing provisions of the Emergency Act, they give government authorities general instructions for notifying the public of an emergency and for identifying the agency that is responsible for providing notification.³⁹⁹ Following these provisions, the agencies that are responsible for crisis management prepare “public notification plans” that include: “a brief description of the emergency and characteristics; the objective of public notification in different phases of the situation (notification of immediate danger, notification of resolution of emergency, follow-up procedure); potential impact on availability of vital services; risks to notification activity; area of responsibility of the agencies that lead and are involved in the emergency; composition of the notification group, grounds for convening the notification group, the group’s location during the emergency, equipment and communications (including in outdoor conditions); notification group’s organization of work and division of responsibilities pursuant to the four functions of the notification group (steering the notification group; media relations; analysis and planning; coordinator and direct notification, support/logistics); list and description of target and related groups; the national and regional information and media channels used to notify target and related groups in a specific emergency; information channels used for gathering information from the public (social media, telephone information lines, media monitoring etc); organization of notification activity in the case of power and communication cuts; the distribution of functions with cooperation partners (technical and human resources, joint notification projects etc); assessment/(impact forecast as to the aspect of psychological protection; main messages and guidelines for conduct pursuant to the different phases of the emergency; selection of spokespersons and main talking points; organization of media service at the scene; organization of communication between the

³⁹⁵ Cf. also *supra* par 2.1 and 2.1.

³⁹⁶ *Cit.*, Ch. 3 parr. 9–12.

³⁹⁷ *Cit.* The Act deals also with public communication upon declaration of a state of emergency.

³⁹⁸ *Eesti Rahvusringhäälingu seadus* 18 January 2007, in *RT I* 2007, 10, 46, last amended version as 2013 available in English at <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=XX10025K2&keel=en&pg=1&ptyyp=RT&tyyp=X&query=rahvusringh%E4%E4lingu>.

³⁹⁹ Cf. <http://valitsus.ee/en/government-office/government-communication/handbook/crisis-communication>. There are also other acts whose provisions are relevant for crisis communication management. These are: The Personal Data Protection Act, The Public Information Act that specifies the conditions of, procedure for and methods of access to public information and the bases for refusal to grant access. The Act. Pursuant to the act, the holder of information has the obligation to disclose information as quickly as possible in danger or crisis (section 28, 30). The State Secrets and Classified Information of Foreign States Act is to ensure the security and international communication of the Republic of Estonia by protecting state secrets and classified information of foreign states from disclosure or from being accessible to persons who have not been granted access to such information. Cf. *ibidem*. For the relevant texts – also available in English –, see <https://www.riigiteataja.ee/tutvustus.html?m=3>.

notification group and crisis team at the scene; description of the situation in the case of which auxiliary resources should be involved from the government crisis committee crisis communication working group; assessment with regard to the need for additional funds for notification activity or for purchasing services”.⁴⁰⁰

In addition, the Government Office has prepared instructional materials that specify the principles of crisis communication of government authorities and give guidelines for the operation of the communication group before, during and after an emergency. The Government Office has signed a memorandum with the largest media channels on cooperation in case of emergencies. The Ministry of the Interior has also published a Crisis Communication Handbook.

THE OPERATIONAL FRAMEWORK in RESPONSE TO CBRN CRISIS: ACTORS AND PROCEDURES

In light of what has been described so far, operative response to rescue events and emergency situations involving the fusion/release of CBRN substances is carried out by different agencies in Estonia. Among these agencies there are: the Rescue Board Brigades, the Police and Boarder Guard, Estonian Health Care Providers, the Estonian Defence Forces or the Defence League.

a. Rescue Board Brigades

Rescue Brigades are in charge of carrying out rescue work *i.e.* to operate in the rescue or emergency situation area in order to protect people’s lives, property and the environment.⁴⁰¹ Rescue work is generally directed and co-ordinated by an **incident commander** who is a rescue official. The incident commander is entitled to issue orders to other State and local government authorities as well as private entities.⁴⁰² It has to be noted that the incident commander as well as any other rescue official of the Rescue Board are entitled to order the adoption of coercive measures towards legal and natural persons. In the latter case, they may for example ask for stopping individuals, verifying their identity and questioning them if there is a valid reason to believe they hold relevant information to prevent or counter of a threat.⁴⁰³ A rescue officials may also apply “direct coercion” – meaning the use of physical force against a person, animal or thing –, but only when necessary to prevent or counter an urgent threat and when not possible with other means.⁴⁰⁴

⁴⁰⁰ Cf. <http://valitsus.ee/en/government-office/government-communication/handbook/crisis-communication>.

⁴⁰¹ In Estonia, readiness for rescue work is guaranteed by 98 rescue stations located throughout the country. A total of 1941 persons are employed in the field of rescue work. Cf. <http://www.rescue.ee/23304>.

⁴⁰² The Rescue Act, *cit.*, par. 6 Nos. (1) and (4).

⁴⁰³ *Ibidem*, parr. 17 and 18. Cf. *also* parr. 19 – 24.

⁴⁰⁴ *Ibidem*, par. 28. Direct coercion is not allowed for obtaining a statement, opinion or explanation. *Ibidem*, No. (3).

b. Police and Border Guard

As stated by the Police and Border Guard Act (2009), Estonian Police is an institution falling under the Ministry of the Interior.⁴⁰⁵ Estonian Police is in charge of the protection of public order, organisation of matters of border management, detection and elimination of marine pollution, organisation of search and rescue operations at sea, and organisation of matters in the area of citizenship and migration.⁴⁰⁶ As far as its task to protect public order is concerned, the Police is responsible for preventing, identifying and countering any threat or violation of “the state of the society in which the adherence to legal provisions and protection of persons’ subjective rights and legal rights are guaranteed”.⁴⁰⁷

In case of a rescue event or an emergency situation, Police contributes to response operations by supporting rescue activities, securing the emergency situation area, controlling and directing road traffic, and investigating and pursuing criminal offences related to the event. They carry out their activities on the basis of duties and rights established by law. Police may apply direct coercion.

It is worth noting that the Police and Border Guard Act acknowledges expressly the possibility of international collaboration between Estonian Police and other States competent authorities in the field of policing.⁴⁰⁸ This collaboration should be based on an international agreement or framed within the EU cooperation. In particular, a competent authority of another state may be involved in performance of “supervision” on the territory of the Republic of Estonia.⁴⁰⁹ As stated by the Act, participation of a foreign official in policing activities in the Estonian jurisdiction should be decided by the Minister of the Interior, unless otherwise provided for by an international agreement or legislation of the European Union. It has to be noted that – unless otherwise provided by international agreement, EU legislation or other Estonian laws – the concerned foreign official may conduct the following activities: questioning persons and requiring for their documents, verifying their identity, detaining them, carrying out security checks on persons and their belongings.⁴¹⁰

c. The Estonian Health Care Providers

The authority responsible for the provision of healthcare services during an emergency is the Health Board, subordinated to the Ministry of Social Affairs.

With regard to biological threats, the Health Board is in charge of the compilation, maintenance, use and renewal of national stockpile of antidotes.⁴¹¹ Antidotes are delivered to a health care providers⁴¹² who shall ensure the proper maintenance and use.

⁴⁰⁵ Police and Border Guard Act, *cit.*, parr. 1 and 4.

⁴⁰⁶ *Ibidem.*

⁴⁰⁷ *Ibidem*, par. 3 No. (1) and Ch. 3 par 7¹.

⁴⁰⁸ *Ibidem*, par. 78.

⁴⁰⁹ As stated by *ibidem*, par. 7¹ “supervision is the activity of the police in preventing and countering a threat and in eliminating a disturbance.

⁴¹⁰ *Ibidem.*

⁴¹¹ The Health Services Organisation Act (2001), *cit.*, par. 57².

According to the 2011 national Radiological Emergency Response Plan, the Health Board and the health care providers assist the population in case of Radiological and Nuclear emergencies.⁴¹³ Although there is no specific reference in the nREP, as a practical rule, the treatment of patients in case of a radiological emergency - the in-patient care – will be provided in the regional hospitals, which have departments of hematology.⁴¹⁴ As per the out-patient care, it will be provided by family doctors, guided by the Health Board experts. The hospitals have no special decontamination units for radiation emergencies. In any accidental situation, the decontamination of persons (injured or not) is the responsibility of the Rescue Units. The medical staff is assisting the rescuers in the decontamination of injured persons.⁴¹⁵

d. The Estonian Defence Forces or Defence League

As above described, in case of an emergency situation, the Government may also decide to employ the Estonian Defence Forces or the Defence League for carrying out response operations.⁴¹⁶ Their employment should be requested by the Government to the Commander of the Defence Forces or the Commander of the Defence League who will provide a military unit. This unit will be subordinated to the authority of an official appointed by the Government.⁴¹⁷

During the performance of tasks requiring a certain degree of coercion, the members of the Defence League or a military servicemen should wear a uniform together with a safety jacket with easily visible designation “KORRAKAITSE” (law enforcement). The same goes for the vehicles they use. In performing such tasks they may use force on the bases of and pursuant to the procedure prescribed by the Police and Border Guard Act.⁴¹⁸

CONCLUSIVE REMARKS

Clear roles and responsibilities for national first responders, a pretty sound direction and coordination framework for their response actions at national-central, regional and local level, a set of basic principles and rules governing the duties and functions of foreign first responders providing their assistance in Estonia, and established policies and strategies on crisis communications management are the most remarkable features of the Estonian Institutional, normative and operative framework dealing with response to rescue events or emergencies involving CBRN substances. As per the latter two features mentioned, they are worth being addressed as good practices to be considered for adoption and further implementation by the Italian system for preparedness and response to CBRN crisis or emergencies.

⁴¹² Health care professionals or legal persons providing health services. *Ibidem*, par. 4.

⁴¹³ IAEA's *Emergency Preparedness Review (EPREV) Report*, cit. p. 28.

⁴¹⁴ *Ibidem*. Tartu University Hospital (Tartu), North Estonia Medical Centre (Tallinn), Children`s Hospital (Tallinn).

⁴¹⁵ *Ibidem*.

⁴¹⁶ *See supra* par. 2.1.

⁴¹⁷ Emergency Act, *cit.*, par. 33.

⁴¹⁸ *Ibidem*, Nos. (3) and (4). *Cf. also* Police and Border Guard Act, *cit.*, Ch. 4.

As we have described, the Estonian law provides for the Estonian Rescue Board to involve an administrative authority of another country in rescue operations (and explosive ordnance disposal) on the territory of the Republic of Estonia. The competence and powers of this authority should be established (and detailed) by international agreement. However, more explicit and precise are provisions detailing the functions of foreign authorities to be asked by the Ministry of Interior to contribute in carrying out policing activities within the Estonian jurisdiction.

With regard to crisis communication, Estonia has established crisis communication teams made up of professionals and specialists, and operating at national, regional and local level according to provisions established by law and public notification plans. They are in charge of crisis communication that involves more than informing the public. It includes risk and internal communication and information exchange and monitoring between agencies, companies, non-governmental organizations and the media that react to the situation. The Government has prepared instructional materials that specify the principles of crisis communication of government authorities and give guidelines for the operation of the communication group before, during and after an emergency. It has also signed a memorandum with the largest media channels on cooperation in case of emergencies. The Ministry of the Interior has also published a Crisis Communication Handbook.

FRANCE

Abstract

The French normative framework dealing with prevention and response to emergencies involving the release or fusion of CBRN substances is rich and detailed. In particular, in addition to the key regulations that deal with CBRN events as a whole, each typology (C, B, R and N) is addressed by specific regulations and guidelines. In case of CBRN crisis the President of the Republic and the Minister of Interior are in charge of the political and strategic management at national level. They are supported by a Crisis Cell, always armed, that is chaired by a member of the Prime Minister's Cabinet and managed by the General Secretariat for Defence and National Security (SGDSN) which is responsible, at national level, for the coordination of the national security policy among ministries and governmental agencies. Also, the SGDSN chairs the Strategic Committee CBRN-E composed by the representatives of the Ministry of Interior, Defence, Public Health, Transports and Ecology, Industry, Agriculture and Budget. At local level, mayors are key actors. However, depending on the seriousness of the situation, Prefects of Department and, in case of major crises involving several departments, Prefects of Defence and Security zones, can take control of the crisis management. With regard to the operative side of crisis management the Chief of Operations (COS) is responsible for all phases of the operation and heads all the actors, public and private, of the protection chain. It also has exclusive responsibility of disseminating information to families and media. The main legal instruments that the actors at the operational level should refer to in the event of a CBRN crisis are the ORSEC Plan and the related Decree n° 2005-1157 of 13 September 2005 which present specific scenarios and response models to translate at territorial level the governmental CBRN plans.

FRANCE'S INSTITUTIONAL AND LEGAL FRAMEWORK DEALING WITH CBRN EVENTS

1. The Normative Framework

France is party to all the relevant treaties which regulate the issue of CBRN events at the international level.⁴¹⁹ At national level, the normative framework that tackles CBRN events is rich and detailed. In particular, it should be noted that, in addition to the key regulations that deal with CBRN events as a whole, each typology (C, B, R and N) is addressed by specific regulations and guidelines. The most relevant ones are:

Chemical: *Circular, with its annexes, on the national doctrine for the use of emergency and healthcare means to respond to a terrorist action involving chemical materials, n° 700/SGDN/PSE/PPS, 7.11.2008.*

Biological: *Circular on the preparation of the organization at national level of a potential vaccination campaign against smallpox, 16.03.2004, in the Official Bulletin of the Ministry of the Interior n° 2004/1 p. 269-274; Circular on the organization of the distribution of drugs in the context of a large scale bioterrorist attack, 20.03.2003.*

Nuclear and/or Radiological: *Circular on the national doctrine for the use of emergency and healthcare means to respond to a terrorist action involving chemical materials, n° 800/SGDSN/PSE/PPS, 18.02.2011; Joint ministerial directive on the action of public authorities in case of an event leading to an emergency radiological situation, 5.04.2005; Circular on response principles in case of an event likely to cause an emergency radiological situation, outside of situations taken into account by an emergency plan or a response plan. DGSNR/Directive of the Hospitalisation and of the Organisation of Health System. (DHOS/ Directive of the Defence and Civil Security (DDSC No. 2005/1390, 23.12.2005; Circular on the medical health care organization in case of a nuclear or radiological accident, DHOS/HFD/DGSNR n° 2002/277, 2.05.2002.*

Then, the most relevant regulations that tackle **CBRN** events as a whole, including the 'Explosive' dimension (**E**), are: *Circular of the Prime Minister on the State doctrine for the prevention and fight against CBRN-E terrorism, n°747/SGDN/PSE/PPS, 30.10.2009; Joint ministerial circular on the joint ministerial response mechanism in case of CBRN terrorist threats or acts, n° 007/SGDN/PSE/PPS,*

⁴¹⁹ The (1968) Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the (1972) Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC), the (1992) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC), the (2005) International Convention for the Suppression of Acts of Nuclear Terrorism. With regard to the international conventions dealing with transboundary cooperation and assistance in case of nuclear and radiological emergencies originating from civilian use of related material, the France has ratified all of them, namely: the (1986) Convention on Assistance in Case of a Nuclear Accident or Radiological Emergency, the (1986) Convention on Early Notification of a Nuclear Accident, the (1994) Convention on Nuclear Safety.

8.10.2009; Circular on the discovery of letters, parcels, containers and substances suspected of containing dangerous radiological, biological or chemical agents, n° 750/SGDSN/PSE/PPS, 18.02.2011; Governmental CBRN plan, 10135/SGDSN/PSE/PPS, 16.09.2010; and Circular on the translation at territorial level of the governmental CBRN plan ,n° NOR/IOC/A/11/04281/C, 25.02.2011.

In addition, the CBRN dimension is also addressed through the following law and regulations focusing more broadly on civil security and crisis management in case of a major event: *Law on public health policy, n° 2004-806, 9.08.2004*; *Circular on the organization of the hospital system in case of influx of victims, n°2002/284, 3.05.2002*; *Public Health Code⁴²⁰ (created by Law n°2007-294 on the preparation of the public health system to serious health threats)*.

Then, the *White Paper on Defence and National Security 2013⁴²¹*, that sets the strategic orientation for the next fifteen years and will serve as basis for the future military programme (2014-2019), highlights the need to improve knowledge on how to access risks with high technical components (CBRN-E) and the importance of cooperative initiatives with European and international countries that pursue similar objectives.⁴²² Notwithstanding this last statement, it is relevant to highlight that none of the above-mentioned specific regulations deal with the deployment of foreign first responders or law enforcement agencies in support to national actors and institutions in case of CBRN events. The provision of assistance is dealt only in multilateral treaties or specific bilateral agreements about mutual assistance in case of disasters or serious accident.⁴²³

As a final remark, it is important to note that most of the regulations that are part to this normative framework, specifically those related to the actual implementation of such governmental plans, are extremely detailed and present several examples, tables and scenarios of possible CBRN menaces with clear instructions on how to proceed.⁴²⁴

2. The Institutional Framework.

The general organization for the crisis management appears as it follows:

⁴²⁰ See the part dedicated to “Serious Health Threats”.

⁴²¹ <http://www.defence.gouv.fr/actualites/articles/livre-blanc-2013>. Released on 29 April 2013.

⁴²² Ministry of Defence / SGA / SPAC, French White Paper on Defence and National Security 2013, Tulle, France, July 2013, p.98.

⁴²³ For example between France and Switzerland, <http://www.admin.ch/opc/fr/classified-compilation/19870007/index.html>. For information, the coordination with external partners is mentioned on the *Circular regarding the governmental organisation of the management of major crises, No. 5567/SG of 02.01.2012* but it is mainly about exchange of information cooperation and coordination (solidarity clause for the European level).

⁴²⁴ See, for example, *Circular on the translation at territorial level of the governmental CBRN plan ,n° NOR/IOC/A/11/04281/C, 25.02.2011*.



Figura 1. National crisis management organisation

At national level, the **President of the Republic** and the **Minister of Interior** are in charge of the political and strategic management of the crisis. They are supported by a **Crisis Cell**, always armed, that is chaired by a member of the Prime Minister's Cabinet and **managed by the *General Secretariat for Defence and National Security (SGDSN)***. Such Crisis Cell **assures the link between the strategic (Prime Minister) and the operational level (Minister of Interior)** and, therefore, guarantees the coherence of the governmental action in the actual crisis management.

In case of a serious crisis, the **Ministry of Interior** is responsible for the operational conduct of the crisis management. If necessary, it heads the ***Inter-ministerial Crisis Committee (CIC)***, gathering all the relevant ministries. Within the Ministry, the General Directorate for Civil Protection and Crisis Management (DGSCGC) is responsible for crisis management. It encompasses the Directorate for fire brigades as well as the Under-Directorate for Planning and Crisis Management which, among other missions, operates the ministry's crisis centre (COGIC) and, when it is activated, the CIC which is also **responsible for the development of a communication strategy**.

The **Ministry of Health** would also obviously be involved for the crisis health management (beside a role of monitoring and early warning through a syndromic surveillance system managed by the French National Institute for Public Health Surveillance⁴²⁵). Within the ministry, among other involved structures, the **department of health emergencies (DUS)** is involved, among other missions, **in CBRN prevention and response planning, as well as in training of crisis manager responders**. It encompasses a

⁴²⁵ Bioterrorism is one of the situation taken into account.

health crisis center (CORRUSS). Then, the strategic stockpile of medical countermeasures is managed by the Health Emergency Preparedness and Response Agency (EPRUS).

At local level, mayors are key actors. However, depending on the seriousness of the situation, **Prefects of Department** and, in case of major crises involving several departments, **Prefects of Defence and Security zones**, can take control of the crisis management.⁴²⁶ The designated Chief of Operations (COS)⁴²⁷ is responsible for all phases of the operation and heads all the actors, public and private, of the protection chain. It also has **exclusive responsibility of disseminating information to families and media.**⁴²⁸

Taking a closer look to the coordination in relation to CBRN events, the aforementioned SGDSN is responsible, at national level, for the coordination of the national security policy among ministries and governmental agencies, and thus of the risk and threat assessment, as well as of the joint ministerial coordination regarding preparation, prevention and response to major threats, including CBRN ones.

The SGDSN is then supported by the **Council for the Defence and the National Security**⁴²⁹, presided by the Chief of State, that has unified, at the State level, all councils dealing with defence, home security and external crises. It is competent for all issues regarding defence and security, from the military planning to the fight against terrorism, or the crisis response.

Since 2008, following the guidelines given by the White Paper on Defence and National Security, the SGDSN has chaired the **Strategic Committee CBRN-E**⁴³⁰ composed by the representatives of the Ministry of Interior, Defence, Public Health, Transports and Ecology, Industry, Agriculture and Budget.

⁴²⁶ Law No. 2004-811 du 13.08.2004 on the modernization of the civil protection.

⁴²⁷ Commandant des opérations de secours.

⁴²⁸ Law No. 2004-811 du 13.08.2004 on the modernization of the civil protection. Information on procedures at the local level can be also found in the Decree n° 2005-1157 of 13.09.2005 regarding the ORSEC plan.

⁴²⁹ Conseil de défense et de sécurité nationale

⁴³⁰ Comité stratégique NRBC-E.



Figure 2. Composition of the Strategic Committee CBRN-E

The aim of such committee is to reinforce the general strategies, the role of each ministry and the principles of intervention in case of CBRN-E attack. Therefore, the Strategic Committee CBRN-E coordinates the definition of an inter-ministerial action plan and its implementation and, specifically, **has the task to guarantee the coherence and the complementarities of the actions of each ministry involved when responding to a CBRN-E attack.**

Since 1980 the SGDSN is responsible for the elaboration of the governmental plans regarding the **response to chemical, nuclear, radiological and biological terrorism** which were incorporated in 2010 in a **unique plan**, called "Pirate NRBC"⁴³¹. Such plan remains classified, however it is possible to access some general information on the organisation of the public authorities facing a CBRN attack. Specifically, such organisation is divided in two phases:

- *Before the attack:* If the Intelligence service finds evidence of a planned attack, the security forces have the right to arrest the suspects. Also there is a specific detached inter-ministerial central unit in charge of securing and dismantling any device of chemical, biological, nuclear or radiological nature. Finally, all anti-terrorism intervention units are trained on how to act in a contaminated environment.

⁴³¹ The plan explains in details the governmental organisation in relation to crisis management. At local level it is addressed to the prefects who will then develop an operational plan based on the governmental plan.

- *After the attack*: the SGDSN gives clear and detailed instructions regarding roles and principles of coordination of all the authorities and forces involved.⁴³² In particular the public services that are addressed are the following⁴³³:
 - Fire brigades,
 - Demining services,
 - Civil protection units of instruction and intervention,
 - Police and *gendarmerie*,
 - First Aid services,
 - Health facilities, in particular those specialized in this kind of intervention,
 - Army, in case it seems likely that the civil means are not sufficient to face the situation, as a prelude of a possible requisition,
 - Public operators,
 - Authorized civil protection associations

It is important to highlight that, **differently from the Italian system** that triggers two separate mechanisms of response in relation to the nature, accidental or incidental, of the crisis, the French system chooses to put in action, at national level, a **unified methodology**, which is considered necessary in order to maximize the efficacy of the action.⁴³⁴ In fact, whether the products used are of civil or military origin, are contaminant or not, have caused a simultaneous explosion or not, in the likelihood of a high number of victims, together with long and delicate rescue operations, the means of action are coordinated by a unified methodology. Such methodology does not substitute the general modalities of implementation of the CBRN response plan (“*Pirate NRBC*”) or of other national plans of rescue and relief but it has the aim to specify such modalities and support with clear directives the services and the organisms in charge of planning and facing the response to emergency situations . In fact, the COS is supposed to adapt such directives to the specific situation.⁴³⁵

⁴³² Such instructions are described in two circulars: n. [800/SGDN/PSE/PPS](#) of the 23rd of April 2003 and No. [700/SGDN/PSE/PPS](#) of the 7th of November 2008.

⁴³³ Circular No. [700/SGDN/PSE/PPS](#) of the 7th of November 2008, p.5.

⁴³⁴ Ibidem (Emphasis added).

⁴³⁵ Circular No. [700/SGDN/PSE/PPS](#) of the 7th of November 2008, p.6.

THE OPERATIONAL FRAMEWORK in RESPONSE TO CBRN CRISIS: ACTORS AND PROCEDURES

The **main legal instruments** that the actors at the operational level should refer to in the event of a CBRN crisis are the **ORSEC Plan**⁴³⁶ and the related Decree n° 2005-1157 of 13 September 2005, while Response Models can be found in the Circular on the translation at territorial level of the governmental CBRN plan⁴³⁷, of 25 February 2011.

The approach of the ORSEC Plan is based on:

- The creation of a civil protection network⁴³⁸,
- The setting of an operational framework,
- The planning of trainings, and
- The assessment of the experience.

The **network**, that is to be developed at the departmental level and headed by the Prefect, **should include not only the usual restricted circle of first respondents but also other public and private actors** such as:

- State services and other services related to the Prefecture,
- Local communities: municipalities, civic authorities..,
- Associations,
- Network operators,
- Enterprises...

Such contacts and exchanges should lead to the assessment of all local actors' capacity and the definition of their role in the event of a crisis such as a CBRN crisis.⁴³⁹

Furthermore, each public or private actor that is included in the ORSEC Plan should take care of its own organization in the event of a crisis.⁴⁴⁰ In particular, each actor should:

- Nominate a contact person,
- Set internal dispositions that allow such contact person to receive or transmit an alert message,
- Develop a crisis management plan

⁴³⁶ Organisation de la Réponse de Sécurité Civile, DIRECTION DE LA DÉFENSE ET DE LA SÉCURITÉ CIVILES, December 2006.

⁴³⁷ N° NOR/IOC/A/11/04281/C.

⁴³⁸ The Prefect of the Department should be the head of such network.

⁴³⁹ ORSEC Plan, p. 11.

⁴⁴⁰ Decree n° 2005-1157 of 13 September 2005, art. 1b.

- Clarify channels and type of information that can be disseminated

It is the Prefect, then, that is in charge of coordinating all actors in their organization.⁴⁴¹

In the event of a CBRN crisis, a **Response Model**⁴⁴² presents, in a schematic manner, the actions that the local actors involved are required to take. Such model is intended to be transferred and adapted to the local and specific situation by the designated COS. Depending on the resources available, such actions can either be procedures to follow or concrete tasks to implement. Specifically, the response models refer to six possible scenarios, which are:

Scenario 1	<ul style="list-style-type: none">• Imminent menace of a CBRN attack or• revendication of an attack not yet verified (alert status)
Scenario 2	<ul style="list-style-type: none">• Discovery of a CBRN device or• terrorists ready to disperse CBR material
Scenario 3	<ul style="list-style-type: none">• Aerial dispersion of CBRN material• (direct towards population)
Scenario 4	<ul style="list-style-type: none">• Aerial dispersion of CBRN material• (direct towards products of consumption)
Scenario 5	<ul style="list-style-type: none">• Aerial dispersion of CBRN material• (direct towards animals&plants)
Scenario 6	<ul style="list-style-type: none">• Symptoms among the population related to CBRN infections

Figure 3 Response Model Scenarios

Each response model is developed along four main operational functions, which are:

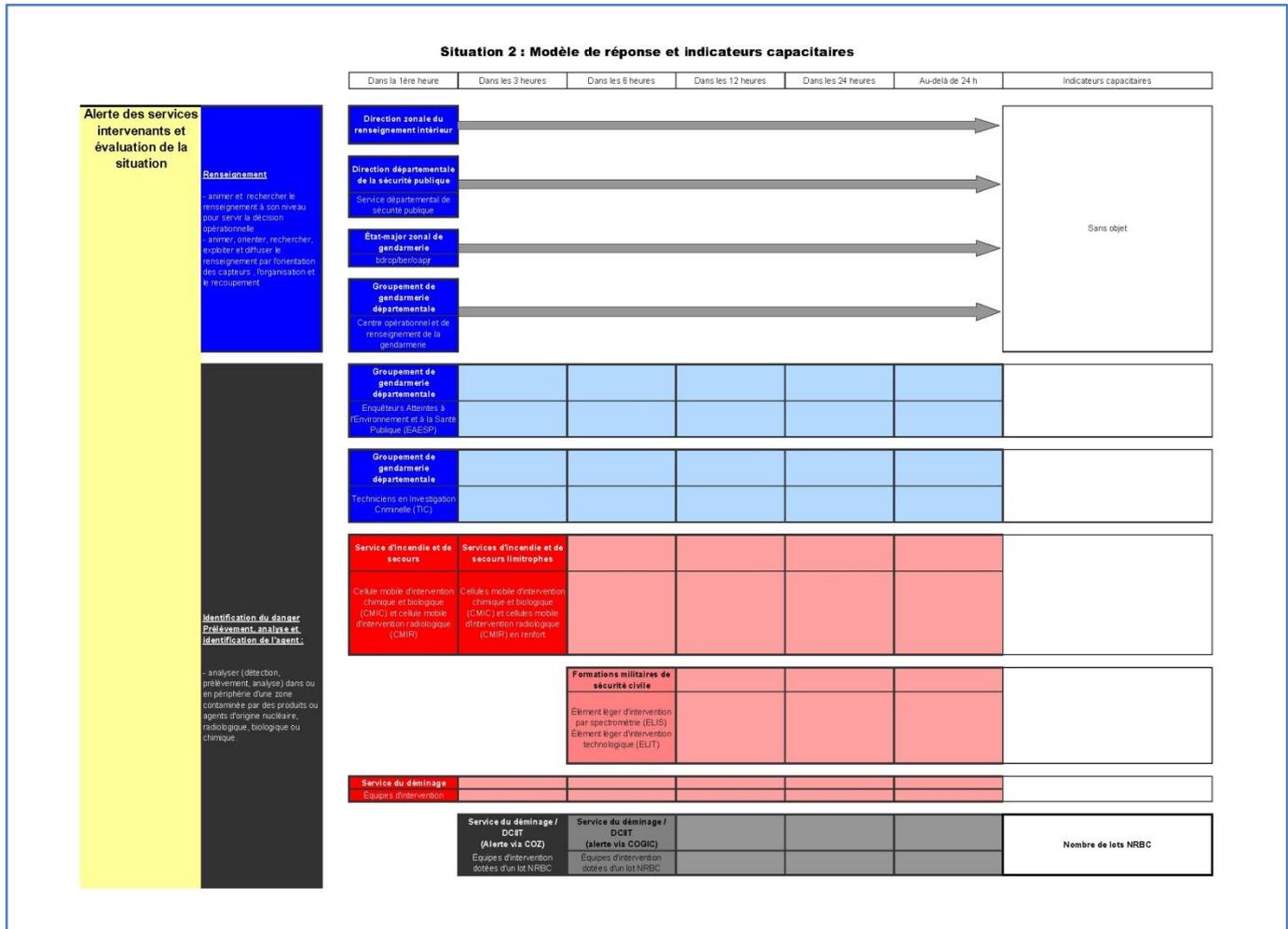
1. To alert first respondents and to assess the situation;
2. To intervene;
3. To alert and inform the population;
4. To trigger an investigation.

The table below shows the model response in relation to the first operational function:⁴⁴³

⁴⁴¹ ORSEC Plan, p. 12.

⁴⁴² Circular n° NOR/IOC/A/11/04281/C, 25.02.2011.

⁴⁴³ Regarding Scenario 1. The other response models can be found in Circular n° NOR/IOC/A/11/04281/C, 25.02.2011, p. 29-40.



For each of such functions, the response models clarifies the tasks of each category of first respondents⁴⁴⁴ in relation to national security, civil protection, human and animal health protection, environment protection and consumers protection.⁴⁴⁵

The response models also contain some **capacity indicators**,⁴⁴⁶ set at inter-ministerial level, on the availability of certain resources.⁴⁴⁷ These indicators will **allow the COS to assess the impact of the response models as described in the theoretical setting and, eventually, adjust them**. The local reports, in fact, will contain all kind of chronological data and will, therefore, highlight eventual delays in the intervention, degree of autonomy of the local forces, and moments of high pressure. However,

⁴⁴⁴ Identified by different colours.

⁴⁴⁵ Circular on the translation at territorial level of the governmental CBRN plan ,n° NOR/IOC/A/11/04281/C, 25.02.2011, p.13.

⁴⁴⁶ Last column of the table.

⁴⁴⁷ Additional indicators can be defined at local level.

considering the exceptional character of CBRN events, such problems and delays would never really be considered complete responsibility of the first responders but rather objectives to reach.⁴⁴⁸

CONCLUSIVE REMARKS

The French strategy to respond to CBRN events presents some remarkable features that could be transferred to other European States, such as the schematic approach of the response models that are then adapted to the local situation. The normative framework on CBRN events is rich and detailed and takes into consideration several scenarios, however, it must be noted that none of such specific regulation deals with the deployment of foreign first responders or law enforcement agencies in support to national actors and institutions. As a general remark, at national level, CBRN response is well tackled and organized through a coordinated multi-ministerial approach. Also, there are several guidelines, manuals and regulations developed by state-level institutions on the issue. However, it appears that, at the local level, the concrete application of such guidelines and regulations, in particular regarding preventive measures and networking, depends on the degree of self-organisation and commitment of the local communities and the efficacy can vary from one department to another.

⁴⁴⁸ *Circular on the translation at territorial level of the governmental CBRN plan*, n° NOR/IOC/A/11/04281/C, 25.02.2011, p.14. The timetable given by the response model is considered as indicative.

GERMANY

Abstract

The German system of civil protection (Bevölkerungsschutz) is divided into two main components: disaster preparedness (or 'disaster relief' or 'civil protection in the broader sense' (Katastrophenschutz); and civil protection in the narrow sense (Zivilschutz). The first one encompasses all the concrete action to achieve preparedness and all the measures taken in order to keep the number of victims and the extent of damages as small as possible; whilst in the functional area of civil protection (in the narrow sense) fall the disasters caused by an ongoing armed conflict in Germany. This dichotomy gives rise to a dual regime of responsibility: on the one hand stand the states (the Länder) and on the other hand the German Federation. If a disaster occurs in peace time, while the Länder have the legislative power, the actual relief is to a large extent organised and executed on the level of municipalities. In political terms this means that the district chiefs/chief mayors are responsible for crisis management. They are supported and advised by a management staff, that is to be established, as soon as an emergency happens. For the protection of the population during large-scale threat situations, Germany relies extensively on volunteers and on an efficient support system. As the operational framework adopted by the 16 states which compose the German Federation is not homogeneous, the present Report refers to the system in place in Bavaria as a case study.

GERMANY'S LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRN CRISES

1. Overview

Germany is a federal parliamentary republic located in western-central Europe and consisting of 16 states.⁴⁴⁹ Each state has its own parliament and government, and a high degree of autonomy. The majority of states are divided into administrative districts (*Regierungsbezirke*), and each district is divided in turn in administrative counties (*Landkreise*) and county boroughs (*kreisfreie Städte*). The local self-government (municipalities, or *Kommunen*) administrates inter alia local transport and road construction, electricity, water and gas supply, sewerage and daily life protection. The German system of civil protection (*Bevölkerungsschutz*) is divided into two main components:

A. Disaster preparedness (or 'disaster relief' or 'civil protection in the broader sense' (*Katastrophenschutz*)); and

B. Civil protection in the narrow sense (*Zivilschutz*).⁴⁵⁰

Disaster preparedness in Germany encompasses all the concrete action to achieve preparedness and all the measures taken in order to keep the number of victims and the extent of damages as small as possible. Including:

- The training of emergency auxiliaries,
- Information and education of a potentially affected part of the population,
- The simulation of disaster scenarios,
- The development of action plans,
- The establishment of early-warning systems,
- The planning of evacuation and accommodation of the persons affected,
- All the activities related to the logistics, the channels of communication and the maintenance of stocks.⁴⁵¹

⁴⁴⁹ "Die Länder" are: Baden-Wuerttemberg, Bayern (Bavaria), Berlin, Brandenburg, Bremen, Hamburg, Hessen, Mecklenburg-Vorpommern (Mecklenburg-Western Pomerania), Niedersachsen (Lower Saxony), Nordrhein-Westfalen (North Rhine-Westphalia), Rheinland-Pfalz (Rhineland-Palatinate), Saarland, Sachsen (Saxony), Sachsen-Anhalt (Saxony-Anhalt), Schleswig-Holstein and Thuringen (Thuringia). Note: Bayern, Sachsen, and Thuringen refer to themselves as free states.

⁴⁵⁰ As noted by the German Red Cross the terminology is not always used consistently and differs to some extent from the English translation. See "Analysis of Law in the EU Pertaining to Cross-Border Disaster Relief" (EU IDRL Study) Country Report by German Red Cross, May 2010, which is available at: http://www.ifrc.org/Global/Publications/IDRL/country%20studies/IDRL-Report_GerRC_May2010.pdf

Instead in the functional area of **civil protection (in the narrow sense)** fall the disasters caused by an ongoing armed conflict in Germany. In such case the obligation of the state authorities to take measures for disaster preparedness is regulated by the Civil Protection and Disaster Assistance Act (*Zivilschutz- und Katastrophenhilfegesetz*, 'ZSKG'). As stated in para. 1 sub-para. 1 of the ZSKG, it is the task of civil protection to protect, by non-military means, the population, their homes, their working places, all essential civil agencies, enterprises, institutions, as well as the cultural heritage, against the effects of war in order to mitigate them. Civil protection includes: self-protection, warning of the population, residence regulations, building of shelters, health protection measures, protection of cultural heritage and disaster preparedness in the case of defence according to para. 1 subpara. 2 ZSKG.⁴⁵²

This system entails a dual regime of responsibility: on the one hand stand the states (the *Länder*) and on the other hand the German Federation. As a general rule, laid down in Art. 30 of the 1949 Constitution of the Federal Republic of Germany (the 'Basic Law'), all state/governmental functions are exercised by the *Länder*, except where provisions of the Basic Law assign these functions—by way of exception—explicitly to the German Federation.⁴⁵³ Pursuant to the Basic Law (Art. 73, para.1 N.1), **civil protection in the narrow sense** falls within the responsibility of the German Federation. Therefore, the German Federation has its own laws on civil protection and administration, as well as rules, regulations and miscellaneous laws that are applied in exceptional cases of disaster. The German Federation has signed bilateral agreements with all of its nine neighbouring states, as well as with Russia, Hungary and Lithuania, about mutual assistance in case of disasters and severe accidents. All the agreements contain similar provisions and pursue the goal of reducing procedural, factual, financial and technical obstacles.⁴⁵⁴ They are implemented in the German law within a formal law of the German Federation according to Art. 52 (2) of the Basic Law.

On 30 May 2011, following the Fukushima incident in Japan and the strong concern expressed by the German population against the use of nuclear power, the Government has announced a plan to shut all nuclear reactors by 2022. In the past (4 May 1986, 17 December 1987 and 24 November 1988) three nuclear power accidents have occurred in Germany and according to the German authorities the risk of CBRN incidents has significantly increased over the last years. In particular this is due to the large number of transportation of dangerous goods on German roads and railways and to the fear of terrorist attacks.

⁴⁵¹ Therefore, all measures for disaster prevention, disaster mitigation and disaster response are consolidated in the area of disaster relief/ disaster preparedness.

⁴⁵² See the EU IDRL study, supra n 2at 7.

⁴⁵³ Art. 70 of the Basic Law repeats this general rule, assigning the legislative power generally to the *Länder*, except where the Basic Law explicitly provides that the legislative power is exercised by the German Federation.

⁴⁵⁴ See for example: Abkommen zwischen der Bundesrepublik Deutschland und dem Königreich Belgien über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 6. November 1980 (BGBl. 1982 II, p. 1006) („German-Belgic Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und dem Königreich Dänemark über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 17. März 1988 (BGBl. 1988 II, p. 286) („German-Danish Agreement“), Abkommen zwischen der Bundesrepublik Deutschland und der französischen Republik über die gegenseitige Hilfeleistung bei Katastrophen und schweren Unglücksfällen v. 3. Februar 1977 (BGBl. 1980 II, p. 33) („German-French Agreement“).

2. The Normative and Institutional Framework

2.1. Federal Response to a Crisis

The following laws, which apply equally to all CBRN areas, govern the aspects of civil protection (1.), hazard control (2.) and law enforcement (3.) in managing CBRN situations:

1. Federal Disaster Control Act ('KatSG') of 11 February 1999 (Gazette of Laws and Ordinances p. 78);⁴⁵⁵ and the already mentioned Civil Protection and Disaster Assistance Act ('ZSKG'), regulating also the cross-Länder crisis management exercise series LÜKEX;⁴⁵⁶

2. Disaster control acts of the federal states, e.g. General Act to Safeguard Public Security and Order in Berlin (ASOG Bln) of 11 October 2006 (Gazette of Laws and Ordinances p. 930);⁴⁵⁷

3. Criminal law:

Criminal Code in the version promulgated on 13 November 1998 (Federal Law Gazette I p. 3322), amended by Article 15 of the Act of 4 July 2013 (Federal Law Gazette I p. 1981) in the version promulgated on 13 November 1998; most recently amended by Art. 1 G of 10 June 2013 I 1497;⁴⁵⁸

Rules of criminal procedure:

Code of Criminal Procedure in the version promulgated on 7 April 1987 (Federal Law Gazette I p. 1074, 1319), amended by Article 3 of the Act of 4 July 2013 (Federal Law Gazette I p. 2182).⁴⁵⁹

At the federal level the Federal Ministry for the Interior is the leading responsible for disaster relief and management within Germany (and in view of the cross-border disaster relief as regards the EU). Relevant subordinate agencies of the Federal Ministry for the Interior are the Federal Office of Civil Protection and Disaster Assistance (*Bundesamt für Bevölkerungsschutz und Katastrophenhilfe*, 'BKK', as stated in Art. 4, ZSKG) and the Federal Disaster Relief Organisation (*Technisches Hilfswerk*). On a subsidiary basis, also the resources of the Federal Armed Forces (*Bundeswehr*) can be drawn upon, as well as the Federal Police (*Bundespolizei*). Both institutions can render legal and administrative assistance in case of necessity. Other federal ministries or authorities might be involved in the disaster relief, e.g., the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (*Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit*) or the Federal Ministry for Transport, Building and Urban Affairs (*Bundesministerium für Verkehr, Bau und Stadtentwicklung*).

The **BBK**, which is the most important body at the federal level, was established in 2004 and is responsible for several crucial tasks in case of emergency, those include:

⁴⁵⁵ As amended by Art. I of the first amending legislation of 26 January 2004 (Gazette of Laws and Ordinances p. 25).

⁴⁵⁶ Law about the civil protection and disaster management of the Federation/Zivilschutz- und Katastrophenhilfegesetz – ZSKG of 2nd April 2009 (BGBl. I p. 693).

⁴⁵⁷ Most recently amended by Art. I of the 13th amending legislation of 7 February 2013 (Gazette of Laws and Ordinances p. 18).

⁴⁵⁸ See in particular sections 28 and 29 of the Criminal Code.

⁴⁵⁹ Recently amended by Art. 2 G of 20 June 2013 I 1602.

- Development of a national risk analysis;
- Development of standards and framework concepts for civil protection;
- Warning and information of the population;
- Development of a modular warning system with the core element of satellite-based warning information by including the existing and future alert and warning media;
- Information of the population about protection and support possibilities
- Promotion of training measures for the population;
- Education, further education and training of decision makers and managers from the sector of civil security measures;
- Support of the municipalities concerning self-protection measures.⁴⁶⁰

As stated above in case of disaster occurring in peacetime the responsibility to respond lies with the single State (or Land) . However, within the federal Ministry of the Interior an inter-ministerial coordination group may be set up when one of the Lands is not able to cope with the catastrophe or when the emergency has spread beyond its territorial boundaries. In such situations, the federal Ministry of the Interior, in liaison with other federal ministries and the other states, ensures the coordination of assistance to the *Land* affected by the disaster.⁴⁶¹ Instead, in case of a military crisis, 16 different ministries are responsible for civil protection in the narrow sense within their own respective areas, while the Ministry of the Interior has an overall coordinating function. Federal planning for civil emergencies consists of taking measures to ensure the continuity of social functions in times of emergency. These encompass: ensuring the continuity of Government, supplying goods and services and supporting the armed forces.

As far as the issue of “incoming international assistance” is concerned it shall be noted that in the German system it is not clear which federal body is responsible for requesting international disaster relief and liaising with international aid providers. Rather than a national focal point, various focal points exist whose responsibility is determined according to the legal basis of the international request for assistance. Instead, in case of outgoing assistance pursuant to the bilateral agreements between Germany and neighbouring or other European states, the relevant agency to be contacted for requests for assistance by the contracting party is usually the Federal Ministry of the Interior. However, other bilateral agreements provide the option of filing the request for assistance with the district president

⁴⁶⁰

More information is available at [http://www.bbk.bund.de/SharedDocs/Downloads/BBK/EN/booklets_leaflets/Protection_a_Aid %20of the Population.pdf?_blob=publicationFile](http://www.bbk.bund.de/SharedDocs/Downloads/BBK/EN/booklets_leaflets/Protection_a_Aid_%20of_the_Population.pdf?_blob=publicationFile)

⁴⁶¹ In 2002, the Federal Government and the *Länder* agreed in a political consensus on the “New strategy for the protection of population in Germany”. The strategy underlines the joint responsibility of the Federal Government and the *Länder* in extreme threat situations which could have an impact on the whole nation.

(*Regierungspräsident*) who has been authorized by the Ministry of the Interior of the particular Land.⁴⁶² Moreover, concerning international disaster assistance rendered in Germany, the principle is that the assisting actors have to subordinate themselves to the orders of the local authorities in charge of disaster relief.⁴⁶³

2.2. The State Response to a Crisis

Essential provisions have been enshrined in the legislation on fire prevention and fire services that attribute to local governments the duty of removing fire and explosion hazards, fighting fires and providing adequate technical support in case of other accidents or emergencies.⁴⁶⁴ In some cases, as in Bavaria, fire prevention and fire-fighting, rescue and disaster management may be covered by separate legislation (i.e. the Bavarian Disaster Management Act, the Bavarian Fire Services Act and the Bavarian Act Regulating Emergency Rescue, Ambulance and Rescue Services); or they may be entirely or partially regulated by a single law, e.g. the Act on Emergency Response Assistance for the city-state of Bremen and the state of Hesse's Act on Fire Prevention and Fire-Fighting, General Aid and Relief and Disaster Management. Since the legislative and operational frameworks governing the response to a disaster are not homogenous among the 16 states that compose the German Federation, in para 2. Bavaria will be used as a case study to explain the way the different stakeholders interact in case of emergency.⁴⁶⁵

2.3. The Local Response to a Crisis

The *Länder* have the executive power both for their own laws and generally also to directly implement those issued by the German Federation (Art. 83 of the Basic Law). However, while the *Länder* have the legislative power, disaster relief is to a large extent organised and executed on the level of municipalities. In political terms, the district chiefs/chief mayors are responsible for crisis management. They are supported and advised by a management staff, that is to be established, as soon as an emergency occurs, by the command staff/operational command post. The composition of the staff is not predetermined and it varies according to the typology and the gravity of the event at stake. Experts from private companies operating critical infrastructures⁴⁶⁶ or other experts may be asked to join the staff if the

⁴⁶² See, e.g., Art. 3 German-French, German-German-Danish, German-Danish Agreement.

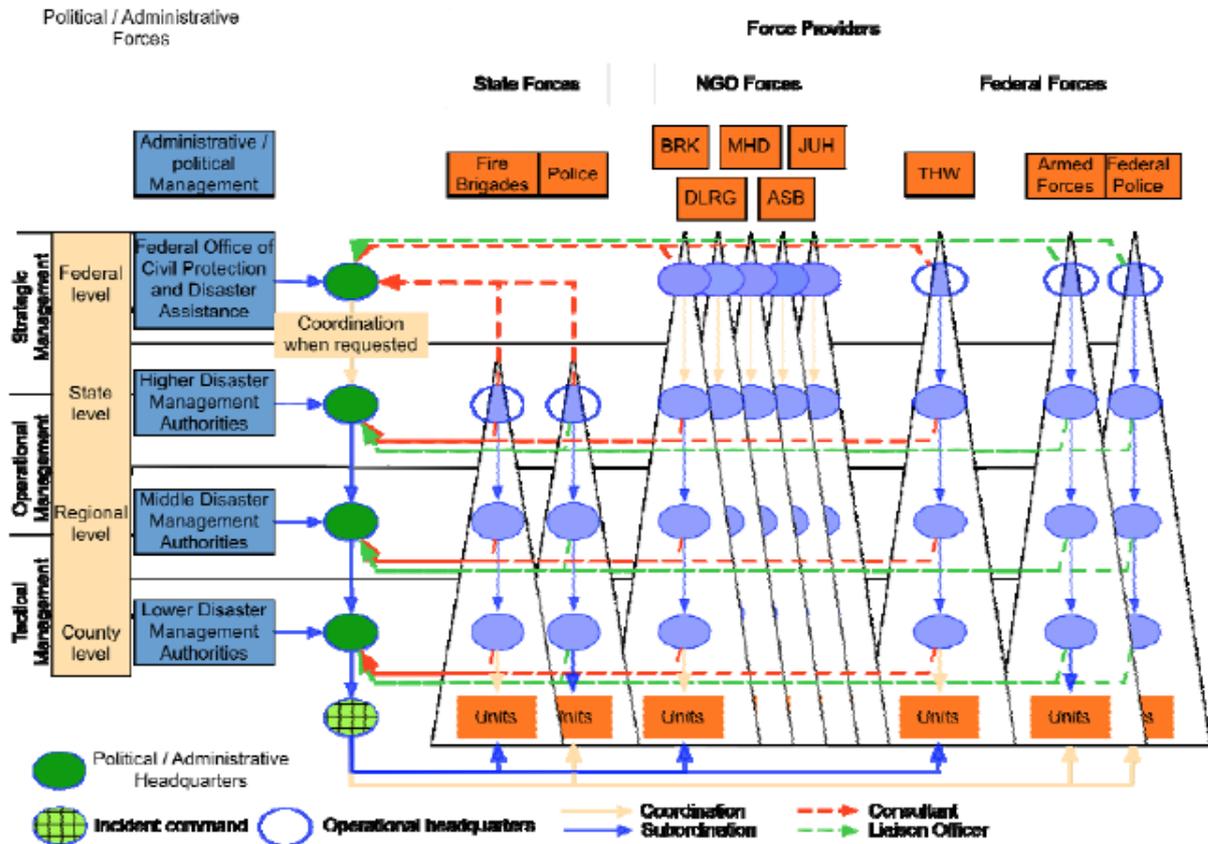
⁴⁶³ This principle is contained in all bilateral and trilateral agreements on the federal, *Länder* and community level, as well as in disaster relief acts of the *Länder*. The bilateral and trilateral agreements generally determine that the competent German authorities support the experts and other personnel of the contracting state in fulfilling their tasks to render assistance, and vice versa.

⁴⁶⁴ On this point see http://ec.europa.eu/echo/civil_protection/civil/vademecum/de/2-de-1.html

⁴⁶⁵ Bavaria has been selected because it is the largest state by area, forming almost 20% of the total land area of Germany and because it is possible to gather sufficient material to analyse the operational framework in place.

⁴⁶⁶ Critical infrastructures are organisations or facilities of special importance for the country and its people where failure or functional impairment would lead to severe supply bottlenecks, significant disturbance of public order or other dramatic consequences. In the field of the protection of Critical Infrastructures (CIP) as a part of civil protection, Germany closely cooperates with critical infrastructure providers on sectorial as well as on cross-sectorial issues, usually in a less formalized way. See http://www.bbk.bund.de/EN/Topics/CriticalInfrastructureProtection/criticalinfrastructureprotection_node.html

situation so requires. The organisational structure of the staff is different from state to state. The graphic below explains the way the three different level, federal, national and local, interplay in case of a disaster.

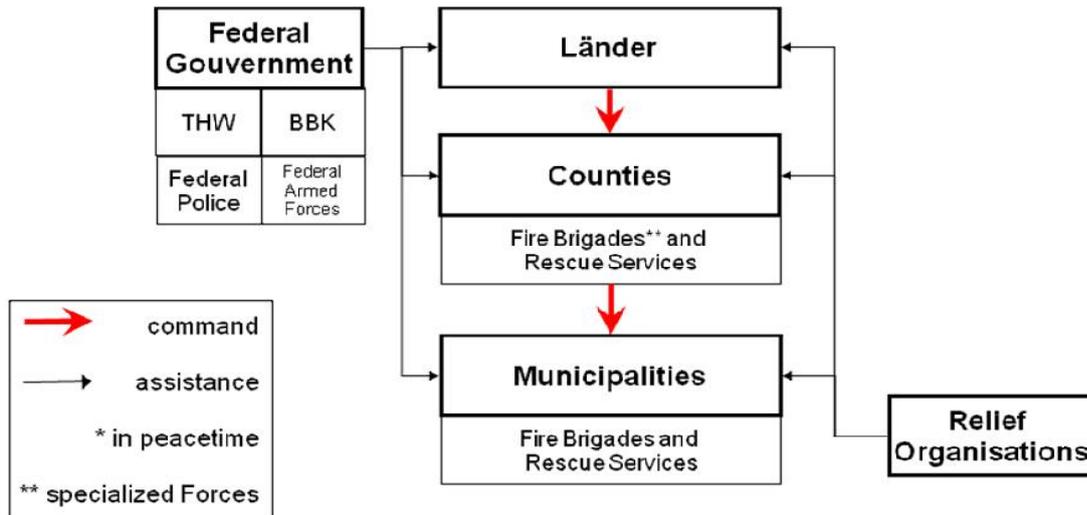


THE OPERATIONAL FRAMEWORK IN RESPONSE to CBRN CRISIS: ACTORS and PROCEDURES (case study: Bavaria)

Given the fact that Germany is a Federation of 16 states and that it is not possible to describe the operational framework adopted by each of them, the current paragraph will briefly present some introductory remarks which apply to Germany in general and then it will focus on the operational framework in place in Bavaria.

3. General Remarks on Germany's Operational Framework

Structure of Civil Protection in Germany *



For the protection of the population during large-scale threat situations, Germany relies extensively on volunteers and on an efficient support system.⁴⁶⁷ Given the high deployment of volunteers, Germany focuses, above all, on the provision of special equipment, such as the CBRN-Reconnaissance Vehicle, the measuring line component, the Decontamination Lorry “Personnel” and the Analytical Task Force (‘ATF’), a special unit for the quick chemical analysis during CBRN-threat situations which is located at seven sites in Germany.

The volunteers who actively participate in CBRN response include:

- The Workers' Samaritan;
- *Deutsche Lebens-Rettungs-Gesellschaft* (‘DLRG’);
- German Red Cross;
- *Johanniter-Unfall-Hilfe e.V.*;
- *Malteser-Hilfsdienst e.V.*;

⁴⁶⁷

On this point see: http://www.bbk.bund.de/SharedDocs/Downloads/BBK/EN/booklets_leaflets/Protection_a_Aid_%20of_the_Population.pdf?__blob=publicationFile

- *Deutscher Feuerwehr Verband* ('DFV'):⁴⁶⁸ it is important to stress here that most of Germany's 1,383,730 fire fighters are members of the *Freiwillige Feuerwehr* (voluntary fire brigades);⁴⁶⁹

If a CBRN event occurs both volunteer corps and the police force are involved in the response operations. Three aspects are regarded as of vital importance:

- Protection of people in the danger zone by means of appropriate measures, such as, for example protective clothing and rules of conduct;
- Quick detection and identification of the specific danger; and
- Counteractions in case of contact with the hazardous substance, e.g. decontamination.

In particular it should be noted that the police force is in charge of different tasks depending on the specific substance involved in the incident. More in detail:

1. If Chemical / Radiological / Nuclear substances are involved the police is responsible for:

- Collecting samples;
- Detecting / identifying substances;
- Carrying out mobile / laboratory analyses;
- Providing instant assessment / situation forecasts;
- Advising command /proposing action;
- Carrying out control measurements;
- Monitoring air pollution levels in large areas;
- Preparing reports (including expert witnesses in court).

2. If the incident regards a Biological element the police force is in charge of:

- Collecting samples;
- Carrying out a preliminary analysis of chemical / radiological substances;
- Transporting samples to a laboratory for biological analysis;
- Advising command /proposing action.

⁴⁶⁸ I.e. Fire Brigade.

⁴⁶⁹ By law, cities with a population of more than 80,000-100,000 people (depending on the state) are required to have a professional fire fighting force ("Berufsfuerwehr").

The interplay between the different stakeholders called to intervene in case of CBRN incidents has been “tested” since 2004 through the LÜKEX exercise. LÜKEX is a cross-Länder and cross-departmental exercise at political-administrative level in the area of national crisis management. The target groups are political decision-makers from the Federation and the Länder and also providers of Critical Infrastructures.⁴⁷⁰ The graph below explains the steps of the most recent LÜKEX exercise (which took place in 2011),⁴⁷¹ its different phases and duration:



Picture 4: The exercise cycle of „LÜKEX 11“ comprised from the beginning of the planning phase to the end of the evaluation phase nearly 24 months

After five exercises, LÜKEX is regarded as a proven model for strategic exercises. Over the years the exercise series has had a profound effect on the existing culture of cooperation, collaboration, and decision-making in strategic crisis management and crisis management structures. The current exercise “LÜKEX 13”⁴⁷² deals with food safety, consumer protection and healthcare in an extraordinary biological threat situation. Other key aspects are internal security, civil-military cooperation (CIMIC) and crisis communication.

4. Overview of the Bavaria’s Operational Framework

The Bavarian disaster law defines disaster as an event, endangering or harming life or health of a highly number of people, natural environment or significant material assets to a large extent when danger can

⁴⁷⁰ See for example the “LÜKEX 11” IT-Security in Germany Evaluation Report, which is available at: http://www.bbk.bund.de/SharedDocs/Downloads/BBK/DE/Publikationen/Broschueren/Flyer/Luekex_11_Auswertung_englisch.pdf?__blob=publicationFile

⁴⁷¹ The exercise which conducted so far are: “LÜKEX 04” Extreme winter weather conditions with extensive electric power failure; LÜKEX 05” Terrorist attacks in connection with the 2006 FIFA World Cup; “LÜKEX 07” Global influenza pandemic; “LÜKEX 09/10” Terrorist threat involving conventional explosives, chemical and radioactive weapons (“dirty bomb”); “LÜKEX 11” Security of information technology threatened by massive cyber attacks.

⁴⁷² “LÜKEX 13” is taking place from 25 to 29 November 2013.

only be prevented by the co-operation of public authorities, organizations and force providers under the management of disaster management authorities.⁴⁷³

The Bavarian disaster management law (BayKSGH, 2009) defines three hierarchically organized governmental levels of disaster management authority. These levels are (from bottom to top) the county level, the regional level and the state level.

1. At county level **the Lower Disaster Management Authority** is primarily responsible for coping with physical effects of a disaster and coordinates disaster management units as e.g. fire fighters or medical response;
2. The **Middle Disaster Management Authority** at regional level is superior to county level and is primarily responsible for force coordination and administrative and political management supporting subordinated counties;
3. The **Higher Disaster Management Authority** at state level collocated with the government of Bavaria and subordinated directly to the Bavarian Ministry of the Interior is primarily responsible for political management supporting its regions.

Since the disaster management organizations in Bavaria are hierarchically structured, the concrete response is also organised according to the three political levels of responsibility (county, region, state). If an incident occurs:

- The leader of the first responders on the spot, typically a fire fighter, becomes **incident commander** ('ICmdr').
- He or she establishes an **incident command** ('IC') and reports to the administrative superior at county's Lower Disaster Management Authorities.
- The ICmdr usually estimates the disaster's extent and, if necessary, recommends to the administrative authority to establish an **administrative headquarter** at the county level to inform superior levels of authority.
- **If the incident affects more than one critical spot**, other ICmdrs become responsible and manage respective units, always reporting to the administrative headquarters. With more than one county affected the regional headquarters will be established and so on. Thus, the headquarters are established from bottom to top.
- These headquarters consist of personnel from disaster management authorities as core staff, personnel from other departments of the respective level of government, e.g. social affairs or financial affairs, and consultants⁴⁷⁴ or liaison officers from all major force supplier organizations.

⁴⁷³ BayKSGH, 2009, I (2). See S. Richter et al, "Concepts for Command & Control Effectiveness in German Disaster Response", June 2010, available at: [https://domin.fov.uni-mb.si/proceedings.nsf/0/73f44e0184580b91c1257757003d0661/\\$FILE/28_Richter.pdf](https://domin.fov.uni-mb.si/proceedings.nsf/0/73f44e0184580b91c1257757003d0661/$FILE/28_Richter.pdf)

- A liaison officer appointed by Police, *Bundeswehr* and Federal Police advises and additionally requests forces of the own organization supporting disaster managers.

It shall be noted that the ICmdr is the leader of the fire brigade, and he or she is “superior” to NGO and THW units. However, he or she does not command the Police, *Bundeswehr* and federal police units although he or she coordinates their missions communicating directly with their commanders at the IC. In fact the operational headquarters of police, *Bundeswehr* and federal police are fully operational and manage their own units even though the constantly coordinate with ICmdr.

CONCLUSIVE REMARKS

As emerged from this brief analysis, the German system largely relies on the population’s “self-help”. Civil defence is, hence, a sector mainly based on the work of volunteers who provide their time and efforts without any remuneration. This aspect is somehow compensated by the extensive training, (e.g. the number of exercises, workshops and on-the-job training) offered to the people involved in emergency’s response. Moreover, since most equipment (command, control and operational equipment, vehicles etc.) is regularly used, checking and maintenance are duly performed. Communication is crucial for the stakeholders who participate in the operations. At the federal, state and local levels communication ought to be timely, accurate, concise, open and appropriate for different target groups. At the international level, instead, communication is not properly regulated and it is limited to few, voluntary initiatives (exercises, workshops, visits). The strengths and the improvable aspects of Germany’s response to CBRN events can be summarised as follows:

Important strengths:

- The widespread awareness of the potential threats and severe consequences of CBRN events; and
- The good status of the personnel and the resources geared to respond to CBRN incidents;

Area of improvement:

- Increasing international communication and interplay: the German system stresses that “successful crisis management is a joint performance which is rendered thanks to a network of national and private players”, but limited attention has been paid so far to fostering the interaction with foreign partners. In particular the Report highlights the lack of a clear national focal point to request external assistance if a disaster occurs.

⁴⁷⁴ Consultants appointed by NGOs, the Federal Disaster Relief Organisation (‘THW’) and fire brigades provide information and advice regarding availability and competencies of their respective organization.

IRELAND*

Abstract

In Ireland, preparedness and response to CBRN emergencies are defined by Plans adopted and implemented at the national, regional and local level. The vertical and horizontal coordination between these Plans, and the actors involved in their implementation, are pursued through the enforcement of common planning and management standards. Overall, the Irish system is built around the crucial concept of “lead role/agency” providing that – depending of the type of emergency (C, B or RN) – a pre-identified national authority (Government department or agency) takes the lead of the operations and coordinates all the other actors who are involved. At national central level, the relevant Government Departments (ministries) and public authorities are responsible for maintaining appropriate emergency management functionality according to their statutory ambits and in cooperation with other Departments. At regional and local level, three “Principal Response Agencies” (PRAs) are responsible to respond to major emergencies. These are: The National Police Service (An Garda Síochána), the Health Services Executive and the Local Authorities (including the fire service). In the event of a major emergency, coordination structures are enacted at the site, locally, regionally and nationally.

* Figures 1 may not be used separately from this publication or without making explicit reference to it.

THE IRISH LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRN CRISIS

1. The Normative Framework

The main feature of the Irish emergency planning and management system is that its structure and functioning are established by *Plans* adopted and implemented at the national, regional and local level.⁴⁷⁵ The vertical and horizontal coordination between these *Plans*, and the actors involved in their implementation, are pursued through the enforcement of common planning and management standards established by three main instruments: The *Strategic Emergency Planning Guidance* (2004)⁴⁷⁶, the *Guidelines for Coordinating A National-Level Emergency/Crisis Response* (2011)⁴⁷⁷ and *A Framework for Major Emergency Management (The Framework 2006)*.⁴⁷⁸ The latter instrument is also integrated by 14 appendices and a set of guidance documents covering specific topics – *e.g.* risk assessment; preparing emergency plans; planning and staging exercises; managing evacuation; working with voluntary emergency services; local co-ordination centers and others. These Guidance documents are being developed on an ongoing basis as and when a need arises.⁴⁷⁹

Starting with the *Strategic Emergency Planning Guidance*, it is a document aimed at guiding the Government Departments (*i.e.* Ministries) and key public authorities toward a more efficient approach to emergency planning at political/strategic level. In other words, the *Guidance* deals with the political/strategic dimensions of “emergency planning”, meant as the preparation, development,

⁴⁷⁵ In other words, in Ireland there is any primary (acts of the Parliament) or secondary (acts of the Government) legislation dealing comprehensively with emergency planning and management. Emergency planning is part of general planning carried out by each Government department/agency under its appropriate legislation. Each Government department is responsible for ensuring that emergency plans exist in respect of its own area of responsibility. Cf. also http://ec.europa.eu/echo/civil_protection/civil/vademecum/ie/2-ie-1.html#over. The most common criticism of the current approach to emergency management in Ireland is the failure of the Government to adopt appropriate legislation. It is widely held that without a legislative framework the appropriate level of development and funding will not be forthcoming within the principal emergency services.

⁴⁷⁶ This instrument was proposed by the Department of Defence and approved by the Government. Cf. *Strategic Emergency Planning Guidance*, 30.11.2004, the Department of Defence – the Office of Emergency Planning, in <http://www.emergencyplanning.ie/media/docs/1SEPG.pdf>

⁴⁷⁷ Adopted by the Government Task Force on Emergency Planning at its meeting on 15 April 2011, available at <http://www.emergencyplanning.ie/media/docs/Guidelines%20for%20Coordinating%20a%20national%20level%20emergency%20crisis%20response%20Version%202013%2003.15.pdf>.

⁴⁷⁸ The Framework was drafted by an inter-agency Review Working Group made up of representatives of the agencies charged with managing the response to emergency situations which arise either locally or regionally. The Review Working Group was chaired and supported by the Department of Environment, Heritage and Local Government. It is the final outcome of the revision of the previous *Framework for Co-ordinated Response to Major Emergencies* (1984) which was not anymore adequate to cope the new potential threats arising from the industrial, transport or terrorist incidents. Cf. *A Framework for Major Emergency Management*, 2006, the Inter-agency Review Working Group, in <http://www.mem.ie/memdocuments/a%20framework%20for%20major%20emergency%20management.pdf>.

⁴⁷⁹ There are fourteen appendices (F1-F14), available at <http://www.mem.ie/memdocuments/a%20framework%20for%20major%20emergency%20management%20appendices.pdf>.

exercising and validation of plans coping with emergency – CBRN crisis included.⁴⁸⁰ It designs the national strategic structures for emergency planning.⁴⁸¹ Examples of emergencies plans developed, adopted and coordinated at the level of the Ministries are: the National Pandemic Influenza Plan developed by the Department of Health and the Health Service Executive;⁴⁸² or the National Emergency Plan for Nuclear Accidents (NEPNA) drafted by the Department of Environment, Community and Local Government, with the purpose of minimising the impact on Ireland and its people in the event of a major nuclear accident occurring abroad.⁴⁸³

The Guidelines for Coordinating A National-Level Emergency/Crisis Response sets out the various steps involved in coordinating a national-level response for emergencies/crises.⁴⁸⁴ It also clarifies the responsibilities of the “lead” Government Department (*see infra*) and the roles and working relationships of all other Departments and agencies, which are required to contribute and undertake their roles in the context of the national emergency/crisis management effort.⁴⁸⁵

With regard to the *Framework for Major Emergency Management*, it is a document that defines the role and the responsibilities of the different agencies involved in major emergency management – *i.e.* in the implementation of the national, regional and local plans during an emergency situation⁴⁸⁶ – at strategic, tactical and operational level. Its main goal is to promote effective cooperation between these agencies that have the task to “provide for the protection, support and welfare of the public in times of emergency”, while “helping to safeguard the environment, the economy, infrastructure and property.”⁴⁸⁷ The *Framework* adopts an “all-hazards” approach to emergency management based around a five-stage emergency management paradigm: Hazard Analysis/Risk Assessment, Mitigation/Risk Management; Planning and Preparedness; Response and Recovery.⁴⁸⁸

⁴⁸⁰ The *Strategic Emergency Planning Guidance*, *cit.*, p. 6.

⁴⁸¹ *See infra*.

⁴⁸² *The National Pandemic Influenza Plan*, January 2007, Department of Health and Health Service Executive (HSE), available at <http://www.dohc.ie/publications/pdf/nationalfluplan.pdf?direct=1>. To note that the content of the Plan is based on recommendations given by the World Health Organization for pandemic influenza plans. *Cf.* WHO, WHO global influenza preparedness plan. The role of WHO and recommendations for national measures before and during pandemics, 2005, available at http://www.who.int/csr/resources/publications/influenza/WHO_CDS_CSR_GIP_2005_5.pdf.

⁴⁸³ *The National Emergency Plan for Nuclear Accidents*, 2005, Nuclear Safety Section - Department of Environment, Community and Local Government, available at <http://www.rpii.ie/RPII/files/01/010074fc-f3b2-4f4f-ac0f-8a24e71cf718.pdf>. More details about NEPNA are available at respectively <http://www.environ.ie/en/Environment/EnvironmentalRadiation/NationalEmergencyPlan/> and [http://www.rpii.ie/Emergencies/National-Emergency-Plan-for-Nuclear-Accidents-\(NEP.aspx\)](http://www.rpii.ie/Emergencies/National-Emergency-Plan-for-Nuclear-Accidents-(NEP.aspx)). Specific information regarding a radiological incident are available at [http://www.rpii.ie/Emergencies/Major-Emergency-Framework-\(1\)/National-planning-for-a-radiological-incident.aspx](http://www.rpii.ie/Emergencies/Major-Emergency-Framework-(1)/National-planning-for-a-radiological-incident.aspx)

⁴⁸⁴ *The Guidelines for Coordinating A National-Level Emergency/Crisis Response*, *cit.*, p. 2.

⁴⁸⁵ *Ibidem*.

⁴⁸⁶ *Cf. Ibidem*.

⁴⁸⁷ *A Framework for Major Emergency Management*, *cit.*, p. 13. The Framework makes explicit a set of core values in major emergency management as follows: Protection and care of the public at times of vulnerability; Clear leadership in times of crisis; Early and appropriate response; Efficient and coordinated operations; Realistic and rational approach, capable of being delivered; Transparent systems, with accountability; Harnessing community spirit; The ethos of self-protection; Maintenance of essential services; Safe working. *Ibidem*.

⁴⁸⁸ *Ibidem*, p. 17

The above cited instruments deals with a “major emergency” that may affect Ireland, both directly and indirectly. As they state, a major emergency consists in “any event which, usually with little or no warning, causes or threatens death or injury, serious disruption of essential services or damage to property, the environment or infrastructure beyond the normal capabilities of the principal emergency services [An Garda Síochána (the National Police), the Ambulance Service and the Fire Service, see *infra*] in the area in which the event occurs, and requires the activation of specific additional procedures and the mobilisation of additional resources to ensure an effective, co-ordinated response”.⁴⁸⁹ In other words, an emergency is “major” when it consists of events that are highly destructive, and when countering it requires the co-ordinated actions of authorities and agencies operating at the national-central, regional and local level, according to their competences and functions (see figure 1).

It has to be stressed that the Irish emergency management system is built around the crucial concept of “lead role/agency”. This concept applies at the national, regional and local level of emergency management (and planning). It provides that in the event of a major emergency, there is an entity (Government department or agency) that takes the lead of the response operations and coordinates all the actors involved in the response. Broadly speaking, the lead is taken “automatically” by a concerned Department or agency depending on the specific type of emergency and on the interests/sectors it affects. For local and regional response, the determination of the “lead agency” is set out in the *Framework* based on the incident type.⁴⁹⁰ The “lead ministry” is pre-determined by incident type based on the *Strategic Emergency Planning Guidance*.⁴⁹¹ The *ratio* of pre-establishing the Department/agency that is taking the lead once a major emergency has been declared is to assign as quickly as possible responsibility for the co-ordination function. It is worth stressing that the lead Department/agency role may change over time, to reflect the changing circumstances of the major emergency. Ownership of the leadership may be reviewed at appropriate stages of the major emergency.⁴⁹² As it will be described further, different departments or agencies may take the lead in case of an emergency involving respectively the accidental or voluntary release/fusion of C, B and RN substances.⁴⁹³

What has been described so far does not mean that the Irish crisis management system is completely defined by the above cited non-binding instruments. Of course there are some acts and regulations that are relevant and applicable in case an emergency occurs. To cite a few: The Chemicals Act 2008,⁴⁹⁴

⁴⁸⁹ *Ibidem*, p. 15. Emphasis added. Furthermore, The Office of Emergency Plan includes among the “major Emergencies”: Severe weather, Flooding, Chemical spills, Transport accidents (air, sea, rail, road), Accidents at sea, Major pollution incidents at sea, Bomb explosions/suspicious packages, Nuclear incident, Influenza pandemic, Animal disease outbreak. Cf. <http://www.emergencyplanning.ie/>.

⁴⁹⁰ Cf. Appendix F7 A *Framework for Major Emergency Management*, cit., p. 30.

⁴⁹¹ *The Strategic Emergency Planning Guidance*, cit., Annex A, as revised by *The Guidelines for Coordinating A National-Level Emergency/Crisis Response*, cit., p. 6.

⁴⁹² Cf. Appendix F7 A *Framework for Major Emergency Management*, cit., p. 30.

⁴⁹³ Cf. *infra* par. 2.

⁴⁹⁴ *Chemicals Act 2008, No. 13 of 2008, 9.7.2008, available at <http://www.djei.ie/employment/chemicalspolicy/chemicalsact.pdf>. On 15 July 2008, the Act came into operation by order of the Minister for Enterprise, Trade and Employment (*Chemicals Act 2008 (Commencement) Order 2008, S. I. No. 273 of 2008*), available at <http://www.djei.ie/publications/sis/2008/si273.pdf>.*

amended by the Chemicals Act 2010,⁴⁹⁵ that implements and enforces the relevant EU regulations and directives on chemicals, like the “Seveso” Directive on control of major accident hazards involving dangerous substances;⁴⁹⁶ the Health Act 1947⁴⁹⁷ and the Health Act 1953⁴⁹⁸ regulating the notification, surveillance, investigation and control of infectious diseases; The Radiological Protection Act 1991 setting up the Radiological Protection Institute of Ireland (RPII).⁴⁹⁹ On the regulatory side another example is the Infectious Diseases Regulations 2008⁵⁰⁰ and 2009⁵⁰¹ concerning the prevention of danger to public health due to infectious diseases related to incoming or outgoing ships and aircrafts.

At the international level, Ireland is party to all the relevant multilateral treaties dealing with prevention and response to CBRN events. It takes part to international “institutionalised” mechanisms aimed at fostering cooperation among States to counter these events, like those established within UN, NATO and EU.⁵⁰²

⁴⁹⁵ *Chemicals (Amendment) Act 2010, No. 32 of 2010*, 24.11.2010, available at [http://www.djei.ie/employment/chemicalspolicy/Chemicals%20\(Amendment\)%20Act%202010.pdf](http://www.djei.ie/employment/chemicalspolicy/Chemicals%20(Amendment)%20Act%202010.pdf). On 30 November 2010, the Act came into operation by order of the Minister for Enterprise, Trade and Employment (*Chemicals Act 2010 (Commencement) Order 2010, Statutory Instrument (S.I.) No. 591 of 2010*), available at <http://www.djei.ie/employment/chemicalspolicy/si591.pdf>.

⁴⁹⁶ *Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances*, in *OJ L 345/97*, 31.12.2003, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:345:0097:0105:EN:PDF>.

⁴⁹⁷ *Health Act 1947, No. 28 of 1947*, 13.8.1947, available at <http://www.irishstatutebook.ie/1947/en/act/pub/0028/index.html#zza28y1947>.

⁴⁹⁸ *Health Act 1953, No. 26 of 1953*, 29.10.1953, available at <http://www.irishstatutebook.ie/1953/en/act/pub/0026/index.html#zza26y1953>. In the matter of infectious diseases, it just amends the Health Act 1947 (Part IV – Miscellaneous Amendments of the Principal Act)

⁴⁹⁹ *Radiological Protection Act 1991, No. 9 of 1991*, 11.05.1991, available at <http://www.irishstatutebook.ie/1991/en/act/pub/0009/index.html>

⁵⁰⁰ *S.I. No. 4 of 2008 Infectious Diseases (Shipping) Regulations 2008*, available at <http://www.irishstatutebook.ie/2008/en/si/0004.html>.

⁵⁰¹ *S.I. No. 411 of 2009 Infectious Diseases (Aircraft) Regulations 2009*, available at <http://www.irishstatutebook.ie/2009/en/si/0411.html>.

⁵⁰² Cf. *supra* Section I.

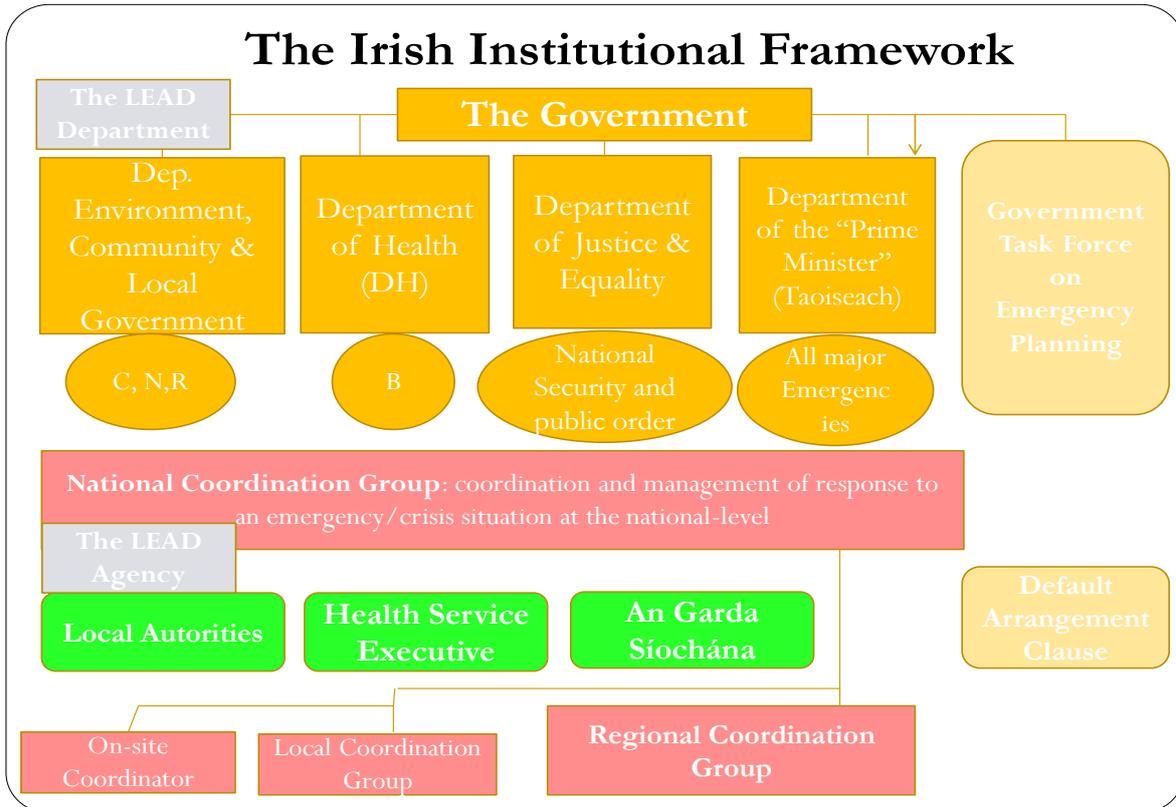


Figure 1.

2. The Institutional Framework

2.1. The Coordination Structure

As above outlined, there is no single Department or agency responsible for major emergency management in Ireland. Rather, at national central level, the relevant Government ministries and public authorities are responsible for maintaining appropriate emergency management functionality according to their statutory ambits and in cooperation with other Departments. At regional and local level, the Government has designated three agencies that are responsible to respond to major emergencies. These are called "Principal Response Agencies" (PRAs). They are: The National Police Service (*An Garda Síochána*), the Health Services Executive and the Local Authorities (including the fire service).⁵⁰³

In the event of a major emergency, the coordination structures of the Irish emergency management system are enacted. Coordination centres can be established at the site, locally, regionally and nationally (see figure 2). It has to be stressed that coordination is a specific function in emergency management, and the coordination task is assigned to the so-called "lead agency" in the local and regional response, and the "lead Government department" (i.e. Ministry) at national level.⁵⁰⁴

⁵⁰³ *Ibidem*. Cf. also *A Framework for Major Emergency Management*, cit., and *The Strategic Emergency Planning Guidance*.

⁵⁰⁴ Cf. *supra* par. 1.

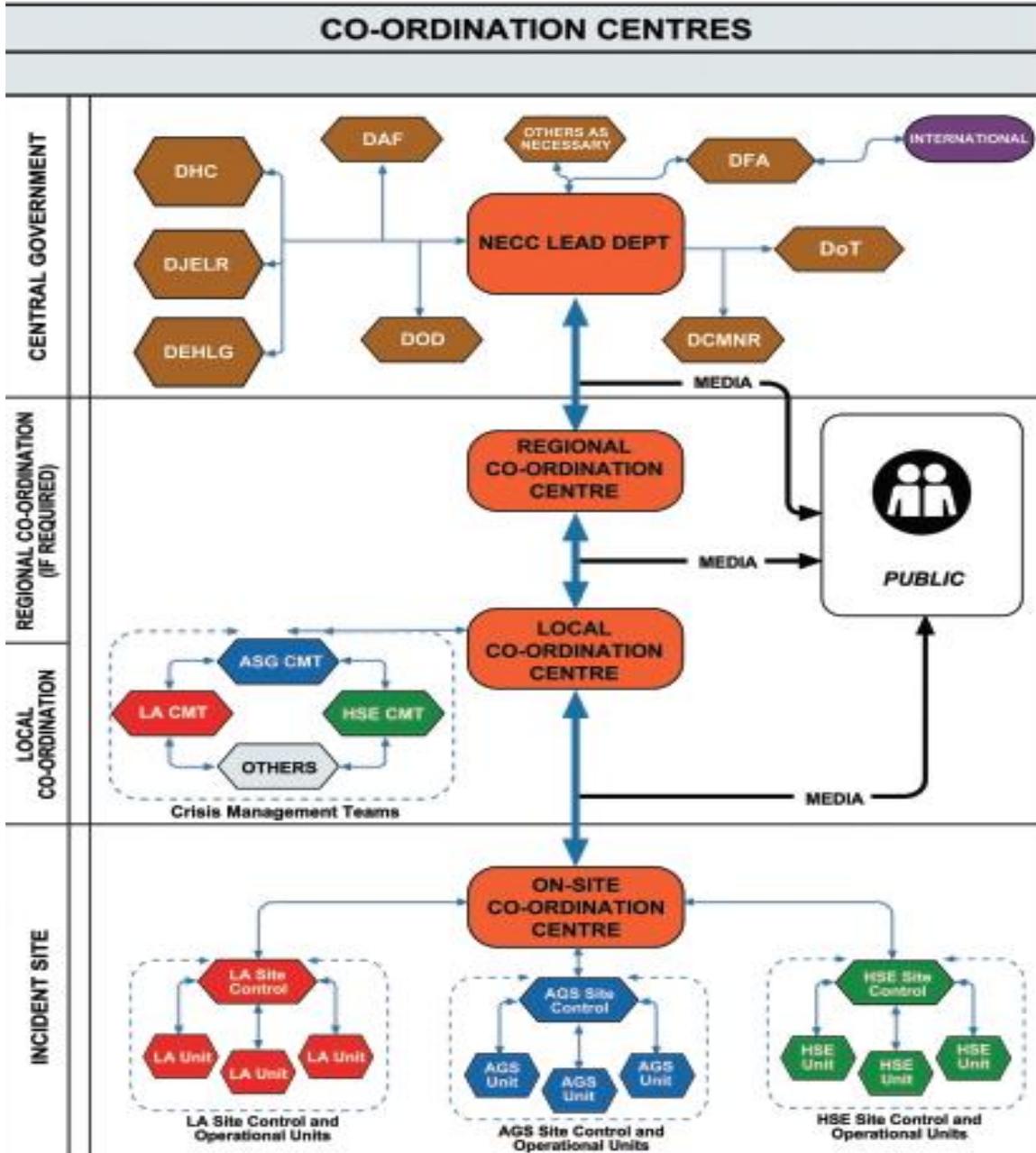


Figure 2.

Schematic Diagram Illustrating On-Site, Local, Regional and National Co-ordination

Source: Appendix F9 Co-ordination Centers, p. 40.

2.2. The National level

According to the *Strategic Emergency Planning Guidance*, each Government Department is responsible for emergency planning within the sectors under its remit.⁵⁰⁵ When an emergency/crisis occurs within a sector, it is that Department's responsibility to initiate the relevant emergency/crisis response and to provide the mechanism for appropriate coordination of national and local response.⁵⁰⁶ Since most emergencies/crisis involve cross departmental issues, all Government Departments (and the agencies under their remit) remain responsible for their own functions in the emergency/crisis situation.

With regard to events involving the accidental or voluntary release/fusion of C, B, R, N substances the pre-identified Governmental lead departments are: the **Department of Environment, Community & Local Government (DECLG)** that is responsible for chemical nuclear and radiological threats;⁵⁰⁷ the **Department of Health (DH)** that is responsible for biological threats – together with the Department of Agriculture, Food and the Marine (DAFM);⁵⁰⁸ the **Department of Justice & Equality (DJE)** that is responsible for national security related incidents like terrorism and for management of public order;⁵⁰⁹ and the **Department of the "Prime Minister" (Taoiseach)** responsible for all major emergencies.⁵¹⁰ In the event of a difficulty in deciding if a national level response is required, or in identifying a lead

⁵⁰⁵ *The Strategic Emergency Planning Guidance*, cit. It is worth reporting the Irish national strategic structures for emergency planning as outlined by the *Guidance*. The Government Task Force on Emergency Planning and The Inter-Departmental Working Group on Emergency Planning are the two main structures in place to support emergency planning and to improve coordination across the various existing national emergency plans. The former is the top-level structure whose functions are providing active political leadership of the emergency planning process, facilitating contact and coordination between Government Department and other public authorities and overseeing all emergency planning. It is chaired by the Minister for Defence and comprises the Ministers and/or the key officials of those Government Departments or authorities involved in the emergency planning process. The latter is the instrument through which expertise is shared between Government Departments and public authorities on emergency planning and provides support for the policy initiatives of the Minister for Defence. It is chaired by the Office of Emergency Planning (established within the Department of Defence) and comprises officials representing Government Departments or authorities involved in the emergency planning process. Another important structure with coordination functions is the Government Information Service (GIS), which prepare and project the Government's message on emergency management and response issues. This activity is promoted and coordinated by an Emergency Planning Media Unit, chaired by the same GIS. Finally, the National Security Committee, which ensure that the Prime Minister (Taoiseach) and the Government are advised on high-level security matters. It comprises representatives of the Department of Taoiseach, the Department of Justice, Equality and Reform, The National Police (An Garda Síochána), the Department of Defence, the Defence Forces and the Department of Foreign Affairs. *Ibidem*.

⁵⁰⁶ The revised Annex "A" to *the Strategic Emergency Planning Guidance*, which is approved by Government, identifies the lead department in more than 40 emergency scenarios. Cf. *Ibidem*, p. 13.

⁵⁰⁷ *Ibidem*. It is responsible for: nuclear accidents/incidents/events abroad (as described in NEPMA), incidents involving hazardous materials (including in transit), radioactive contamination – local e.g. spillages, dispersal of material including in transit; environmental pollution; building collapse/accidental explosions.

⁵⁰⁸ *Ibidem*. The DH is responsible for: biological incident; pandemic influenza and other public health emergencies. The DAFM is responsible for: infectious diseases (animal) e.g. foot and mouth disease (fmd), avian influenza, other 'exotic' diseases.

⁵⁰⁹ *Ibidem*. it is responsible for: emergencies involving explosive ordnance (conventional or otherwise and regardless of provenance); national security related incidents (including terrorism); public order/crowd events (including sports grounds emergencies).

⁵¹⁰ *Ibidem*. It is responsible for all major emergencies requiring Cabinet or Cabinet Committee and central media/communications response.

Government Department, the Minister for Defence, as chairman of the **Government Task Force on Emergency Planning**⁵¹¹, would consult with the parties involved and propose a solution. If the lead Department issue were still not resolved, the matter is then referred to the *Taoiseach* for direction.⁵¹²

The lead Department may also request the convocation of the **National Coordination Group (NCG)**, *i.e.* and *ad hoc* structure that facilitates the coordination and management of response to an emergency/crisis situation at the national-level.⁵¹³ The Group – chaired and supported by the lead Department – meets at the National Emergency Coordination Center (NECC).⁵¹⁴ Decisions will be made by consensus.⁵¹⁵ Individual Departments/ agencies are responsible for implementing decisions in their own areas of competence. The National Coordination Group is also responsible for developing a public information strategy to ensure that the public is updated and kept advised as the emergency situation evolves.⁵¹⁶

2.3. The Regional and Local level

At the regional and local level, **The National Police Service (An Garda Síochána)**, the **Health Service Executive** and the **Local Authorities** are the Principal Response Agencies (PRAs) charged with managing the response to major emergency situations.⁵¹⁷ Any one of the principal response agencies may declare a major emergency and the mobilisation procedures established in its Major Emergency Plan that sets out that agency's response, as well as its contribution to the combined response of the other agencies. As defined in *the Framework*, “response takes place immediately before, during and directly after an emergency and includes activities such as public warning, search and rescue, emergency medical assistance, extinguishing of fires, containment of hazardous materials, transport of casualties, treatment of casualties, maintenance of public order and all associated support activities, as well as the co-ordination and management of these activities”.⁵¹⁸

⁵¹¹ That is the top-level structure facilitating contact and coordination between Government Departments and other public authorities, *cf. supra* ft. 508.

⁵¹² *The Guidelines for Coordinating A National-Level Emergency/Crisis Response*, cit., p. 4.

⁵¹³ *Ibidem*, p. 4. In particular the NCG is responsible for: (i) gathering reports and information, evaluating the emergency/crisis situation from a national perspective and identifying key issues; (ii) coordinating the national level response; (iii) ensuring the dissemination/ sharing of information (inter-department and agency); Setting objectives and identifying priorities; (iv) deciding the efficient allocation of available resources, and seeking additional resources (including international assistance) if required; (v) making decisions in relation to operational cross-cutting issues arising; (vi) developing and making recommendations in relation to any longer-term policy issues arising; (vii) developing a public information strategy (in consultation with the GIS and GPO, *cf. supra* ft. 508).

⁵¹⁴ *Ibidem*, cit., p. 3. As reported in the *Guidelines* “In the case of a “slow-burn” or evolving situation, it may be appropriate for the lead government department to engage in monitoring the situation and to participate in bilateral meetings with other relevant departments, before moving to a decision to convene a National Coordination Group meeting.

⁵¹⁵ However, if consensus cannot be reached, the chair of the Group will refer the matter to the appropriate Ministers for decision. *Ibidem*.

⁵¹⁶ *Ibidem*.

⁵¹⁷ *Cf. A Framework for Major Emergency Management*, cit., pp. 13-14. These agencies provide and operate Ireland's principal emergency services, which respond to “normal” emergencies on a daily basis.

⁵¹⁸ *Ibidem*, p. 17.

As described above, that concept of “lead role” is extended to the Principal Response Agencies too. It provides that a lead agency should be identified and assigned the responsibility and mandate for the co-ordination function in local and regional scale major emergencies.⁵¹⁹ In other words being assigned the lead agency role means that a specific Principal Response Agency is assigned responsibility for the co-ordination function in addition to its own functions associated with the emergency (on-site, off-site, etc.). There are two mechanisms for determining and designating the lead agency. The first is the already discussed by pre-nomination, that identify the agency depending on the type of incident. The second is called “default arrangement”, and provides that in case the leadership is not obvious the Local Authority will be the “default” lead agency. Again, it has to be noted that the lead agency role may, in certain circumstances, change over time.⁵²⁰

With regard to events involving the release/fusion of C, B, and RN agents the pre-identified leading PRA is *An Garda Síochána* where terrorist involvement is suspected and regardless of the agent. The Defence Forces (Irish Army, Naval Service, and Air Corps), may assist *An Garda Síochána* with Explosive Ordnance Disposal (EOD) teams. Should it subsequently transpire that there is no terrorist involvement, the lead agency may change and be: the Local Authority for chemical, radiological and nuclear threat; the Health Service Executive for biological threats.⁵²¹

Once the lead agency has been designed, a mechanism for ensuring effective coordination at site, local and regional level is established (*see supra* figure 1). Let’s describe the issue from a bottom-up perspective. The lead agency provides an “**On-Site Co-ordinator**”, *i.e.* an officer in command that is responsible for coordinating activities carried out by PRAs’ services on site.⁵²² The lead agency also establishes and chair a **Local Co-ordination Group** that is in charge of providing strategic level management for the immediate, medium and long-term consequences of the incident. The Local Coordination Group comprises representatives of the other two PRAS, an Information Management Officer, a Media Liaison Officer, and other specialists if required.⁵²³ It establishes a Local Coordination Center (LCC). The Local Co-ordination Group may decide that the response to a major emergency may be scaled up to a regional level. It thus activate a **Regional Coordination Group** whose primary function is to maintain co-ordination of the principal response agencies involved from the extended “response region”.⁵²⁴ The latter group established a Regional Coordination Center (RCC). When a Regional Co-ordination Centre is activated, it too becomes a key information management system node, with links to each active Local Co-ordination Centre and onward to the Lead Government Department and/or National Emergency Co-ordination Centre, as appropriate.⁵²⁵

⁵¹⁹ Cf. *supra* par. 1.

⁵²⁰ *A Framework for Major Emergency Management*, cit., pp. 56-58.

⁵²¹ Cf. Appendix F7 to *Framework for Major Emergency Management*, cit., table 7.1

⁵²² *Ibidem*, p. 35.

⁵²³ *A Framework for Major Emergency Management*, cit., pp. 60.

⁵²⁴ *Ibidem*, p. 62.

⁵²⁵ *Ibidem*, p. 63.

THE OPERATIONAL FRAMEWORK in RESPONSE TO CBRN CRISIS: ACTORS AND PROCEDURES

In light of what has been described so far, operative response to major emergency situations involving the fusion/release of CBRN substances is carried out by the Principal Response Agencies through their services. It is important to stress that each Principal Response Agency exercises command over its own resources in accordance with its normal command structure, command systems and arrangements. It also exercises control over its own services operating at the site, and other services (other than the other PRAs) which it mobilises to the site.⁵²⁶ As far as control is concerned each PRA have a “**Controller of Operations**” at the site of the emergency, who usually corresponds to the officer in command of the initial response. The Controller of Operations supervises the activities of his/her agency’s services at the site. There should be only one Controller of Operations for each of the three principal response agencies.⁵²⁷

The PRAs’ functions and roles are listed in the *Appendix F5: “Functions of the Principal Response Agencies (including the Principal Emergency Services) in Major Emergency Response”* to the *Framework for Major Emergency Management*.⁵²⁸ In general, the allocation of functions reflects the normal functions of the agencies and their services. In the initial stages of a response, it is expected that most of the functions of an agency will be undertaken by the emergency services element of that agency. As acknowledged by the *Appendix F5* the boundaries between functions are not always clear, and rarely in an emergency situation is a function exercised unilaterally and without reference to the impact on other services. One of the main purposes of on-site co-ordination is to resolve issues which arise regarding relative priority between functions, and boundary issues around the discharge of these functions.⁵²⁹ It is the responsibility of the “On-Site Co-ordinator” to resolve potential conflicts when agreement cannot be reached quickly between the Controllers of Operations.⁵³⁰

a. An Garda Síochána

An Garda Síochána is responsible for the tasks explicitly listed in *Annex F5 to The Framework*.⁵³¹ Once a major emergency has been declared, the most distinguishing tasks carried out by the National Police are: (i) maintaining law and order; (ii) traffic management; (iii) crowd control; (iv) implementing agreed aspects of evacuation procedures; (v) requesting assistance from the Defence Forces in line with agreed

⁵²⁶ *Ibidem*, p. 53.

⁵²⁷ As reported in *Ibidem*, p. 55: “An Garda Síochána and the Health Service Executive are national organisations and issues relating to identifying the Controller or Operations for those services [...] will be determined internally, [...]. In the case of Local Authorities, [...] procedures for resolving such issues may already be set out in what are referred to as Section 81 agreements. Where they are not so covered and the issue cannot be resolved quickly in discussion between the responding officers of the different units of those services, the Local Authority Controller of Operations should be the designated person from the Local Authority whose rostered senior fire officer was first to attend the incident”.

⁵²⁸ *Appendix F5 to the Framework for Major Emergency Management*, cit., p. 23.

⁵²⁹ *Ibidem*.

⁵³⁰ *Cf. supra* par. 2.3.

⁵³¹ *Ibidem*, p. 23-24.

protocols, MOUs etc; (vi) informing the public, as necessary and on the advice of the competent authorities, of actual or potential dangers arising from the emergency; (vii) co-ordinating/conducting searches for missing persons; (viii) assisting and directing survivors/uninjured persons away from the site (and any danger area) to places of safety; (ix) preservation of the site; (x) collection of evidence and forensic work.

b. Health Service Executive

The most characterizing functions carried out by the Health Service Executive in response to a major emergency are: (i) provision of medical advice and assistance; (ii) provision of medical aid to casualties at the site; (iii) triage of casualties, and assigning them to hospitals for evacuation; (iv) casualty evacuation and ambulance transport; (v) provision of hospital treatment; (vi) provision of psycho-social support to persons affected by the emergency; (vii) certification of the dead; (viii) clinical decontamination and decontamination of contaminated persons on arrival at hospital; (ix) maintaining essential health services during the Major Emergency.

c. Local Authorities

During a major emergency, the Local Authorities are in charge of different functions among those: (i) controlling and/or extinguishing of fires; (ii) dealing with hazardous material incidents including a) identification, containment, neutralisation and clearance of chemical spills and emissions; b) decontamination (other than clinical decontamination) on-site of persons affected (under medical supervision where necessary); (iii) advising on protection of persons threatened, by sheltering or evacuation; (iv) arranging/overseeing clean-up of affected areas; (v) limiting damage to infrastructure and property; (vi) provision of access/transport to/from the site of the emergency; (vii) provision of additional lighting required, beyond what the principal emergency services normally carry; (viii) assisting An Garda Síochána to recover bodies; (ix) accommodation and welfare of evacuees and persons displaced by the emergency; (x) provision of food, rest and sanitary facilities as appropriate for personnel involved in the response to the emergency; (xi) liaison with utilities regarding restoration/maintenance/or enhancing services provided to the site or to persons affected; (xii) site clearance, demolition, clear-up operations, removal and disposal of debris; (xiii) maintaining essential Local Authority services (e.g. roads availability, fire and emergency operations cover, public water supply, waste water treatment, waste disposal) during the major emergency.

CONCLUDING REMARKS

In Ireland, preparedness and response to CBRN emergencies are not established by statutory regulations but are defined by Plans adopted at the national, regional and local level according to common planning and management standards. This “flexible” approach to emergency planning and management seems

ensuring adaptability and continuous update of the entire preparedness and response mechanisms, as well as its constant specification and amelioration.

Another remarkable feature of the Irish emergency planning and management system is that the duties and functions of the actors (departments/agencies) providing response are pre-established and fully detailed. Thanks to the adoption of the fundamental concept of the “lead role/agency”, responsibilities for coordination are also quickly assigned. It is worth stressing that the lead role may change over time, to reflect the changing circumstances of the emergency. Ownership of the leadership may be reviewed at appropriate stages of the emergency. And in case it is difficult to determine which responder has the leadership or there is a dispute among the Departments/agencies on the matter, the Irish emergency management systems provides for sound mechanisms to solve the question. Last but not least, coordination and command-control mechanisms for response to emergencies are sound.

To note that the deployment of foreign first responders or law enforcement agencies in support to national actors and institutions is not clearly defined in Ireland.

SPAIN

Abstract

In Spain, the prevention of and response to crisis and emergencies, CBRN threats included, is regulated by different acts adopted over the past 30 years. Specific measures to be taken in emergency and crisis situations are then laid down in basic plans adopted at the national regional, provincial and local level, or in sectorial plans, which should abide by general guidelines adopted by the Government. These Guidelines aims at promoting consistent planning. The above cited framework defines an articulated system aimed at preventing and responding to emergencies or crises stemming from natural and man-made events and which relies on the co-ordinated actions of authorities and agencies that operate at the national-central, regional and local level. Among those authorities the military has a relevant role. Such a system is mainly based upon the Spanish Civil Protection mechanism defined as a “public service” whose organisation, operation and enforcement involves the participation of the various levels of government and the citizens. The mechanism is also based on the principle of subsidiarity meaning that once an emergency situation has been detected, the local authority is responsible in the first place for adopting the necessary measures for tackling it.

SPAIN'S LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRN CRISIS

1. The Normative Framework

In Spain, the prevention of and response to crisis and emergencies, CBRN threats included, is regulated by different acts adopted over the past 30 years. At the domestic level the most relevant legal instruments are: the *Decree No. 1125/1976 on Military-Civil Cooperation during Ordinary and Exceptional Situations*,⁵³² the *Organic Law No. 4/1981 on the Declaration of the States of Alert, Exception and Siege*,⁵³³ the *Law on Civil Protection No. 2/1985*⁵³⁴ and derived legislation, the *Royal Decree No. 2639/1986 establishing the Government Commission for Crisis Situations*,⁵³⁵ the *Royal Decree No. 163/1987 establishing the Department of Infrastructure and Monitoring of Crisis Situations*,⁵³⁶ the *Ministers Council Agreement of 15 January 1988 establishing the National Committee for Emergency Civil Plans*,⁵³⁷ the *Organic Law No. 5/2005 on National Defence*,⁵³⁸ the *Royal Decree No. 1097/2011 adopting the Protocol for the Deployment of the Emergency Military Unit*,⁵³⁹ as well as other sectorial legislation dealing with prevention and management of C, B, RN threats.⁵⁴⁰

Most regional authorities have also drawn up their own legislation for emergency management. The structure of the regional laws is fairly similar, abiding by the following scheme: a) general provisions on the emergency management system (mostly within the framework of the civil protection); b) rights and duties of citizens; c) classes, contents and preparation of plans; d) activation of plans or operational

⁵³² Decreto 1125/1976, de 8 de abril, sobre colaboración de las autoridades militares con las gubernativas en estados de normalidad y excepción, in *Boletín Oficial del Estado (BOE)* núm. 122, de 21 de mayo de 1976, pp. 9800 -9800.

⁵³³ Ley Orgánica 4/1981, de 1 de junio, de los estados de alarma, excepción y sitio, in *BOE* núm. 134, de 05.06.1981, available at <http://www.boe.es/buscar/act.php?id=BOE-A-1981-12774>.

⁵³⁴ Ley Orgánica 2/1985 de 21 de enero, sobre protección civil, in *BOE* núm. 22 de 25.01.1985, p. 2092- 2095, available at <http://www.boe.es/buscar/doc.php?id=BOE-A-1985-1696>.

⁵³⁵ Real Decreto 2639/1986, de 30 de diciembre, por el que se crea la Comisión Delegada Del Gobierno Para Situaciones De Crisis, in *BOE* 313/1986 de 31.2.1986, p. 42462, available at http://www.belt.es/legislacion/vigente/sp_pcivil/pcivil/estatal/norm_comp/pdf/pdf/rd_2639_1986.pdf. See also Real Decreto 1194/2004, de 14 de mayo, por el que se determina la composición de las Comisiones Delegadas del Gobierno, in *BOE* núm. 120, de 18 de mayo de 2004, p. 18884 – 18886.

⁵³⁶ Real Decreto 163/1987, de 6 de febrero, por el que se crea la Dirección de Infraestructura y Seguimiento para Situaciones de Crisis, in *BOE* núm. 33, de 7 de febrero de 1987, p. 3818 a 3818 available at http://www.boe.es/diario_boe/txt.php?id=BOE-A-1987-3279. Cf. also: Real Decreto 1689/2004, de 12 de julio, por el que se desarrolla la estructura orgánica de la Presidencia del Gobierno. Presidencia del Gobierno, in *BOE* núm. 168, de 13 de julio de 2004, available at <http://www.boe.es/buscar/pdf/2004/BOE-A-2004-12996-consolidado.pdf>; Real Decreto 560/2004, de 19 de abril, por el que se reestructura la Presidencia del Gobierno, in *BOE* núm. 96 de 20 de Abril de 2004, available at http://noticias.juridicas.com/base_datos/Admin/rd560-2004.html.

⁵³⁷ Consejo de Ministros de 15 de enero de 1988.

⁵³⁸ Ley Orgánica 5/2005, de 17 de noviembre, de la Defensa Nacional, in *BOE* núm. 276, 18 de Noviembre de 2005, available at http://www.defensa.gob.es/ume/Galerias/Descargas/051118_LODN.pdf.

⁵³⁹ Real Decreto 1097/2011, de 22 de julio, por el que se aprueba el Protocolo de Intervención de la Unidad Militar de Emergencias, in *BOE* Núm. 178 Martes 26 de julio de 2011, p. 84139, available at http://www.defensa.gob.es/ume/Galerias/Descargas/110726_RD_1097_2011_Protocolo_intervencion_UME.pdf.

⁵⁴⁰ Cf. <http://www.proteccioncivil.org/en/tecnologicos>.

management of emergencies; e) administrative organisation and powers and responsibilities, including the Civil Protection or Emergency Commission of the regional authority as the body responsible for liaison and cooperation and the 112 service as an operational management centre; f) infractions and penalties.⁵⁴¹

The measures to be taken in emergency and crisis situations are laid down in government basic plans adopted at the national regional, provincial and local level, or in sectorial plans (by sectors of activity, types of emergency or specific activities), which should abide by the guidelines laid down in the *Basic Regulation for Civil Protection* approved by Royal Decree No. 407/1992.⁵⁴² The competences for approving the plans are distributed at different levels. It is the responsibility of the central government to approve the Basic Plans and Special Plans at national central level, as well as the Basic Guidelines for drawing up Special Plans. The regional authorities are in charge of drafting and approving their Territorial Plans as well as the Special Plans, whose territorial scope does not spill beyond their own region. Local authorities are responsible for drawing up and approving their territorial civil protection plans.⁵⁴³

Among the Sectorial plans there are those dealing with nuclear, radiological and chemical emergencies.⁵⁴⁴ As far as the former are concerned, the Government – through its Ministry of Interior and, in particular, its Directorate-General of Civil Protection and Emergencies⁵⁴⁵ – adopted the *Basic Nuclear Emergency Plan* providing the common criteria for planning, implementing and enforcing response to nuclear accidents.⁵⁴⁶ The criteria contained in the Basic Nuclear Emergency Plan informed the elaboration of five External Emergency Plans⁵⁴⁷ for operational response within the territories where nuclear plants are located.⁵⁴⁸ Each External Emergency Plans also includes the municipal action plans relevant for the municipalities belonging to the area of a radius of 30km from the nuclear plant.⁵⁴⁹

⁵⁴¹ Á. Menéndez Rexach and A. De Marcos Fernández, *The Legal System of Civil Protection: State and Regional Legislation*, in *Seguridad y Medio Ambiente*, No. 119, 2010 available at <http://www.mapfre.com/fundacion/html/revistas/seguridad/n119/articulo3En.html>.

⁵⁴² *Real Decreto 407/1992, de 24 de abril, por el que se aprueba la Norma Básica de Protección Civil*, in *BOE* núm. 105, de 1 de mayo de 1992, pp. 14868 -14870 available at http://www.boe.es/diario_boe/txt.php?id=BOE-A-1992-9364. According to art. 1.3 of the Basic Regulation for Civil Protection a “Civil Protection Plan” is “the organic-functional arrangements and mechanisms allowing the mobilisation of the necessary human and material resources for the protection of people and property in the event of grave collective risk, catastrophe or public calamity, as well as the liaison between the various government levels called upon to intervene”.

⁵⁴³ *Ibidem*, art. 8. Cf. also Á. Menéndez Rexach and A. De Marcos Fernández, *cit.*

⁵⁴⁴ *Ibidem*, art. 6.

⁵⁴⁵ Cf. also *infra*.

⁵⁴⁶ *Real Decreto 1546/2004, de 25 de junio, por el que se aprueba el Plan Básico de Emergencia Nuclear*, in *BOE* núm. 169, de 14 de julio de 2004, pp. 25691 – 25721, available at http://www.boe.es/diario_boe/txt.php?id=BOE-A-2004-13061. Cf. also *Real Decreto 1428/2009, de 11 de septiembre, por el que se modifica el Plan Básico de Emergencia Nuclear, aprobado por Real Decreto 1546/2004, de 25 de junio*, in *BOE* núm. 221, de 12 de septiembre de 2009, pp. 76729 -7673, available at http://www.boe.es/diario_boe/txt.php?id=BOE-A-2009-14502.

⁵⁴⁷ They are all available at <http://www.proteccioncivil.org/en/riesgos-nucleares-planos>.

⁵⁴⁸ There are eight nuclear reactors in operation in Spain that are located in six municipalities in five provinces and were built on six nuclear sites, which are owned by the organisations operating them. These reactors are: Almaraz I and II, in Almaraz (Cáceres), Santa María de Garoña, in Valle de Tobalina (Burgos), Trillo, in Trillo (Guadalajara), Vandellós II, in Vandellós-L’ Hospitalet de l’ Infant and Ascó I and II in Ascó (Tarragona) and Cofrentes, in Cofrentes (Valencia). Furthermore, there are two

Within its competencies in the area of drawing up emergency plans, the Directorate-General of Civil Protection and Emergencies has developed a *Basic Directive on Accident Risk during the Transportation of Dangerous Goods by Road and Rail*.⁵⁵⁰ This includes the transportation of radioactive materials. It has also recently approved a *Basic Directive on Planning for Radiological Risk*, for drawing up external emergency plans for Autonomous Regions.⁵⁵¹

With regard to the Chemical risk it is worth mentioning the *National Plan on the Chemical Risk*.⁵⁵²

At the international level, Spain is party to all the relevant multilateral treaties dealing with prevention and response to CBRN events. It takes part to international “institutionalised” mechanisms aimed at fostering cooperation among States to counter these events, like those established within UN, NATO and EU.⁵⁵³ Furthermore, it has ratified bilateral agreements on cooperation in the field of civil protection with neighbours countries, *i.e.* France, Portugal and Morocco.⁵⁵⁴

In conclusion and broadly speaking, the above cited framework defines an articulated system aimed at preventing and responding to emergencies or crises stemming from natural and man-made events which jeopardise people’s life and their physical integrity, as well as threaten public and private properties. Countering these emergencies or crises, CBRN events included, requires the co-ordinated actions of authorities and agencies that operate at the national-central, regional and local level, according to their competences and functions as established by law or defined in emergencies plans.⁵⁵⁵

1.1. The Spanish Crisis Situation Management System: Civil Protection, Civil defence and National Defence.

It has to be noted that legal instruments cited in the previous paragraph – with special reference to those adopted at the domestic level – define and set up the Spanish Crisis Situation Management System that is mainly based upon the Spanish Civil Protection mechanism. This mechanism is aimed at providing

reactors that are being dismantled and closed down, Vandellós I, in Vandellós (Tarragona) and José Cabrera, in Almonacid de Zorita (Guadalajara).

⁵⁴⁹ Cf. <http://www.proteccioncivil.org/en/riesgos-nucleares>.

⁵⁵⁰ *Real Decreto 387/1996, de 1 de marzo, por el que se aprueba la Directriz Básica de Planificación de Protección Civil ante el riesgo de accidentes en los transportes de mercancías peligrosas por carretera y ferrocarril*, in *BOE* núm. 71, de 22 de marzo de 1996, pp. 10998 -11010, available at <http://www.boe.es/buscar/doc.php?id=BOE-A-1996-6475>.

⁵⁵¹ *Real Decreto 1564/2010, de 19 de noviembre, por el que se aprueba la Directriz básica de planificación de protección civil ante el riesgo radiológico*, in *BOE* núm. 281, de 20 de noviembre de 2010, pp. 96764-9678, available at http://www.boe.es/diario_boe/txt.php?id=BOE-A-2010-17808.

⁵⁵² *Real Decreto 1070/2012, de 13 de julio, por el que se aprueba el Plan estatal de protección civil ante el riesgo químico*, in *BOE* Núm. 190 Jueves 9 de agosto de 2012 Sec. I. pp. 56891-56914, available at <http://www.boe.es/boe/dias/2012/08/09/pdfs/BOE-A-2012-10653.pdf>.

⁵⁵³ Cf. *supra* Section I.

⁵⁵⁴ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/es/2-es-2.html#civil.

⁵⁵⁵ Administratively, Spain consists of 17 autonomous communities and 2 autonomous cities; Andalusia, Aragon, Asturias, Balearic Islands, Ceuta*, Canary Islands, Cantabria, Castilla-La Mancha, Castilla y Leon, Catalonia, Valencian Community, Extremadura, Galicia, La Rioja, Madrid, Melilla, Murcia, Navarra and Pais Vasco. The heads of the administrative units are appointed by the national government. Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/es/2-es-1.html#over.

the “physical protection of persons and property in a situation of great collective risk, public calamity or extraordinary catastrophe, in which the security and lives of persons might be imperilled or massively threatened”.⁵⁵⁶ Before describing what the Spanish Crisis Situation Management System consists in and how it works – especially with regard to CBRN threats – it seems necessary to explain the content of the notion of “Civil Protection” currently adopted by the Spanish legal order, and its relationship with another notion *i.e.* “Civil defence”. The latter had been formally defined by the Spanish normative framework since 1980s but then apparently overlooked in 2005.

The expression “civil protection” (*“protección civil”* in Spanish) was first brought into the Spanish legal system under the Decree No. 827 of 4 May 1960 creating the Directorate General of Civil Protection (*Dirección General de Protección Civil*), an organism coming under the Government Presidency (*Presidencia del Gobierno*).⁵⁵⁷ Its remit was to “organise, regulate and coordinate the nationwide protection of the population and the resources and wealth of all types in the event of *war or public calamity*, with the purpose of forestalling or mitigating the risk to people and property”.⁵⁵⁸ Two elements are worth noting here. First, civil protection concerned threats associated with both situations of war and public calamities. Second, the Directorate General of Civil Protection was headed by an army general, underlining that Civil protection was tied-up to the military. Few years later, Decree No. 398 of 29 February 1968 on the structure and powers of the Sub-directorate General of Civil protection (Decree 398/1968)⁵⁵⁹ introduced the first legal definition of “Civil protection” *i.e.* “the set of actions geared towards forestalling, reducing or correcting the damage caused to people and property by any type of *aggression in war* and also by *natural or extraordinary elements in peacetime* when the scope and gravity of their effects gives them the character of a public calamity”.⁵⁶⁰ Again, the cited provision shows clearly that Civil protection has the wide goal to prevent, mitigate and respond to damages stemming from two kind of situations: “war” and “public calamities in peacetime”. The above said shows the original tie-in of civil protection with armed aggression and conflict situations, making it difficult to draw the boundaries that divide the former concept from the notion of “Civil defence” – especially after this was defined by the Spanish legal order in the 1980s.⁵⁶¹ Indeed, the Organic Law No. 6/1980 regulating the basic criteria of National Defence and Military Organisation – in force until 8 December 2005 – adopted the term “Civil defence” (*“defensa civil”*) meaning “the permanent readiness of all human and material resources not strictly military in the service of National Defence and also in the struggle against all types of

⁵⁵⁶ The Law on Civil Protection, *cit.*, Sect. I “*Fundamentos*”.

⁵⁵⁷ See Á. Menéndez Rexach and A. De Marcos Fernández, *cit.* See also Á. I. Peiró, *La Información Pública y la legislación en materia de Protección Civil y Emergencias*, in *Nueva Época*. No. 10, June-August, 2012, p. 48 ff. Cf. also Decreto 827/1960, de 4 de mayo, por el que se crea la Dirección General de Protección Civil, in *BOE* núm. 111, de 9 de mayo de 1960, pp. 6173 a 6173 available (in Spanish) at <http://www.boe.es/boe/dias/1960/05/09/pdfs/A06173-06173.pdf>.

⁵⁵⁸ *Ibidem*, art. 1. Emphasis added.

⁵⁵⁹ Decreto 398/1968, de 29 de febrero, sobre Estructura y Competencia de la Subdirección General de Protección Civil, del Ministerio de la Gobernación, in *BOE* 8 de marzo de 1968; núm. 59, p. 3531. See, in particular, art. 1.

⁵⁶⁰ Emphasis added. Cf. also A. Menéndez Rexach and A. De Marcos Fernández, *op. cit.*

⁵⁶¹ As described by No. Bremberg and M. Britz, *EU Civil Protection and The New Security Role of the Union*, Paper presented at the ECPR’s 6th Pan-European International Relations Conference Standing Group on International Relations, Turin 12-15 September 2007, p. 13, available at http://turin.sgir.eu/uploads/Britz-bremberg_&_britz_turin_conference_paper_070831.pdf, the concept of “civil defence” was firstly introduced in the 1940s and further developed after the Second World War where main threat was conceived to be bombings against the civilian.

extraordinary catastrophes”.⁵⁶² Of course, one may argue that the concept of “Civil defence” as declared here referred to the readiness of non-military resources in the service of “national defence”, whereas “civil protection” strictly speaking implied the use of these resources for dealing with emergencies bearing no formal relationship to national defence. However, it seems that the two notions overlapped partially: both “Civil defence” and “civil protection” dealt with “all types of extraordinary catastrophes”.

Nowadays, it seems that the concept of Civil defence has been more or less replaced by or incorporated in the notion of civil protection.⁵⁶³ The Organic Law No. 5/2005 on National Defence – that replaced the Organic Law No. 6/1980 – does not adopt a formal definition of “Civil defence” anymore. It establishes that Council of National Defence will, in war time, coordinate the Civil protection system, and that, in peace time, the Armed Forces shall, together with other state and public authorities, preserve the security and well-being of the citizens in cases of grave risks, catastrophes and calamities.⁵⁶⁴ In conclusion, nowadays the Spanish legal order omits to adopt a formal definition of “Civil defence” and acknowledges the distinct concepts of civil protection, on one side, and national defence on the other. The latter refers primarily to armed conflicts. In that contexts, it also considers the possibility to employ the structures and mechanisms provided by the civil protection system for the purpose of safeguarding citizens’ lives and integrity, and public goods – we repeat, in a situation of war. Civil protection refers primarily to peace time dangerous situations (terrorism included) whereas also the Spanish army can provide its assistance.

In particular, a request for cooperation to the Spanish army can be made by civil authorities through the Minister of the Interior. In cases of emergency, such a request can be made verbally, but needs subsequent written confirmation. According to the Military Penal Code, refusal to cooperate is regarded as a criminal offence. The Armed Forces can be employed to support any public service. Responsibility for the execution of such support action rests with the military command, but this does not extend to the preparation of the support action.⁵⁶⁵ Currently, there is an Emergency Military Unit, under the Ministry of Defence, which is a government tool for civil protection activities.⁵⁶⁶

2. The Institutional Framework

2.1. The national-central level

At national-central level, crises and emergencies management is the responsibility of the **Government of Spain** that acts through different organisms and structures, overall defining the Spanish Crisis Situation Management System.⁵⁶⁷ These organisms are: the Government Delegated Commission for Crisis

⁵⁶² See art. 21 *Ley Orgánica 6/1980, de 1 de julio, por la que se regulan los criterios básicos de la defensa nacional y la organización militar*, in *BOE* núm. 165, de 10 de julio de 1980, pp. 15750 -15753, available at <http://www.boe.es/boe/dias/1980/07/10/pdfs/A15750-15753.pdf>.

⁵⁶³ No. Bremberg and M. Britz, *cit.*, p. 13.

⁵⁶⁴ Organic Law No. 5/2005 on National Defence, *cit.*, artt. 28 and 15.

⁵⁶⁵ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/es/2-es-2.html#cipro.

⁵⁶⁶ Cf. *infra*.

⁵⁶⁷ The Government acts in this matter through its Council of Ministers (*Consejo de Ministros*).

Situations (*Comisión Delegada del Gobierno para Situaciones de Crisis* or *GDGCS*); the Support Commission (*Comisión de Apoyo*); the National Committee of Civil Emergency Plans (*Comité Nacional de Planes Civiles de Emergencias* or *CNPCE*); the Department of Crisis Situation Infrastructure and Monitoring (*Departamento de Infraestructura y Seguimiento de Situaciones de Crisis* or *DISSC*). Furthermore, within this Ministry of Interior, there is the Directorate General of Civil Protection and Emergencies (*Dirección General de Civil protection y Emergencias*), depending on the Subsecretariat of the Interior (*Subsecretaría de Interior*), that is responsible for civil protection matters.

Starting with the **Government Delegated Commission for Crisis Situations**, it is the highest decision-making organism during a crisis situation.⁵⁶⁸ It consists of the Prime Minister, who presides it, the Government Vice-Presidents, the Minister of Foreign Affairs and Cooperation, the Minister of Defence, the Minister of the Interior, the State Secretary for Security, the Director of the National Intelligence Centre (CNI) and the Director of the Prime Minister's Cabinet, who acts as secretary of this Delegate Commission. In general, its tasks are to direct and coordinate all actions related to the prevention, control and management of national or international crises threatening the life, security or wellbeing of the Spanish people. It is also responsible for the adoption of plans and programs necessary to guarantee continuity of the Government's action and safeguard the life of citizens during a crisis.

In carrying out its tasks, the Government Delegated Commission for Crisis Situations is assisted by a **Support Committee** consisting of the senior staff of the Government departments represented in the former Committee.⁵⁶⁹ The Support Committee is responsible for organising the Delegated Government Committee meetings, advising and assisting the Prime Minister and conveying his/her decisions, and for other tasks that may be circumstantially appointed to it.

The **National Committee for Emergency Civil Plans** is the inter-ministerial support organ of the Government Delegated Commission for Crisis Situations.⁵⁷⁰ It is concerned with tasks related to the provision and implementation of resources in situations of crisis or emergency. It is presided by the GDGCS's secretary, who acts as the Emergency Civil Plans national authority.⁵⁷¹ It has two vice-presidents. The first vice-president is the Defence Policy director-general, of the Defence Ministry. The second vice-president is the Ministry for the Interior Civil Protection director-general, who coordinates the channelling of the resources to Civil Protection in cases of crisis or emergency. The National Committee for Emergency Civil Plans consists of the Director of the Infrastructure and Monitoring Department for Crisis Situations (DISSC), the Director of the Prime Minister's International Security Department, the coordinators of the different Work Sectoral Committees and the Permanent Representative of Spain to the Senior Civil Emergency Planning Committee (SCEPC) of the NATO. The *CNPCE* is in charge of: issuing planning directives for different emergency plans, related to objectives, alternatives, and determination of time limits in order to plan for the different hypothetical crisis situations that have been formulated by the Delegate Commission of the Government for Crisis Situations; coordinating the different plans for resource contribution formulated by the Sectorial

⁵⁶⁸ It was created by means of Royal Decree No. 2639/1986, cit. and subsequently reorganised by the Royal Decree No. 1194/2004, cit.

⁵⁶⁹ It was created by on 28 January 1987. Cf. <http://www.defensa.gob.es/en/ladefensa/situacionesCrisis/>.

⁵⁷⁰ It was created by Council of Ministers Agreement of 15 January 1988, which has not been published. *Ibidem*.

⁵⁷¹ *Ibidem*.

Committees, and dispatch of these to the CDGSC for approval if applicable; informing periodically the CDGSC about the state of preparedness for crisis or emergency situations; participating in the tasks developed by all of NATO's Senior Civil Emergency Planning Committee (SCEPC); maintaining the necessary relations with homologous structures in other countries in coordination with the Ministry of Foreign Affairs. Nationally, the NCEPC functions as an intermediate organisation, with the on the CDGSC one side, from which it receives directives and crisis hypotheses, and the Sectorial Committees on the other side, which it directs and controls.⁵⁷²

The **Department of Infrastructure and Monitoring of Crisis Situations** is appointed to the Secretariat General of the Prime Minister, but is functionally dependant on the Prime Minister's Cabinet director, who shall likewise exercise the function of director of the Government Executive Committee for Crisis Situations.⁵⁷³ The *DISSC* provides assistance to the Crisis Situation Management National System, and has the following specific functions: to maintain and ensure the appropriate operation of the Crisis Situation Management National Centre and the Prime Minister's special communications, as well as to protect its facilities and documentation; to monitor the national and international crisis or emergency situations, in coordination with the support organs and directly competent authorities, and serve as a support organ for the actions of the Prime Minister or of the Prime Minister's Delegate Committee for Crisis Situations; to study and propose, as the case may be, the rules necessary for the Crisis Situation Management National System to operate and act; and to plan and coordinate the crisis management exercises.⁵⁷⁴

As stated before, within the **Ministry of Interior**, there is the **Directorate General of Civil Protection and Emergencies** that is in charge of the national mechanism of civil protection (see Figure 1). The basic regulation governing this mechanism is the Law on Civil Protection No. 2/1985.⁵⁷⁵ It defines Civil Protection as “a public service whose organisation, operation and enforcement involves the participation of the various levels of government and also the citizens by means of compliance with their corresponding duties and offering of their voluntary collaboration”.⁵⁷⁶ Its configuration as a public service entails that the civil protection mechanism does not have to be implemented by creating new structures but only by means of coordinating – through *ad hoc* organisms - the existing ones in relation to the particular emergency or crises to be dealt with. Another specific aspect of this public service is the importance assigned to self-protection by the citizens, who should be trained, informed and organised to provide such protection for themselves.⁵⁷⁷ It has to be noted that the Constitution of Spain (1978) does refer to “the duties of citizens in case of grave risk, catastrophe or public calamity” (Civil Protection), which should be regulated by law.⁵⁷⁸ The citizens' duties in emergency situations are different from their military obligations, which form part of the overarching duty of defending Spain (National Defence).⁵⁷⁹ The former duties refer, therefore, to emergency or critical situations in peacetime which fall within the

⁵⁷² *Ibidem*.

⁵⁷³ It was created by the Royal Decree No. 163/1987 and reorganised by the Royal Decrees Mos. 1689/2004 and 560/2004. It consists of different units that are: Alert and Monitoring Unit; Crisis Management Unit and the Infrastructure Unit. *Cf. Ibidem*.

⁵⁷⁴ *Ibidem*.

⁵⁷⁵ *Cit*.

⁵⁷⁶ *Ibidem*, art. 1.2.

⁵⁷⁷ A. Menéndez Rexach and A. De Marcos Fernández, *op. cit*.

⁵⁷⁸ See art.30.4 of The Spain Constitution 1978, *cit*.

⁵⁷⁹ *Ibidem*, art. 30.1 and 30.2.

scope of civil protection, the latter to critical situations in wartime, falling within the scope of national defence.⁵⁸⁰

The Civil Protection mechanisms is informed by the principle of subsidiarity. Once an emergency situation has been detected, the local authority is responsible in the first place for taking the necessary measures for tackling it. When the nature or extension of the risk, the scope of the emergency situation or the services and resources to be mobilised exceed the remit of the local plan, the widest-ranging territorial plan will be activated to meet the needs of the emergency. Application of this principle is reflected in the identification of the different degrees or levels of emergency (0, 1, 2 and 3) as laid down in the civil protection plans, pursuant to the *Basic Civil Protection Regulation* of 1992.⁵⁸¹ These plans are the most important legislative instruments of coordination, especially the territorial plan of civil protection (or emergency management) of the region involved. The most important liaison body (rather than coordination) is the **Civil Protection Commission** of the regional authority.

In conclusion, the civil protection mechanism provide the “normal” response to emergencies or critical situations in Spain. Should this response prove to be insufficient, the Spanish Government may formally declare the state of emergency. In these exceptional situations the civil protection mechanism does not disappear as a public function, but “will be subordinated in all its activities to the competent authorities in each case, in due accordance with the provisions laid down in Organic Law 4/1981 of 1 June”.⁵⁸² According to the cited Organic Law the declaration of the states of alert, exception and siege declaration is justified whenever an emergency is extremely serious and cannot be dealt with by “the ordinary powers of the competent authorities”.⁵⁸³ As far as the declaration of the state of alert is concerned, it may be decided by the Council of Ministers.⁵⁸⁴ It may cover all or part of the national territory when there are catastrophes, calamities or public disasters (earthquakes, floods, fires, big accidents...); health crises (epidemics, serious contamination situations...); interruption of public services that are essential to the community or situations of shortage of basic commodities.⁵⁸⁵

2.2. The regional and local level

Turning now to the regional dimension of response to emergencies or crises – CBRN events included – in Spain, there are different authorities and agencies that are involved or have a stake. Powers and responsibilities for this matter are assigned to the department or regional ministry in charge of “interior” or “home affairs” matters, whether under this actual denomination or with the traditional title of “governance”, or “presidency”, “public authorities” or other more complex combinations to suit the existing departmental structure (for example, “Presidency, Justice and Equality” in Asturias or “Territorial

⁵⁸⁰ Cf. A. Menéndez Rexach and A. De Marcos Fernández, *op. cit.*

⁵⁸¹ *Cit.*

⁵⁸² Law on Civil Protection No. 2/1985, *cit.*, art. 3.1.

⁵⁸³ Organic Law No. 4/1981, *cit.*, art. 1.1.

⁵⁸⁴ See art. 116.2 of the *Constitución Española*, 1978, in *BOE* núm. 311 de 29 de Diciembre de 1978. The English version (not official) of The Constitution of Spain is available at http://legislationline.org/download/action/download/id/2325/file/Spain_Const_1978_eng.pdf.

⁵⁸⁵ Organic Law No. 4/1981, *cit.*, art. 4.

Policy, Justice and Interior” in Aragón). In some of them, it has been established a specific executive centre for civil protection or emergency management (Directorate General of Civil Protection or Directorate General of Emergencies or both); in others it comes under the denomination of security (Directorate General of Security and Emergencies in the Canaries), while in a third group the matter is brought under the umbrella configuration as Executive Centre (Directorate General of the Interior or the like). In the region of Valencia, it is linked to the prevention and extinguishment of fires. The most noticeable cases are those of Extremadura and La Rioja in which the civil protection powers are attributed to a very wide ranging Directorate General of Justice and Interior and are diluted therein. Some regions (Castilla y León, Galicia, Navarre) have created emergency management “agencies” (in Castilla y León the agency, rather surprisingly, also has powers over “consumer affairs”).⁵⁸⁶

⁵⁸⁶ *Ibidem.*

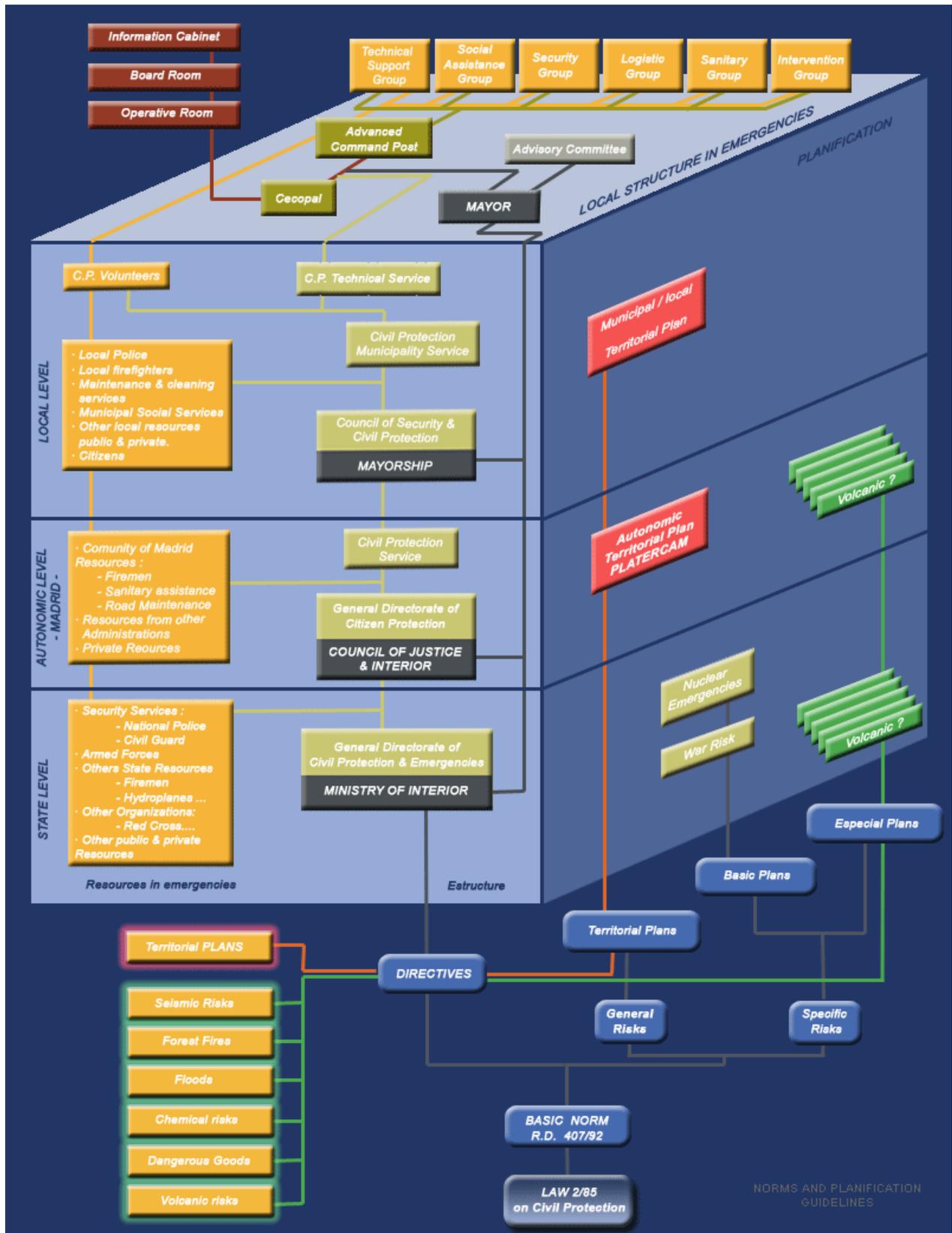


Figure 1.

Source: <http://www.civilprotection.net/index.phtml?id=124>

THE OPERATIONAL FRAMEWORK in RESPONSE TO CBRN CRISIS: ACTORS AND PROCEDURES

At the operative level, response to crises and emergency situations involving the fusion/release of CBRN substances is carried out by different agencies in Spain. Among these agencies there are: the Emergency Military Unit of the Ministry of Defence, the Civil Guard, the Spanish Health Care Providers, the Spanish Red Cross,⁵⁸⁷ NGO's and other associations of volunteers.

It worth citing that a significant contribution to the coordination - both tactical and operative - of all the agencies and actors engaged in crisis and emergency prevention and response in Spain is provided by the National Network for Emergencies (*Red Nacional de Emergencias* or *RENEM*).⁵⁸⁸ The *RENEM*'s is an information system serving as a decision support tool. It is established within the Ministry of Defence. Its mission is to interconnect National and Regional crises management agencies, as well as private corporations in charge of critical infrastructures, in order to ensure rapid and efficient exchange of relevant information before and during emergencies (see figure 2 and 3).⁵⁸⁹



Figure 2.

Source: http://portal.renem.es/Paginas/Ampliacion_RENEM.aspx

⁵⁸⁷ As the role of the Spanish Red Cross see http://www.cruzroja.es/docs/2006_34_CN/SOCORROS_EMERGEN.

⁵⁸⁸ Cf. <http://portal.renem.es/default.aspx>. For relevant documentation see, in particular, <http://portal.renem.es/Paginas/Documentacion.aspx>.

⁵⁸⁹ Cf. also http://www.eena.org/ressource/static/files/04_rodolfo.pdf.



Figure 2.

Source: <http://portal.renem.es/paginas/Organismos.aspx>

e. The Emergency Military Unit

The Emergency Military Unit (*Unidad Militar de Emergencias* or *UME*) is the First Response Unit of the Armed Forces, designed to contribute to citizen security and welfare in the event of serious risk, disaster, catastrophe or other public need, anywhere in the national territory.⁵⁹⁰ It cooperates with the national, regional and local governments. Its territorial deployment at seven military bases across Spain allows for rapid intervention throughout the national territory.⁵⁹¹ According to the Royal Decree No. 1097/2011 adopting the *Protocol for the Deployment of the Emergency Military Unit*, the *UME* may intervene in emergencies stemming from natural (earthquakes, floods, forest fires or adverse weather conditions) or “technological” events, in particular, those entailing the release of chemical, nuclear, radiological and biological agents, as well as those provoked by criminal acts like terrorism.⁵⁹² If needed, it can assimilate

⁵⁹⁰ See <http://www.defensa.gob.es/ume/que-es/>.

⁵⁹¹ *Ibidem*.

⁵⁹² Royal Decree No. 1097/2011, *cit.*, Tercero. See also Orden DEF/896/2013, de 16 de mayo, por la que se modifica la estructura orgánica y el despliegue de la Unidad Militar de Emergencias, que figura en el Real Decreto 416/2006, de 11 de abril, por el que se establece la organización y el despliegue de la Fuerza del Ejército de Tierra, de la Armada y del Ejército del Aire, así como de la Unidad Militar de Emergencias, y se modifica la Orden DEF/1766/2007, de 13 de junio, por la que se desarrolla el

and coordinate the participation of other Armed Forces Units or be assigned to manage other State, regional or local entities, in the event of emergencies declared to affect the national interest.⁵⁹³

f. The Civil Guard

The Civil Guard (*Guardia Civil*) is an armed institution of military nature that is part of the National Law Enforcement Agencies.⁵⁹⁴ It is commanded by a lieutenant general of the army but is part of the Ministry of the Interior.⁵⁹⁵ Its primary mission is to prevent, investigate, apprehend, or detect individuals suspected or convicted of offenses against the criminal laws, and in general to provide relief, support and protection of Spanish citizen. It is responsible for counterterrorism, road traffic control, protection of coasts, borders and territorial waters, environmental protection, or mountain rescue.⁵⁹⁶

In case of a CBRN crisis or emergency, the Civil Guard contributes to response operations by supporting rescue activities, securing the emergency situation area, controlling and directing road traffic, and investigating and pursuing criminal offences related to the event. They carry out their activities on the basis of duties and rights established by law.

It has to be noted that the Civil Guard has established the Service for Explosive Disposal and CBRN Defence (*Servicio de Desactivación de Explosivos y Defensa NRBQ (Nuclear, Radiológica, Biológica y Química or SEDEX-NRBQ)*).⁵⁹⁷ The Service's mission is the detection, neutralization and disposal of explosives and incendiary, radioactive, biological and chemical devices, as well as the study and analysis of explosives neutralisation techniques. It is responsible for the technical direction of the overall Civil Guard's CBRN Defence System.

At the central level, the *SEDEX-NRBQ* consists of a Central Operations Unit for Explosives Disposal and CBRN Defence (*Unidad Central Operativa de Desactivación de Artefactos Explosivos y de naturaleza NRBQ or UCODEX*), that supports local units' activities of search, detection, neutralization and deactivation of these kind of threats; a Training Center for Explosive Disposal and CBRN Defence (*Centro de Adiestramientos en Desactivación de Explosivos y Defensa NRBQ or CADEX*); and a CBRN Technical Unit (*NRBQ Technical Unit or UT-NRBQ*) that is responsible for the operative management of the Civil Guard's CBRN Defence System and for staff training and maintenance of equipment and analysis of information concerning CBRN.

encuadramiento, organización y funcionamiento de la Unidad Militar de Emergencias, in *BOE* Núm. 124 Viernes 24 de mayo de 2013, pp. 39268 – 39272.

⁵⁹³ Cf. *supra*.

⁵⁹⁴ Cf. <http://www.guardiacivil.es/en/institucional/Conocenos/index.html>. The *Guardia Civil* is comparable to the French *Gendarmerie*, the Italian *Carabinieri*.

⁵⁹⁵ The *Guardia Civil* is accountable to two ministries: the Ministry of the Interior (as regards services, payments, positions and resources) and the Ministry of Defence (as regards promotion and military missions). Besides, it also responds to the needs of the Ministry of Finance as far as the protection of the national economic interests is concerned and, as administrative police, it ensures the enforcement of all the rules and regulations related to the different bodies within the National and Regional administrations. See <http://www.fiep.org/member-forces/spanish-guardia-civil/>.

⁵⁹⁶ Cf. <http://www.guardiacivil.es/en/institucional/Conocenos/index.html>.

⁵⁹⁷ Cf. <http://www.guardiacivil.es/es/institucional/especialidades/tedax/>.

At the territorial level, the SEDEX-NRBQ deploys Search and Neutralisation Units (*Unidades de Búsqueda y Desactivación*) consisting of Special Teams for the Neutralisation of Explosives and CBRN Devices (*Grupos de Especialistas en Desactivación de Artefactos Explosivos y de naturaleza NRBQ* or *GEDEX*) and Teams for Search and Location of Explosives and CBRN Devices (*Equipos de Búsqueda y Localización de Artefactos Explosivos y NRBQ* or *EBYL*). It deploys furthermore CBRN Defence Units consisting of: CBRN Provincial Units (*Unidades NRBQ de ámbito provincial*) in charge of the first approach to CBRN threats or emergencies, and of adopting preventive measures and early reaction; First Response Units (*Unidades de Primera Intervención* or *UPI*), responsible for assessing the risks and deciding the urgent measures to face a CBRN emergency; and NRBC support units (*Unidades de Apoyo NRBQ*), providing further assistance and support.⁵⁹⁸

g. The Spanish Health Care Providers

The National Health Service of Spain has a wide network of hospitals and health centres located throughout the country.⁵⁹⁹ During an emergency situation the health care providers are in charge of offering medical advice, assistance and treatment to injured or affected people, psycho-social support included.

CONCLUSIVE REMARKS

A sound strategic, tactical and operative direction and coordination framework for national, regional and local response to crises and emergencies established by law and by emergency plans; a thorough decision support system based upon an information network linking all the main actors involved in response operation; a close military-civil cooperation in crisis and emergency management; a constitutional duty for Spanish citizens to protect the nation from grave risks, natural disaster and other public emergencies; a high level of specialisation of Spanish first responders (especially the Emergency Military Unit and the Civil Guard) in dealing with/countering CBRN – and E – threats: these are the most remarkable features of the Spanish Crisis Situation Management System. These system s mainly based upon the Spanish Civil Protection mechanism defined as a “public service” and informed to the principle of subsidiarity. With regard to its configuration as a “public service” - like the Italian Civil protection System –, it entails that the civil protection mechanism does not have to be implemented by creating new structures but only by means of coordinating – through *ad hoc* organisms - the existing ones in relation to the particular emergency or crises.

To note, none of the above investigated legislation or plans seems to provide specific and detailed regulations for the deployment of foreign first responders or law enforcement agencies in support to national actors and institutions.

⁵⁹⁸ *Ibidem.*

⁵⁹⁹ See http://www.euro.who.int/__data/assets/pdf_file/0004/128830/e94549.pdf.

SWEDEN

Abstract

The Swedish normative framework dealing with prevention of and response to emergencies and crises, CBRN events included, consists of a core set of regulations adopted over the last 20 years. This framework defines an articulated crisis and emergency management system aimed at preventing and responding to natural or man-made events that threaten the lives and health of the population, the society's ability to function and the capacity to uphold basic values such as democracy, the rule of law and human rights. This system is mainly based on the Civil protection mechanism that is normally triggered during peace time crises or emergencies. In case of war or threaten of war, Sweden may also rely on its "Civil defence". Overall, the Swedish civil protection (and Civil defence) is based on three fundamental principles: "responsibility", "equality" and "proximity". Different stakeholders (public civil and military authorities, the private sector, the civil society) take joint responsibility for strengthening the Sweden's overall emergency management capacity.

THE SWEDISH LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRN CRISIS

1. The Normative Framework

The Swedish normative framework dealing with prevention of and response to emergencies and crises, CBRN events included, consists of a core set of regulations adopted over the last 20 years.⁶⁰⁰ At the domestic level the most relevant legal instruments are: the *Civil Protection Act* (2003),⁶⁰¹ the (New) *Rescue Services Act* (2003),⁶⁰² the *Act On Municipal and County Council Measures Prior To and During Extra-Ordinary Events in Peacetime and During Periods of Heightened Alert* (2006),⁶⁰³ the *Emergency Management and Heightened Alert Ordinance* (2006),⁶⁰⁴ the *Public Order Act* (1993),⁶⁰⁵ the *Total Defence Service Act* (1994),⁶⁰⁶ as well as other legislation dealing with prevention and management of C, B, RN (and “E”) events, e.g. the *Act on Measures To Prevent and Limit the Consequences of Major Chemical Accidents* (1999)⁶⁰⁷ the *Flammables and Explosives Act* (2010),⁶⁰⁸ *Transport of Dangerous Goods Act* (2006),⁶⁰⁹ and the *Ordinance on Producer’s Responsibility for Certain Radioactive Products and Orphan Sources* (2007).⁶¹⁰

⁶⁰⁰ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/se/2-se_-1.html#over and <https://www.msb.se/en/About-MSB/Legislative-areas/>. All the cited legislation is available in Swedish at http://rkrattsbaser.gov.se/sfs/sfsr_form2.html.

⁶⁰¹ *Lag (2003:778) om skydd mot olyckor*. Cf. also *infra*. See also in English https://www.msb.se/Upload/Om%20MSB/Lag_och_ratt/Civil%20Protection%20Act%20101227.pdf?epslanguage=en.

⁶⁰² This Law contains provisions on the measures that the national central, regional and local authorities may adopt in order to face emergencies. Instead of detailed rules, the law identifies objectives that are to be met. It is then left to local authorities the adoption of specific measures to be tailored on local needs and contingencies. Special attention is also paid to improving emergency preparedness.

⁶⁰³ *Lag (2006:544) om kommuners och landstings åtgärder inför och vid extraordinära händelser i fredstid och höjd beredskap*. The aim of this act is to reduce vulnerabilities and to maintain a good capacity for managing crises in peacetime.

⁶⁰⁴ *Förordning (2006:942) om krisberedskap och höjd beredskap*. The aim of this ordinance is similar to the previously cited. It is to ensure that Government authorities reduce societal vulnerabilities and maintain a good capacity for dealing with their tasks during peacetime and periods of heightened alert.

⁶⁰⁵ *Ordningslag (1993:1617)*. This Act contains specific regulations for public order management.

⁶⁰⁶ *Lag (1994:1809) om totalförsvarsplikt*.

⁶⁰⁷ *Lag (1999:381) om åtgärder för att förebygga och begränsa följderna av allvarliga kemikalieolyckor*. The aim is evident from the full title of the Act i.e. to prevent and limit injury to people and damage to the environment.

⁶⁰⁸ *Lag (2010:1011) om brandfarliga och explosiva varor*. This Act deals with the handling and import of flammables substances and explosives. It aims at preventing and limiting loss of life, injury, and damage to the environment and property as a result of fire or explosion.

⁶⁰⁹ *Lag (2006:263) om transport av farligt gods*. The goal of this Act is to prevent and limit injury to people and damage to the environment and property as a result of the transport of dangerous goods or unauthorised processes.

⁶¹⁰ *SFS 2007:193 Förordning om producentansvar för vissa radioaktiva produkter och herrelösa strålkällor*, available in English at <http://www.stralsakerhetsmyndigheten.se/Global/Publikationer/Forfattning/Stralskydd/2007/SFS-2007-193e-Ordinance.pdf>.

At the international level, Sweden is party to the most relevant multilateral treaties dealing with prevention and response to CBRN events.⁶¹¹ It takes part to international “institutionalised” mechanisms aimed at fostering cooperation among States to counter these events, like those established within UN, NATO and EU.⁶¹² Furthermore, it has ratified several bilateral and regional agreements on cooperation in the field of emergency management with different States.⁶¹³

Broadly speaking, the above cited normative framework defines an articulated crisis and emergency management system aimed at preventing and responding to natural or man-made events that threaten the lives and health of the population, the society’s ability to function and the capacity to uphold basic values such as democracy, the rule of law and human rights. In particular, this system has the goal to protect people life and integrity, critical infrastructure and fundamental individual and societal values from all types of hazards and risks – the system is based on an all-hazard concept, CBRN included – through a comprehensive, risk-based, emergency preparedness programme including prevention, planning, preparedness, response and recovery.⁶¹⁴ As acknowledged by the above framework, countering these events or emergencies requires the co-ordinated actions of authorities and agencies that operate at the national-central, regional and local level, according to their competences and functions (see figure 1).

It has to be noted that the Swedish crisis and emergency management system is nowadays mainly based on the Civil protection mechanism that is normally triggered during peace time crises or emergencies. Prior to 1995, in case of war or threaten of war, Sweden relied also on its “Civil defence” mechanism that embraced all non-military activities carried out by the society to withstand an armed attack.⁶¹⁵ Unlike

⁶¹¹ Cf. <https://www.msb.se/en/About-MSB/Standardization-work/>.

⁶¹² Cf. *supra* Section I.

⁶¹³ Sweden has entered into bilateral agreements on rescue services with the Baltic countries and a number of other countries. These agreements are: The Operational agreement between the Swedish Rescue Services Agency and the Estonian Rescue Board; the Cooperation agreement between the Lithuanian fire and rescue department under the Ministry of the Interior and the Swedish Rescue Services Agency; The Memorandum between the Government of the Russian Federation and the Government of the Kingdom of Sweden in the field of Emergency Prevention, Preparedness and Response; the Agreement between the Government of the Kingdom of Sweden and the Government of the Republic of Latvia on Collaboration in the Field of Emergency Prevention, Preparedness and Response; the Operational agreement between the State Fire and Rescue Service of the Republic of Latvia and the Swedish Rescue Services Agency; the Agreement between the Government of the Kingdom of Sweden and the Government of the Republic of Lithuania on collaboration in the field of Emergency Prevention, Preparedness and Response; the Memorandum of cooperation between the Swedish Rescue Services Agency and the Ministry of Ukraine of Emergencies in the field of Emergencies Prevention and Response; the Agreement between the Swedish Rescue Services Agency and the National Disaster Management Authority of Pakistan on cooperation in the Project Development of Urban Search and Rescue Capacity in Pakistan; the Memorandum of Understanding between the Ministry of the Russian Federation for Civil Defence, Emergencies and Elimination of Consequences of Natural Disasters and the Swedish Rescue Services Agency. As far as the regional agreements are concerned, they are: the Multilateral agreement on rescue services between Sweden, Denmark, Iceland, Norway and Finland (Nordred); the Multilateral agreement on rescue services in the Barents region between Sweden, Norway, Finland and Russia; the Agreement on cooperation on dealing with pollution of the North Sea by oil and other harmful substances; the Convention on the Protection of the Marine Environment of the Baltic Sea Area; the Agreement between Denmark, Finland, Iceland, Norway and Sweden on Cooperation concerning Pollution Control of the Sea after Contamination by Oil or other Harmful Substances. Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/se/2-se-1.html#over.

⁶¹⁴ Cf. <https://www.msb.se/en/About-MSB/Crisis-Management-in-Sweden/>.

⁶¹⁵ It goes without saying that in case of war affecting Sweden the system of military defence is activated too. It is worth noting that the Swedish legal and institutional framework distinguished the notion of Civil defence from Military defence, the latter

Civil protection, Civil defence planning and management were therefore specifically tailored on the need to protect the civil population from an armed attack and to involve civilians in the response to the consequences generated by such an attack.⁶¹⁶ Except from the mentioned specific scope of the two systems, the actors and measures to be adopted in Civil protection and Civil defence overlapped mostly.⁶¹⁷ In other words, the civilian resources to be employed for dealing with some consequences stemming from an armed attack were very similar to those mobilised in case of serious events or catastrophes that occur in peacetime. Nowadays Sweden has no official Civil defence system put in place anymore. There still exists population protective shelters in certain areas with large population that can be used for recovery. Nowadays in case of armed attack affecting Sweden is the system of civil protection that may be activated together with military defence.

meaning the activity engaged in by the Armed Forces in war time. As reported by <http://www.government.se/sb/d/4187/a/27422> the tasks of the military defence are to: defend Sweden against armed attack; protect Sweden's territorial integrity; contribute to international peace and security, and strengthen Swedish society to meet peacetime emergencies. As one may note, although the concepts Civil defence, Military defence and Civil protection are kept distinguished and formally separated, they are strictly linked and interdependent.

⁶¹⁶ About 300 000 conscripts contributed to this mechanisms. The Government provided "protection masks" for all (7.8 million) citizens (also children and babies).

⁶¹⁷ See <http://www.government.se/sb/d/4187/a/27424>.

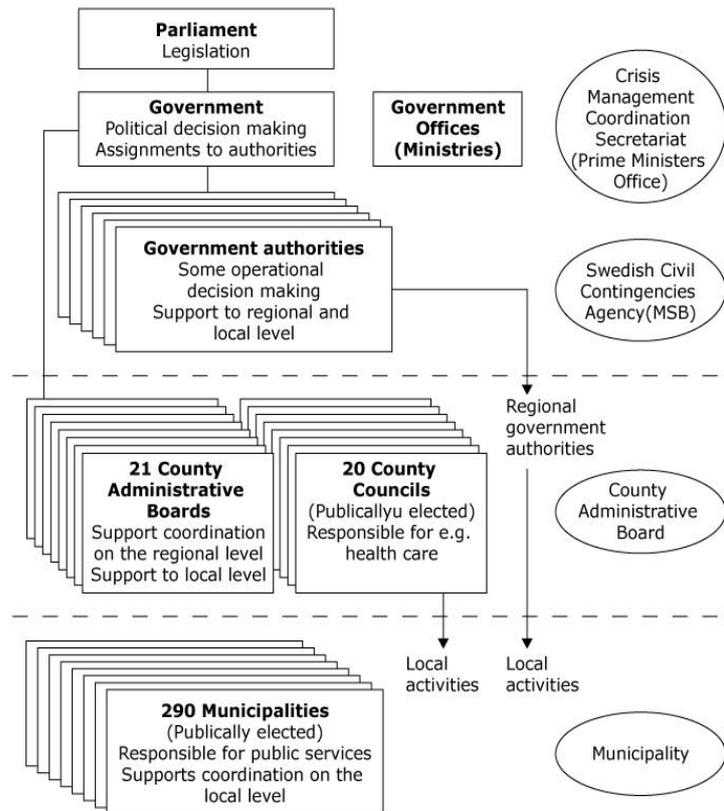


Figure 1.

Source: http://ec.europa.eu/echo/civil_protection/civil/vademecum/images/se/structure1big.jpg

It has to be noted that the overall Swedish crisis and emergency management system is based on three fundamental principles. The “**principle of responsibility**”, according to which persons or agencies who are responsible for an activity under normal or ordinary conditions should maintain that corresponding responsibility, as well as initiating cross-sectoral cooperation, during an emergency or crises.⁶¹⁸ As one may understand, the principle entails that these persons and agencies should be prepared themselves to cope with their activities in the event of a crisis and be ready to cooperate with other entities. The principle of responsibility therefore also implies responsibility (and duty) for each actor to be trained and to work with others to manage and resolve crises. With regard to the “**principle of equality**” it entails that – to the possible extent – activities and operations to be carried out during situations of emergencies or crises should be organised in the same way as under normal conditions. Finally, the

⁶¹⁸ *ibidem*. The responsibility principle also guides the Civil defence system, meaning that the body responsible for an activity in peacetime has the corresponding responsibility during wartime.

“**principle of proximity**” states that emergencies should be handled at the lowest possible level in society.⁶¹⁹

In light of the above, responsibility for countering crises or emergencies lies primarily with those most directly affected, that is, the municipalities, and the specific sector or sectors of society involved. When a crisis evolves, more actors can be involved based on the scale of the event. If, for example, only one municipality is affected, there is no need for further authorities or organisms to become involved. On the contrary, these organisms may be involved if more than one municipality is affected. Additional resources from government agencies at national level may also be provided if a crisis is of even greater proportions.⁶²⁰ Since many of society’s activities are highly interdependent, the planning and resource allocation for peacetime emergency preparedness is built upon a system wherein all the different stakeholders (public civil and military authorities, the private sector, the civil society) take joint responsibility for strengthening the Sweden’s overall emergency management capacity.⁶²¹

2. The Institutional Framework

2.1. The national-central level

At the national-central level, crisis and emergency management lies with **the Government of Sweden** who is in charge of the strategic direction of relevant activities.⁶²² Following the principle of responsibility, every Government office and Ministry are in charge of planning and handling crises in their own policy area. The **Ministry of Defence** has the overall political responsibility for Swedish civil emergency planning.⁶²³

As far as the **Ministries** are concerned, in case of crises or emergencies, they are responsible for their own policy areas. Each of them (should) have adopted a crisis management plan and an *ad hoc* configuration to be activated during crises.⁶²⁴ When a crisis or emergency erupts, each Ministry should receive and communicate alarms, call in staff for service, liaise and coordinate with first responders agencies operating at national or territorial level within the ministry’s area of competence.

The Government’s crisis and emergency management system is also based on different organisms in charge of supporting coherent direction and coordination of the adopted initiatives. They are: the

⁶¹⁹ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/se/2-se-1.html#over.

⁶²⁰ *Ibidem*.

⁶²¹ Cf. <https://www.msb.se/en/About-MSB/Crisis-Management-in-Sweden/>.

⁶²² *See infra*.

⁶²³ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/se/2-se-1.html#over

⁶²⁴ To be prepared to face an emergency or crisis, Ministries have appointed an internal crisis management group that is responsible for organising training and exercises. They have also appointed an official in charge of crises management on standby. Cf. <http://www.government.se/sb/d/12126/a/89625>.

Director-General for Crisis Management, the Crisis Management Coordination Secretariat and a Strategic Coordination Group, and the Swedish Civil Contingencies Agency. It is worth stressing that the principle of responsibility inform the above organisms' activities during crises or emergencies.⁶²⁵

The **Strategic Coordination Group** for crisis management is led by the Prime Minister's State Secretary – or the State Secretary that the Prime Ministers appoints – and consists of the State Secretary/ies of the Ministry/ies whose policy area is affected by the crisis or emergency. The Group's main tasks during an emergency are to: determine the strategic focus of Government Offices activities, coordinate them and settle potential competency disputes.⁶²⁶

Support to the Government departments and ministries managing a crisis or emergency is provided by the **Crisis Management Coordination Secretariat**. In particular, the Secretariat serves as the central point for the collection, analysis and communication of information concerning a potential or actual critical or emergency situation. In order to identify possible threats affecting Sweden, the Secretariat carries out intelligence activities. It monitors events both inside and outside Sweden and produces analyses of threats and risks. It is also in charge of the post-evaluation of the actions and measures adopted to face these situations.⁶²⁷

The Crisis Management Coordination Secretariat is led by the **Director-General for Crisis Management** set up within the Prime Minister's Office and responding to the Prime Minister's State Secretary. The tasks of the Director-General for Crisis Management are to “develop”, “coordinate” and “follow up” crisis management activities. In carrying out the first task mentioned, the Director-General for Crisis Management can issue guidelines informing Ministries crisis or emergency planning, or can promote trainings and exercises etc. Coordination entails synchronising the work when several ministries are concerned by a crises or emergency, having a holistic approach and facilitating inter-ministry work within the Government Offices. Follow-up refers to monitoring capacity for crisis management within the Government Offices.⁶²⁸

The **Swedish Civil Contingencies Agency** (*Myndigheten för samhällsskydd och beredskap* or *MSB*) is in charge of supporting the coordination of all the stakeholders and their resources involved in crisis and emergency management, therefore not only those operating at central governmental level, but also at local, regional and national level.⁶²⁹ From this point of view, the *MSB* has an “holistic” and “societal focused” approach, the latter meaning that it is aimed to promote and support societal capacities for preparedness for and prevention of emergencies and crises.⁶³⁰ Furthermore, the *MSB* is responsible for promoting harmonized decision-making between the actors participating to crisis management. It also

⁶²⁵ *Ibidem*.

⁶²⁶ *Ibidem*.

⁶²⁷ *Ibidem*.

⁶²⁸ *Ibidem*.

⁶²⁹ Cf. <https://www.msb.se/en/About-MSB/>. It is worth stressing that the *MSB* works with the entire emergency cycle, in other words, before, during and after the occurrence of emergencies, crises and disasters, which provides good opportunities to adopt a holistic perspective and to gain experience from incidents

⁶³⁰ In other words, the objective of the Swedish Civil Contingency Agency is to strengthen society's ability to prevent and handle accidents and severe peacetime emergencies.

provides methods for crisis communication to the public.⁶³¹ As far as CBRN crises and emergencies are concerned, the Swedish Civil Contingencies Agency is in charge of contributing to the societal preparedness to nuclear energy emergencies, oil spills, and the chemical incidents. *MSB* experts contribute to plan and organise CBRN exercises, training courses, and research. Coherently with what already said, the objective of *MSB*'s activity in the field of CBRN is primarily to develop societal capacity for managing incidents involving CBRN agents; this is achieved partially by developing the operational capacities of the relevant societal entities, and partially by strengthening capacities at the regional and national levels for those emergencies that require greater resources and operations.⁶³²

In case of a crises or emergency situation, the Government may also decide to ask the **Military** for cooperation and assistance. Civil-military cooperation takes place at all administrative levels and includes planning, training and exercises programs as well as exchange of relevant information. Military resources may support civilian authorities during severe peacetime emergencies. Operational coordination and cooperation are also important elements since military and civilian command, in combination with public management bodies, can be deployed jointly for major emergencies occurring at local or regional levels. Coordination is assured by participation of military personnel in the above discussed coordination organisms. In the field of CBRN, it is worth mentioning the Swedish National CBRN Defence Centre (*Totalförsvarets skyddscentrum* or *SkyddC*) established within the Swedish Armed Forces.⁶³³ Its mission is to train and drill (mostly) defence personnel in CBRN protection. It also develops equipments and methods for improving CBRN protection.

In case of emergency or crises, Sweden may also requests international assistance.⁶³⁴ This eventuality is also foreseen in the *Act on Rescue Services* (2003).⁶³⁵ A request for international assistance from Sweden may originate from a local or regional authorities. These authorities have the right to request assistance directly from agencies in neighbouring countries. If assistance is to be requested from other countries, it has to go through national authorisation (by the *MSB*). Any proposal to request international assistance is processed by the *MSB*, which analyses whether the request is motivated. The Ministry of Defence has also a stake in the adoption of the decision. As the Swedish national contact point to the EU Monitoring and Information Centre (MIC) and other arrangements of similar nature, the *MSB* is in charge of request and coordinate the provision of international assistance.⁶³⁶ It has to be stressed that, in any case, the final decision to accept assistance is taken by the authority originally requesting it, in close coordination

⁶³¹

See

https://www.msb.se/Upload/English/About_MSB_fact/Coordination%20support%20during%20a%20disaster%20or%20serious%20crisis.pdf.pdf.

⁶³² See https://www.msb.se/Upload/English/About_MSB_fact/Hazardous%20substances%20CBRN.pdf.

⁶³³ See <http://www.forsvarsmakten.se/en/our-organisation/training-units-schools-and-centres/the-national-cbrn-defence-centre-skyddc/>.

⁶³⁴ Sweden may also offer its assistance to other States. Such possibility is regulated by national laws that implements international agreements establishing international cooperation mechanisms. The Government has delegated to the *MSB* the right to launch international missions to assist countries stricken by disasters under certain conditions. All requests for this kind of assistance will be processed by the *MSB*. If the *MSB* deems a request relevant (based on the *MSB* mandate and the urgency of the need), a request for funding will be issued as the *MSB* may only launch missions if they are financed externally. Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/se/2-se-2.html#inter.

⁶³⁵ Cit.

⁶³⁶ Cf. *supra* Section I.

with the MSB and the Ministry of Defence. A comprehensive and detailed framework concerning the management of (incoming) international assistance has yet to be developed. In general, this kind of assistance is directed and managed by the Swedish relevant authority (at the national, regional or local level) handling an event. The MSB would support this authority with the logistics and other tasks if requested.⁶³⁷

2.2. The national-regional level

Turning now to the regional dimension of prevention of and response to crises or emergencies – CBRN events included – in Sweden, the **County Administrative Boards** are responsible for coordinating civil emergency planning activities – generally known as contingency plans –, training and exercises at regional level, risk and vulnerability analyses, and acting as a central coordination structure for public and private stakeholders involved in preparedness and response activities.⁶³⁸ The Boards are also responsible dealing with mass media during major emergencies, crises, and disasters.⁶³⁹ In the case of extensive rescue operations, the County Administrative Boards take over responsibility for the operations of the municipal rescue services in the municipality or municipalities concerned.⁶⁴⁰ Whenever international assistance by foreign agencies is requested and provided, the Boards are in charge of their operative management.

2.3. The national local level

At the local level, Swedish municipalities level have a large degree of autonomy and play an important role in civil emergency planning and preparedness in accordance with the *Civil Protection Act (2003)*.⁶⁴¹ During a major emergency or conflict situation, the **Municipal Executive Board** is the highest civilian authority within municipal borders with responsibility for all civilian command and crisis management at the local level, planning and preparedness. The municipalities receive continuous support and assistance from the county administrative board in the fields of contingency planning, exercises and training. The responsibility for operations lies primarily with the municipalities. Government authorities are responsible for certain types of operation following for example an emission of hazardous substances at sea or an emission of radioactive substances from a nuclear power plant.

Each municipality has its own “Rescue Services”. It has a “Rescue Chief in charge (“*Räddningsledare*”) that serves also as On Site Commander (OSC) or Incident Commander (IC) with authority to coordinate other OSCs. The “Rescue Chief in Charge” is responsible (under the municipality) for emergencies planning and preparedness. It coordinates its promoted activities with the Police, Medical services, other

⁶³⁷ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/se/2-se-2.html#inter.

⁶³⁸ Sweden consists of 21 counties. Members of the County Administrative Boards are appointed by the national government. See http://www.algonet.se/~hogman/swe_counties_info_eng.htm.

⁶³⁹ Cf. <https://www.msb.se/en/About-MSB/Crisis-Management-in-Sweden/>.

⁶⁴⁰ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/se/2-se-1.html#over.

⁶⁴¹ Cit.

relevant authorities and stakeholders. This include the “Military Forces” that can be engaged with personnel and equipment if needed.

THE OPERATIONAL FRAMEWORK in RESPONSE TO CBRN CRISIS: ACTORS AND PROCEDURES

In light of what has been described so far, operative response to crises and emergency situations involving the fusion/release of CBRN substances is carried out by different agencies in Sweden. Among these agencies there are: the Municipal Fire Brigades, the Swedish Police, the “private sector”, volunteers, the Swedish Red Cross, the Armed Forces. These actors cooperates to face the emergency.

On a very operative level, all the response operations are led by an **incident commander**. He/she may request national and municipal authorities to provide personnel, material and services on the condition that the authority has access to the resources required and that their use does not seriously obstruct the normal activities of the authority. In addition, the incident commander may seize private property and order all citizens between the age of 18 and 65 to assist in the emergency work, to the extent that their skills, health and physical strength permit such activity.

a. The Municipal Fire Brigades

As described above, the Municipal Executive Board is the highest civilian authority within municipal borders with responsibility for all civilian command and crisis management at the local level.⁶⁴² At operative level, it coordinates the contribution offered by the Municipal fire brigades.

During emergency responses - CBRN included - the Fire Brigades are in charge of countering the effects of the event. They also take immediate action to prevent or limit injuries to victims. Such first aid includes the prevention of trauma shock, resuscitation and the fixing of neck/spine or broken limbs. They provide assistance to the ambulance or police services. Some brigades have also been given the authority to administer oxygen or half-automatic defibrillation by ambulance doctors.⁶⁴³ In the case of an CBRN incident or attack Fire Brigades are responsible for providing first aid, lifesaving decontamination

⁶⁴² See *supra*. Cf. also The Swedish Rescue Services in Figures 2008, available at <https://www.msb.se/RibData/Filer/pdf/25586.pdf>.

⁶⁴³ *Ibidem*, p. 13.

and rapid transportation out from the Hot Zone to the border of Hot Zone and Warm Zone (see figure 2). Here the Medical Services are responsible for final decontamination and medical services.

On the basis of available information, it does not seem that Municipal Fire Brigades have special units dealing with CBRN. For sure, they deal with incidents where some dangerous substances are released or a release is threatened. With regard to dangerous chemicals, fire brigades used various materials to absorb the released substance. This method is most common at small releases of liquids. At larger releases the substance is collected in new containers. In unfavourable conditions the fire brigade may be forced to dilute the released substance instead of collecting it.⁶⁴⁴

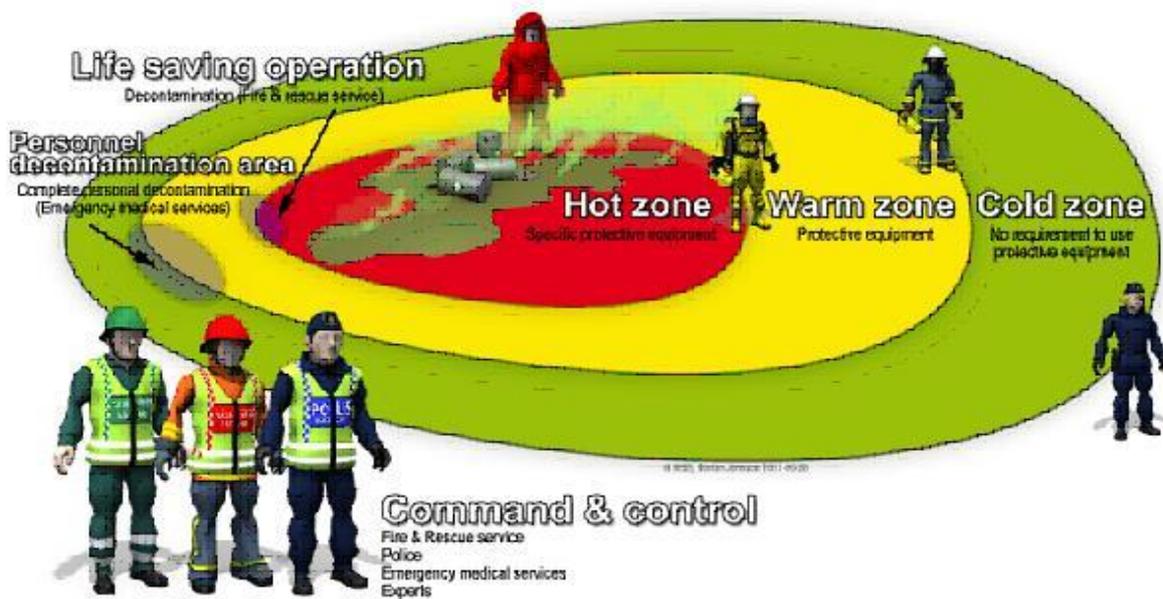


Figure. 2

b. Police

In case of emergency, the Swedish National Police is in charge of maintaining law and order, regulating road traffic, controlling crowd, co-ordinating/conducting searches for missing persons; collecting of evidence and forensic work. It is also responsible for registering casualties, missing and death people.

c. Private sector

Private sector stakeholders become involved in crisis and emergency management when the resources available at municipal and regional levels are not sufficient to handle a crisis. A list of resources available

⁶⁴⁴ *Ibidem*, p. 36.

at fire brigades, businesses, organisations and authorities in the form of equipment and expertise as well as information about resources that may be used during major emergencies and emergency response operations is available through the “Integrated decision support for civil protection” - RIB.⁶⁴⁵ The RIB merges various databases that when combined provide comprehensive information about how to deal with an emergency, how prevention work can be planned and about the risks involved once an emergency has happened and where to find resources for the emergency response. To facilitate the use of resources available in the private sector, some services of the private sector have already been purchased beforehand.

d. The Swedish Red Cross

The Swedish Red Cross provides emergency and humanitarian relief both at home and abroad through its network of volunteers and delegates.⁶⁴⁶ Within Sweden, the Swedish Red Cross provides emergency services through first aid teams, mobile emergency units and counselling support groups managed by specially trained volunteers. It has to be noted that its personnel does only work outside contaminated areas.

CONCLUSIVE REMARKS

A sound direction and coordination framework for a bottom-up approach (local, regional, national-central, level) to crises and emergency management, CBRN included, a set of basic principles to establish roles and responsibilities of main actors, the involvement of several and different stakeholders in emergency and crises preparedness and management, and a focus on “societal resilience” are the most remarkable features of the Swedish system. There are special organisms/units managing CBRN events within the military and the MSB. As far as the latter is concerned, it has established special CBRN reinforcement units to supplement local rescue services in the country. The resources to be employed by these units are in most cases situated near/in the proximity of the most populated regions/cities. These resources are managed according to agreements between municipalities and MSB. The units can provide advance detection of CBRN agents and decontamination of first responders; They are provided with special equipment (pumps, drums etc.) vehicles, instruments and communication systems and specific training.

⁶⁴⁵ Cf. http://ec.europa.eu/echo/civil_protection/civil/vademecum/se/2-se-1.html.

⁶⁴⁶ See <http://www.ifrc.org/en/what-we-do/where-we-work/europe/swedish-red-cross/>.

THE NETHERLANDS

Abstract

In The Netherlands the legislation distinguishes between emergency and crisis. Contrary to a crisis, an “emergency” is normally caused by a single event, while a “crisis” is triggered by a combination of factors. During a crisis the protection of the national and international legal systems as well as the public and economic safety (the so called ‘vital interests’) takes central stage. Both emergencies and crises should be considered as disaster’s subtypes. In the Dutch system CBRNe-incidents are considered as crises that have to be counteracted with generic crisis management, taking into account specific knowledge and expertise in CBRNe. Since July 2011 a single organisation, The Netherlands’s National Coordinator for Security and Counterterrorism (‘NCTV’) which falls under the Ministry of Security and Justice, has been responsible for counterterrorism, cyber security, national security and crisis management in the country. The NCTV comprises 5 policy departments, in addition to a National Crisis Centre (‘NCC’) and a National Operations Coordination Centre (‘LOCC’). The LOCC is managed by the Dutch Police Services Agency (‘KLPD’), moreover it is part of the national crisis decision-making infrastructure and is responsible for the multidisciplinary National Operational Overview. The responsibility for disaster relief and safety in the first place rests with the municipalities. In the event of a disaster, the municipalities will cooperate regionally as stated in the Safety Regions Act. The country’s 25 safety regions are in charge of civil protection issues in the municipalities which belong to their territory. In each of the 25 safety regions the local authorities co-operate with the operational first responders (fire brigades, police, medical assistance) in case of emergencies, including CBRN-incidents. As soon as a disaster occurs, a disaster management team is formed. This consists of the local Mayor and representatives of the fire service, medical and municipal services, police, army and other public services.

THE NETHERLANDS' LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRNe CRISES

1. Overview

The Netherlands, which is part of the Kingdom of the Netherlands, consisting of twelve provinces in North-West Europe and three islands in the Caribbean, has ratified or accessed all the main international treaties which deal with CBRN events.⁶⁴⁷ In the Government's website lot of emphasis is placed on two key issues: national preparedness⁶⁴⁸ and the importance of international cooperation among States in case of a disaster, terrorist attack or other crisis that can affect several countries. To be well prepared The Netherlands has therefore concluded several agreements within the European Union on protecting critical infrastructure and assessing risks.⁶⁴⁹

Since January 2010, with the entry into force of the Safety Regions Act, The Netherlands has been subdivided into 25 "safety regions". The safety regions serve as the political link between the local civil protection organisations and the national governmental institutions. The safety regions are in charge of the police, the fire brigade and the public health institutions on their territory.

In The Netherlands the legislation distinguishes between **emergency**⁶⁵⁰ and **crisis**.⁶⁵¹ Contrary to a crisis, an "emergency" is normally caused by a single event, while a "crisis" is triggered by a combination of factors. During a crisis the protection of the national and international legal systems as well as the public and economic safety (the so called 'vital interests') takes central stage. Both emergencies and crises

⁶⁴⁷ In addition to the multilateral treaties, The Netherlands has stipulated bilateral agreements to facilitate cross-border assistance to and from Belgium, Germany and Luxembourg. These agreements are based on the Executive Agreement of Madrid of 1980, which offers regional and local authorities a framework to cooperate in matters of disaster response on a public legal basis.

⁶⁴⁸ The Government website explains to the population which are the measures, general and specific, to undertake if a disaster occurs. See <http://www.government.nl/issues/crisis-national-security-and-terrorism/before-and-during-a-disaster>

⁶⁴⁹ See <http://www.government.nl/issues/crisis-national-security-and-terrorism/international-cooperation-in-crisis-management>

⁶⁵⁰ The official definition of an emergency:

'(...) a major accident or other occurrence where the lives and health of many people, environment or large material interests have been damaged in a severe way or are seriously threatened. A coordinated input of services or organizations of various disciplines is required to take away the threat or to limit the damage.' See Ministry of the Interior Affairs, 'The safety region. Bill of the Act Safety regions, how, what and why?', The Hague, November 2007. The Manual on Preparation for Emergency Management 2008, successor of the Manual on Preparation for Emergency Management 1990, outlines seven different types of emergencies: a) emergencies with relation to traffic and transport, b) emergencies relating to dangerous substances, c) public health emergencies, d) emergencies regarding infrastructure, e) emergencies regarding the population, f) natural emergencies and g) emergencies at a distance.

⁶⁵¹ Crisis shall mean: a situation in which a vital interest of society is affected or is at risk of being affected. See Act of 11 February 2010, containing provisions for the fire services, disaster management, crisis management and medical assistance (Safety Regions Act), which is available at: <http://www.government.nl/documents-and-publications>

should be considered as disaster's subtypes.⁶⁵² As soon as the national safety in the broadest sense is at stake a disaster is classifiable as a crisis. The Dutch legislation relating to emergency management and crisis control was previously laid down in a number of separate laws and acts,⁶⁵³ eventually substituted by the more comprehensive Safety Regions Act. In the Dutch system CBRNe-incidents⁶⁵⁴ are considered as **crises** that have to be counteracted with generic crisis management, taking into account specific knowledge and expertise in CBRNe. Therefore there are no ad hoc laws or legal regulations for the response to CBRNe-incidents.

2. The Institutional Framework

2.1. The National Response to a Crisis

Since July 2011 a single organisation, The Netherlands's National Coordinator for Security and Counterterrorism ('NCTV') which falls under the Ministry of Security and Justice, has been responsible for counterterrorism, cyber security, national security and crisis management in the country. Previously these were separate policy areas dealt with by different ministries,⁶⁵⁵ but they are now managed by this central organisation, whose core tasks are:

- Analysing and reducing identified threats;
- Providing surveillance and protection for persons, property, services and events, as well as for vital sectors;
- Expanding and strengthening cyber security;
- Making property, persons, structures and networks more resistant to threats;
- Ensuring effective crisis management and crisis communication.

The NCTV comprises 5 policy departments, the National Crisis Centre (NCC) and the National Operations Coordination Centre (LOCC). The NCC's main tasks encompass the dissemination of information and the coordination of administrative measures between various ministries (when a crisis affects several policy areas at once) and provincial and municipal authorities. The NCC includes the Crisis Coordination Unit and the Communications Unit. The Crisis Coordination Unit provides "front office services" (acting as the national and international single point of contact), as well as expertise and experience in relation to the

⁶⁵² Disaster: a serious accident or other incident whereby the lives and the health of many people, the environment or significant material interests have been harmed or are threatened to a serious degree. Coordinated deployment of services or organisations from various disciplines is required to remove the threat or to limit the harmful consequences. *Ibidem*

⁶⁵³ In particular the Fire Service Act (1985), the Disasters and Major Accidents Act (1985) and the Medical Relief during Accidents and Disasters Act.

⁶⁵⁴ The term CBRNe-response reflects events in which chemical, biological, radiological, or nuclear components are involved and "e" refers to the use of explosives to distribute toxic components.

⁶⁵⁵ Each ministry was responsible for crisis management within its own specific area and the overall responsibility rested with the Directorate General for Public Order and Safety within the Ministry of the Interior and Kingdom Relations

central government crisis management infrastructure, crisis decision-making and management.⁶⁵⁶ The Communications Unit, instead, is in charge of drafting and distributing risk and crisis-related information, both in its own capacity and on behalf of central government, as well as the NCTV's corporate and policy communications.

As stated above the National Operations Coordination Centre (LOCC) also falls under the NCTV's authority and is managed by the Dutch Police Services Agency (KLPD). The LOCC is part of the national crisis decision-making infrastructure and is responsible for the multidisciplinary National Operational Overview. Moreover the LOCC provides operational advice in the event of national and international incidents, crisis situations, disasters and major public events. The LOCC also coordinates national and international assistance, as stated in the Safety Regions Act and the Police Act 2012.

2.2. The International Assistance

With regard to international assistance it is worth to highlight here that the LOCC in 2009 has developed an operational manual for incoming foreign assistance. The Manual is divided in 3 parts dealing separately with the topics of National Disaster Response, Cross-Border Assistance (Germany and Belgium) and International Assistance (EU and non-EU) respectively.⁶⁵⁷ In the introduction the Manual specifies that: "Currently, however, on the national level, there are no procedural or practical arrangements for the organisation of incoming foreign assistance. This manual contains the most important procedures that should be followed after it has been decided that foreign assistance units are to be called in to the Netherlands [...] The basic principle of this manual is to bring more clarity and conformity in the way we deal with assistance provided by foreign assistance units in the Netherlands. The procedure that is to be used should be as clear and straightforward as possible, without creating any unnecessary trouble for the safety regions in the disaster area. If there is a need for foreign assistance, these regions will of course already be dedicating all their efforts to the disaster relief. *The foreign assistance should form a reinforcement of the disaster relief and not add to the region's workload or be detrimental to the disaster relief.*"⁶⁵⁸ Assistance in the Manual is defined as "the rendering by a Dutch competent authority of capacities (people and means) under existing treaties/agreements to (the competent authority) of a foreign country and vice versa." Foreign assistance may be provided to The Netherlands via various organisations such as the EU, NATO and UN, but it can also be rendered directly by a neighbouring country or any other country. The procedure described in the Manual is applicable in each and every circumstance, regardless of where the assistance is coming from.

The first key point clarified by the Manual is that the assistance *should be rendered unarmed*. In cases where armed police assistance is required or desirable for the maintenance of public order or for investigation, the Manual affirms that this shall be offered within the EU framework, consistently with

⁶⁵⁶ More info is available at: https://english.nctv.nl/organisation_en/who_is_nctv/the_organisation/

⁶⁵⁷ The Assistance Manual Volume 3 is available at http://www.ifrc.org/docs/IDRL/%20To%20add/Netherlands2009_Manual%20for%20incoming%20Foreign%20Assistance%20during%20FloodEx%20exercise.pdf

⁶⁵⁸ *Ibidem (Emphasis added)*

the agreements made for these situations.⁶⁵⁹ The request to receive foreign assistance can be submitted either by the local or the central authorities. At the local/regional level, the Mayor and the Chair of the Safety Region, submit a request for assistance to the LOCC, which as explained above falls under the Ministry of Security and Justice. At the national level, the LOCC may autonomously recognise that the national assistance capacities are not sufficient to respond to the crisis. If waiting for national capacities to become deployable is not an option, the LOCC passes on the application to the NCC with the request for foreign assistance. The NCC is responsible for the administrative connection and synchronisation of the foreign assistance via the General Crisis Meeting ('ACO'), the Interdepartmental Commission for Crisis Management ('ICCb') and if necessary, the Ministerial Commission for Crisis Management ('MCCb'). The NCC is also in charge of supervising the application/request in consultation with the Ministry of Foreign Affairs. In the event of a terrorist attack, or if a terrorist attack is threatened, the Ministry of Justice and the National Coordinator for counterterrorism (NCTb) are in charge of the potential foreign assistance for counter-terrorist intervention. In such cases the application to request foreign assistance is different, but "the coordination of the assistance for mitigation of the impact of a disaster after a terrorist attack is identical to that of foreign assistance for disaster relief for mitigating the effects of a regular disaster."⁶⁶⁰

The procedure which regulates the foreign assistance is outlined in the Manual, which describes also locations and bodies that play an important role in the deployment of external help. The most important locations and actors are:

- The Reception and Departure Centre ('RDC'): when foreign assistance is requested one or more locations are selected as points for arrival and departure. Normally the locations are close to the point where the various foreign units are to enter and/or leave the Netherlands;
- The On Site Operations and Coordination Centre ('OSOCC') is the coordination centre for the deployment of foreign assistance teams. The OSOCC is always set up at the LOCC. Communication within the OSOCC on location is achieved by the establishment of a sub-OSOCC in the immediate vicinity of the disaster site;
- The Local Emergency and Management Authority ('LEMA') is the (local) authority responsible for the disaster response. The LEMA comprises the RBT and the ROT. The RBT is the body in charge of the formal management. The ROT, instead, concentrates on the operational management of the disaster relief and, jointly with the OSOCC, on the deployment and coordination of the foreign assistance;
- The On-Site-Commander ('OSC') is the commander (operational leader) at the site of the incident, who directs and coordinates the foreign assistance and is responsible for the reception and deployment of the allocated foreign assistance teams. The OSC provides the teams with the relevant information related to their response tasks.

⁶⁵⁹ See for example Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams for the police.

⁶⁶⁰ Supra No. 11, "The Manual" at 24.

- The Base of Operations ('BoO') is the base camp for foreign assistance units. A BoO is the base camp where the assistance teams are located during their stay. Moreover, the BoO is the place where most of the material brought by the different units is stored/stationed.

2.3. The Local Response to a Crisis

The Safety Regions Act enshrines the key provisions governing the response to disasters, including CBRNe incidents. A number of events led to the Act's adoption, such as the fireworks disaster in Enschede in May 2000 and the New Year's fire in the 'De Hemel' bar in Volendam in 2001. In such occasions the Dutch government realised that the existence of new threats required a different type of approach, different partners and a different strategy. Moreover the incidents showed that a bigger organisational scale than the municipal scale was needed to better perform all tasks required for disaster and crisis management. The Safety Regions Act aims at achieving a much more efficient and high-quality organisation of fire services, medical assistance and crisis management. With the Safety Act, in fact, all these aspects converge in one regional management board. In the first place the Act stipulates that the 25 safety regions must be structured on the same scale as the police regions. This aspect of the Safety Regions Act crystallised a structure which was not outlined in the previous legislation, but already adopted in practice.⁶⁶¹ Dividing the territory into equal regions has created an essential basis for multidisciplinary action in the event of a disaster or crisis, in particular according to the explanatory document released by the Dutch government after the adoption of the Act "The fire services and the Regional Medical Assistance Organisation (GHOR) will be under one management board, comprised of the same members as the board in charge of the police. This makes it easier and more effective to steer the emergency services and take a coordinated approach."⁶⁶²

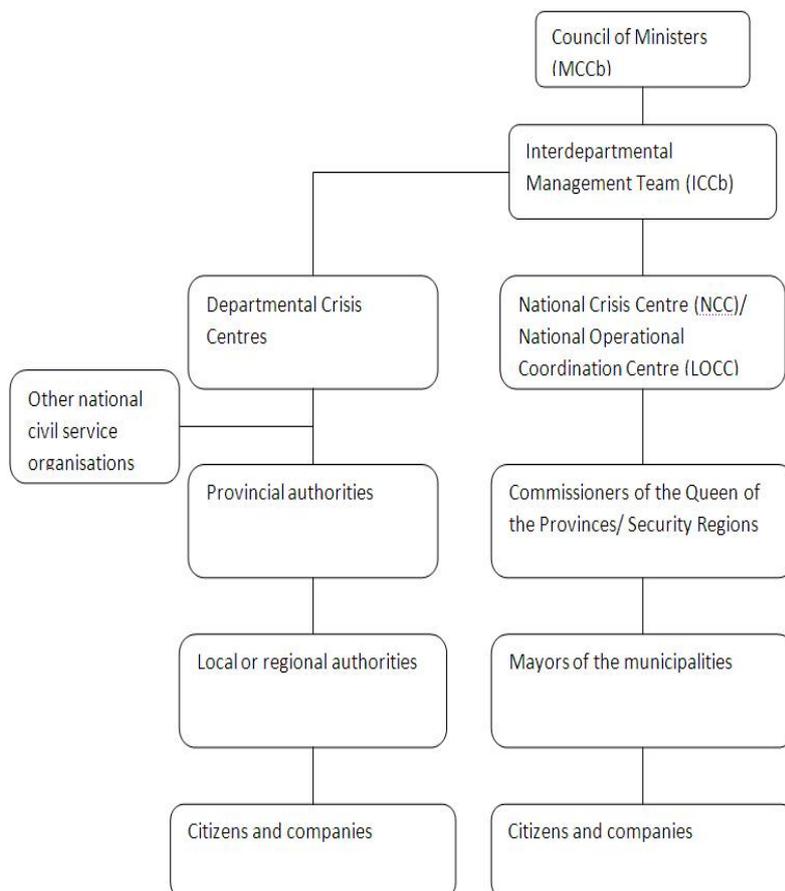
The responsibility for disaster relief and safety in the first place rests with the municipalities. In the event of a disaster, the municipalities will cooperate regionally as stated in the Safety Regions Act. A Safety region is formed by a conglomeration of several municipalities, and is therefore supra local, encompassing the fusion of command for the several disaster response actors, like fire department, the police and medical services (multidisciplinary). The country's 25 safety regions are in charge of civil protection issues in the municipalities which belong to their territory. During a disaster or crisis, which affects more than one municipality at a time, the Supreme Command of the Safety Region is exercised by the Mayor of one of the municipalities, namely the Mayor who has been appointed as Corps Manager of the regional Board of Police.⁶⁶³ In the case of a widespread disaster which involves more than one region the disaster response coordination will be "upgraded" and dealt with at a supra regional level. In such a case all the Mayors will remain in supreme command in their own Municipality in matters of order and public security, while the disaster response policy will be implemented under the responsibility of the

⁶⁶¹ The Fire Services Act 1985 (Brandweerwet 1985) already required the municipalities to form regions and the Disasters and Major Accidents Act (Wet rampen en zware ongevallen - Wrzo) assumed that such regions had been established.

⁶⁶² Safety Regions Act, Part I - How, what and why?, available at: <http://www.government.nl/documents-and-publications?keyword=Security+regions+act&period-from=01-10-2009&period-to=01-10-2011&department=&informationtype=&page=2>

⁶⁶³ More info are available at: http://ec.europa.eu/echo/civil_protection/civil/vademecum/nl/2-nl-1.html#lega

Chairman of the Safety region (i.e. the Mayor who is also Corps Manager of the Regional Board of Police).⁶⁶⁴ If a disaster cannot be managed at the local level, the Commissioner of the Queen can instruct the Mayor (or Mayors) in charge about the policy to be undertaken. In this case, the Commissioner takes over the operational command of disaster management, and the Minister of the Interior gives instructions directly to the Commissioner. When the regional or supra regional response are not sufficient to overcome the disaster assistance is provided by the central government and the Minister of the Interior is in charge of coordinating the different stakeholders.⁶⁶⁵



⁶⁶⁴ See The Netherlands Red Cross, “Legal Aspects of International Disaster Response in Dutch Emergencies and Crisis Situations: An analysis of Dutch legislation and policy in light of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (the IDRL Guidelines)”, July 2010, available at: <https://www.rodekruis.nl/actueel/pers/documents/legal%20aspects%20of%20international%20disaster%20response%20in%20ducth%20emergencies.pdf>

⁶⁶⁵ The figure below is available at: http://ec.europa.eu/echo/civil_protection/civil/vademecum/nl/2-nl-1.html#lega

THE OPERATIONAL FRAMEWORK IN RESPONSE to CBRNe CRISIS: ACTORS and PROCEDURES

3. Examples of CBRNe Events in the Netherlands

There is a list with approximately 30 “small incidents” in the last 25 years, mainly in the industry. Most are explosions and fires, very often caused by maintenance of installations. Even though they are not directly related to CBRNe, the following incidents occurred in The Netherlands are significant because of their impact and the required intervention of the key stakeholders:

May 13, 2000: In the afternoon a fire was reported at a fireworks company in Enschede. The fire led to two explosions of the stored firework (800 and 4,500 kg TNT respectively). 23 People were killed, approx. 950 injured. 400 Homes in the vicinity were destroyed, and 1,500 buildings damaged. The cause of the fire has never been officially verified.

January 5, 2011: In the afternoon a fire was reported in a chemical storage company on an industrial site (Moerdijk) in the Southwest of The Netherlands. In the fire, large amounts of chemicals were involved, and a big cloud of smog was produced. The fire, which was caused by the de-frosting of a pump with a gas burner, required the maximum deployment of fire brigades. The water used was heavily contaminated and was spread partly in streams in the area. Land in a wide area was inspected for components that resulted from the smog. No direct deceased or injured people were reported. 20 First responders were treated in hospital for health problems. 150 Others may have had health problems, caused by the disaster.

April 1, 2013: the NOS TV Journaal reported about the possible presence of the nerve gas sarin, an extremely toxic gas, in Limburg, but the news has been retracted after a few hours.

October 19, 2013: Mustard gas and many other chemicals were found in a cellar of a physics teacher who passed away in Ede, The Netherlands, last week. The chemicals were removed but during that action all residents of 50 apartment buildings were evacuated.

4. Key Stakeholders Involved in Response at the National Level

There are many actors that are part of the CBRNe response network in The Netherlands. As stated above the institutional framework does not include a ministry that is singularly responsible for the CBRN integrated response and CBRNe incidents are not regarded as peculiar crises. However, specific expertise and equipment are available in various departments, under the responsibility of the respective ministries. The most important ones are:

- The National Coordinator for Security and Counterterrorism: responsible for policymaking and threat evaluations;

- The Netherlands Forensic Institute: responsible for forensic investigations;
- The National Institute for Public Health and the Environment. This institute is the Point of Contact for the National Laboratory Network terror incidents. The Network comprises 8 (semi-)governmental laboratories, each with specific analytical capabilities to identify the specific components involved in an incident;
- The Netherlands Institute for Safety, for civilian first responders, and Joint CBRN Knowledge Centre, for the military which provide specific knowledge and training;
- The National Police Agency ('KLPD'), under which the LOCC resides, that has been reorganised in a single national police force, divided into ten regional units, on 1 January 2013.

Moreover, it should be mentioned that there is an agreement between the civil authorities and the military specialists in case of significant crises. According to it the civil authorities can call in military expertise and equipment for the detection of CBRNe elements and for the decontamination of buildings and infrastructure.

In view of the many different actors involved at the national level, the structure which governs the collaboration to prepare for, and react to, in case of a CBRNe-incident is rather complex. Therefore, the Directorate National Security of the Ministry of the Interior and Kingdom Relations have installed a task force to enhance a proper multidisciplinary approach for the CBRN response. The project is called 'Multi Response CBRNe' and it started in 2010. The main objectives are: to establish a common and accepted strategy in case of a CBRNe-incident, to increase the minimal expertise and capabilities of each stakeholder, and to delineate which roles the stakeholders play in the preparation and response if an incident occurs.

5. Key Stakeholders Involved in Response at the Local Level

At the local level the Safety region is responsible for the operational actions at the incident location. In the 25 Regions the local authorities co-operate with the operational first responders (fire brigades, police, medical assistance) in case of emergencies, including CBRN-incidents. As soon as a disaster occurs, a disaster management team is formed.⁶⁶⁶ This consists of the local Mayor and representatives of the fire service, medical and municipal services, police, army and other public services.

The main actors involved in the response are:

1. **The Mayor** is responsible at the administrative level for the smooth running of the response effort. He/she convenes the representatives of the various public services who make up the disaster management team. In view of the mayor's administrative responsibility, the municipal council may call him/her to account for the overall management of the response effort;

⁶⁶⁶The team takes key decisions on how to respond to the disaster. All these decisions are recorded in a logbook. More info is available at: <http://www.government.nl/issues/crisis-national-security-and-terrorism/who-does-what-in-a-disaster>

2. **The Fire Brigades.** The fire brigades in the Netherlands are organisations consisting mainly of volunteers and professional fire-fighters are still the minority. However, the fire department plays a central role in emergency response. Under the Safety Regions Act each regional fire department is under the command of one commander whilst according to the Fire Service Act (1985) each municipality had its own fire brigade, run by a municipal fire brigade commander. The fire brigades have an expertise to deal with incidents with toxic agents. On top of that, there are 6 regional fire brigades that provide special expertise in case of a CBRNe incident, such as decontamination equipment for mass decontamination of people.
3. **The Police.** The main tasks of the police during a disaster, including a CBRNe crisis, are maintenance of public order, traffic management, arrangement of cordons, carrying out of criminal investigation to find the cause of the disaster, identification of the victims and effectuation of administrative measures.
4. **Municipal services.** A number of municipal services play an important role in disaster response, especially when it comes to the after-effects. For instance, if whole streets or neighbourhoods need to be evacuated, the municipality is responsible for the residents' immediate welfare. Municipal services also provide food, temporary shelter and psychological care. In addition, the municipality is in charge of registering the victims.
5. **The Netherlands Red Cross.** The Netherlands Red Cross (NRK) is not a governmental body, but a neutral, impartial and independent humanitarian organisation, and a society by Dutch law. In the operational field the Netherlands Red Cross is auxiliary in emergency management and crisis control in The Netherlands. The emergency management responsibilities of the NRK consist of emergency medical assistance, providing shelter and care to victims and wounded and restoring family links. With regard to offering emergency medical assistance, every Safety Region is equipped with an Instant Operation Unit for Medical Assistance (Snel Inzetbare Groep ter Medische Assistentie, or SIGMA). Every unit is formed by 8 highly trained volunteers of the NRK who have the capacity to be in operation within 30 minutes after an emergency request.
6. **The Army.** The Ministry of Defence is entitled to deploy military personnel to respond to a disaster. Around 4,600 of them are available to do so. Their duties include evacuating people.

The interplay of the different stakeholders, including the first responders, in case of a CBRNe incident is regulated by the '**Protocol Suspicious Objects**', which is classified.

CONCLUSIVE REMARKS

The Organisation for Economic Cooperation and Development ('OECD') regards the Dutch National Security Strategy and the National Risk Assessment as examples to the world on how to assess risks and take measures to strengthen national security.⁶⁶⁷ Indeed, from the analysis undertaken, it emerged that The Netherlands crisis control and emergency management are to a very large extent embedded in a

⁶⁶⁷ Ibidem

sound legal framework. In particular the current framework outlines clearly the central and local structure of the administrative authorities and their respective tasks and responsibilities. The entry into force of the Safety Regions Act has further enhanced this strength by unifying the coordination of the fire department, the police and medical services during emergency management and crisis control.

Moreover, The Netherlands response to crises, including CBERNe incidents, strongly highlights the importance of international cooperation. The Government is perfectly aware of the fact that the response in the first 'golden hour' after the disaster is essential to limit property damage, physical and emotional damage as much as possible. Disaster and crisis management benefit from a smooth, effective and uniform management of the emergency services, when this cannot be achieved relying exclusively on the national resources, foreign assistance is not only welcomed, but promptly sought. The Manual for Incoming Foreign Assistance briefly introduced in para 1.3 provides relevant information and an overview of the procedures to adopt when foreign assistance is required. However, in the first place it should be noted that the Manual has not been legally embedded and secondly that only applies to incoming foreign inter-State relief, both from EU Members and non-EU Members, but it does not apply to incoming relief rendered by non-State actors like NGOs or the Red Cross.⁶⁶⁸

⁶⁶⁸ See The Netherlands Red Cross Report supra n18 at 45.

THE UNITED KINGDOM

Abstract

The key legislation governing the way the UK deals with emergencies, including CBRN events, is the Civil Contingencies Act (2004). The main goal of the Act is to create a modern Civil defence framework. The Central Government's Concept of Operations ('Conops') sets out the UK arrangements for responding to and recovering from emergencies; according to it there are the three phases that characterise an emergency, namely preparation (pre-planning); response (mitigating an immediate risk or stopping things getting worse); and recovery (a longer-term activity of rebuilding, restoring and rehabilitating the community). Depending on the level and intensity of the emergency the response is activated at the central or local level. The local response is based upon the delivery of individual agencies' responsibilities co-ordinated, where appropriate, through a multi-agency Strategic Co-ordinating Group ('SCG') which, in most cases, is chaired by a senior police officer. Operating below the local multi-agency SGC are three levels of command at a single agency level, namely: operational (Bronze), tactical (Silver) and strategic (Gold). The multi-agency co-operation through local resilience forums is regulated by the Civil Contingencies Act (2004). The Act divides emergency responders into two categories and explains in detail the duties incumbent upon them. "Category 1 responders" are those organisations at the core of the response to most emergencies (e.g. the emergency services, local authorities and NHS bodies), "Category 2 responders" (e.g. the Health and Safety Executive, transport and utility companies) are "co-operating bodies". They are less likely to be involved in the heart of planning work but will be heavily involved in incidents that affect their sector.

THE UK'S LEGAL AND INSTITUTIONAL FRAMEWORK DEALING WITH CBRN CRISIS

1. The Normative Framework

The UK is party to all the relevant treaties which regulate the issue of CBRN at the international level.⁶⁶⁹ At the domestic level it should be noted that several regulations establish the normative framework which tackle CBRN events in the UK. In particular: Section 51A of the Health and Safety at Work Act (1974), the Environmental Protection Act (1990), the National Guidance on the Decontamination of People March (2003), the Civil Contingencies Act (2004), the Strategic National Guidance on the Decontamination of Buildings (2011) and the Government CBRN Strategy (current version from 2011). The key legislation governing the way the UK deals with emergencies, including CBRN events, is the Civil Contingencies Act (2004).⁶⁷⁰ The main goal of the Act is to create a modern Civil defence framework. The Act, alongside its supporting statutory and non-statutory guidance, provides the framework for civil protection activity by local emergency planners and responders across the whole country.

According to the Civil Contingencies Act “an emergency” is defined as: (a) an event or situation which threatens serious damage to human welfare in a place in the United Kingdom; (b) an event or situation which threatens serious damage to the environment of a place in the United Kingdom; or (c) war, or terrorism, which threatens serious damage to the security of the United Kingdom.⁶⁷¹

The explanatory note which accompanies the Act clarifies that “events such as a terrorist attack, disruption of fuel supplies, contamination of land with a chemical matter and an epidemic could satisfy the definition, *should they reach the required level of seriousness.*”⁶⁷²

2. The Institutional Framework

2.1. The UK Central Government Response to Emergency

⁶⁶⁹ The (1968) Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the (1972) Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC), the (1992) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC), the (2005) International Convention for the Suppression of Acts of Nuclear Terrorism. With regard to the international conventions dealing with transboundary cooperation and assistance in case of nuclear and radiological emergencies originating from civilian use of related material, the UK has ratified all of them, namely: the (1986) Convention on Assistance in Case of a Nuclear Accident or Radiological Emergency, the (1986) Convention on Early Notification of a Nuclear Accident, the (1994) Convention on Nuclear Safety. The updated list of all the international conventions to which the UK is party is available at <http://treaties.fco.gov.uk/treaties/treaty.htm?reset=Back+to+Search+Form>

⁶⁷⁰ Civil Contingencies Act, available at: <http://www.legislation.gov.uk/ukpga/2004/36/notes/contents>

⁶⁷¹ Civil Contingencies Act 2004, par. 1.

⁶⁷² *Ibidem* (emphasis added). Please note that the level of seriousness is described in subsection 2 with regard to event or situation which threatens serious damage to human welfare and in subsection 3 with regard to an event or situation which threatens serious damage to the environment.

The Central Government's Concept of Operations ('Conops')⁶⁷³ sets out the UK arrangements for responding to and recovering from emergencies, irrespective of cause or location and requiring co-ordinated central government action. According to Conops, the three phases that characterise an emergency, namely **preparation** (pre-planning); **response** (mitigating an immediate risk or stopping things getting worse); and **recovery** (a longer-term activity of rebuilding, restoring and rehabilitating the community) should be always guided by the following principles:

- **Preparedness:** all individuals and organisations that might have to respond to emergencies should be properly prepared,
- **Continuity:** the response to emergencies should be grounded within organisations' existing functions and their familiar ways of working,
- **Subsidiarity:** decisions should be taken at the lowest appropriate level, with co-ordination at the highest necessary level,
- **Direction:** clarity of purpose should be delivered through an awareness of the strategic aims and supporting objectives for the response,
- **Integration:** effective co-ordination should be exercised between and within organisations and local, regional and national tiers of a response,
- **Communication:** good two-way communications are critical to an effective response,
- **Co-operation:** positive engagement based on mutual trust and understanding,
- **Anticipation:** in order to anticipate and manage the consequences of all kinds of emergencies, planners need to identify risks and develop an understanding of both the direct and indirect consequences in advance where possible.⁶⁷⁴

Conops describes how the UK central government response will be organised in case of emergency,⁶⁷⁵ and the relationship between the central, regional and local tiers in England, as well as the relationship between the UK central government and the devolved administrations in Scotland, Wales and Northern Ireland. The Conops guidance acknowledges three types of emergencies:

- **Significant (level 1)**, e.g. severe weather-related problems;
- **Serious (level 2)**, e.g. terrorist attack, widespread urban flooding, widespread and prolonged loss of essential services, a serious outbreak of animal disease, or a major emergency overseas with a significant effect on UK nationals or interests; and

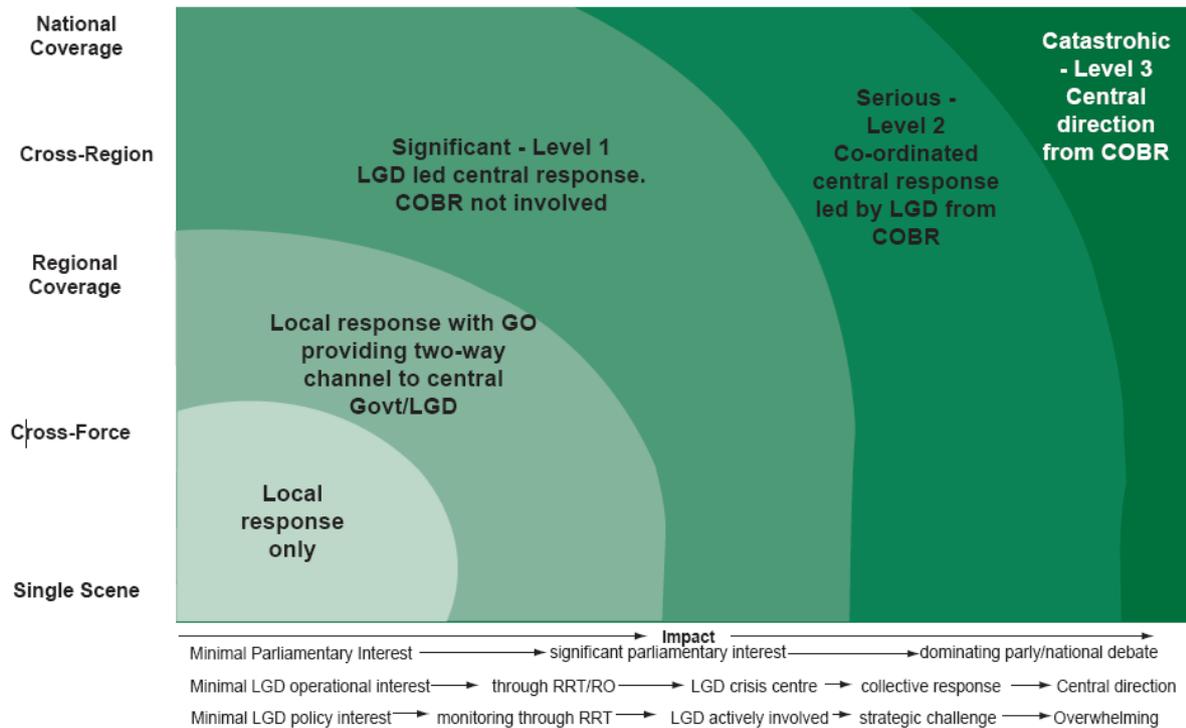
⁶⁷³ Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192425/CONOPs_incl_revised_chapter_24_A_pr-13.pdf

⁶⁷⁴ *Ibidem* at 6.

⁶⁷⁵ The Government comprises 19 central Departments and numerous agencies with varying levels of independence from direct ministerial control.

- Catastrophic (level 3), e.g. a major natural disaster, or a “Chernobyl-scale” industrial accident.⁶⁷⁶

Figure 1 below explains the Central Government engagement based on the impact and geographic spread of an emergency in England.⁶⁷⁷



If the emergency is “significant” (level 1) and if a central response is required, a Lead Government Department (‘LGDs’) is appointed.⁶⁷⁸ One department LDG usually takes overall responsibility for assessing the situation, ensuring that its Ministers and other relevant Ministers are briefed, handling media and parliamentary interest, and providing co-ordinated policy and other support as necessary to local responders. The Cabinet Office maintains a list of LGDs that sets out where the lead should lie in both the response and recovery phases for a wide range of emergencies. Where the UK Government lead is unclear, it is the responsibility of the Cabinet Office to make a judgement and advise the Prime Minister’s Office on the most appropriate LGD.⁶⁷⁹ The LGD is responsible for ensuring that appropriate plans exist to manage the emergency, for ensuring that adequate resources are available and for leading

⁶⁷⁶ Note that the UK has no recent experience of a level 3 emergency.

⁶⁷⁷ Figure available at: <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmsctech/498/49806.htm>

⁶⁷⁸ For example in case of terrorist related emergencies in England, Scotland and Wales the Home Office is the LGD and it will lead, at least initially, on wider impacts of the incidents in England with support from other government departments as necessary. Instead in case of terrorist or other incidents overseas, including emergencies affecting the UK’s Overseas Territories (OTs), the Lead Government Department is the Foreign and Commonwealth Office.

⁶⁷⁹ For example the Northern Ireland Office is responsible for counter-terrorist policy in the Northern Ireland. If, following a terrorist incident in the Province, there is a need to activate COBR, the Cabinet Office will decide in consultation with the Northern Ireland Office, Home Office and the Prime Minister’s Office who should chair in light of circumstances at the time.

on public and parliamentary handling. LGDs are also responsible for ensuring they have effective arrangements to access scientific and technical advice in a timely fashion in an emergency.⁶⁸⁰

In the event of a **level 2 or 3** emergency, the central response framework will be automatically initiated, involving the activation of Central Government's crisis management facilities, namely the Cabinet Office Briefing Rooms ('COBR'). COBR is a forum of Ministers and senior officials from relevant Departments and agencies. COBR's main goal is to promote both a rapid coordination of the Central Government response and an effective decision-making. External representatives and experts are invited to attend COBR meetings as appropriate and discussions are held behind closed doors. During an emergency, one of the two senior decision-making bodies within COBR, *i.e.* the Strategy Group⁶⁸¹ or the Civil Contingencies Committee ('CCC')⁶⁸², will usually be activated. The Strategy Group discusses only the response to terrorist-related emergencies, whilst the Civil Contingencies Committee is in charge of civil (non-terrorist) emergencies.⁶⁸³ When it is considering civil emergencies, COBR is also supported by the Civil Contingencies Secretariat ('CCS') of the Cabinet Office.⁶⁸⁴

2.2. Local Response to Emergency

Where an emergency occurs in Scotland, Wales, or Northern Ireland and falls within the competence of the relevant Devolved Administration ('DA'), the response will be led locally, reporting through the relevant minister to the devolved legislature.⁶⁸⁵ In these cases the UK government departments are normally not involved at all. The relevant UK central government territorial department (Scotland Office, Wales Office and Northern Ireland Office) will serve as the first point of contact with the relevant DA engaging other UK departments as necessary. Where the response to an emergency would benefit from regional coordination, a Regional Coordinating Group (RegCG) will be convened.⁶⁸⁶ At the regional level, Regional Resilience Teams (RRT) in each Regional Government Office serve as a conduit for communications between central government and the local level. They are responsible for activating Regional Operation Centres where required, supporting local response and recovery efforts, and ensuring that there is an accurate picture of the situation in their region.⁶⁸⁷

⁶⁸⁰ This may involve establishing a Science Advisory Group for Emergencies ('SAGE').

⁶⁸¹ The Strategy Group is chaired by the Prime Minister, Home Secretary or Foreign Secretary. The Group may meet in 'Restricted' session where necessary to consider some particularly sensitive issues.

⁶⁸² The CCC bring together Ministers and officials from the key departments and agencies involved in the response and wider impact management along with other organisations as appropriate.

⁶⁸³ On rare occasions, both the Strategy Group and CCC could be convened to deal with different aspects of the same emergency.

⁶⁸⁴ The COBR structure is explained in detail in the Central Government's Concept of Operations, at 22, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192425/CONOPs_incl_revised_chapter_24_Apr-13.pdf

⁶⁸⁵ England consists of 34 two-tier counties, 32 London boroughs and 1 City of London or Greater London, 36 metropolitan counties and 46 unitary authorities. Northern Ireland consists of 26 district council areas and Scotland and Wales has 32 and 22 unitary authorities respectively.

⁶⁸⁶ Note that only England is divided in administrative regions, namely 9.

⁶⁸⁷ Further info is available at: http://ec.europa.eu/echo/civil_protection/civil/vademecum/uk/2-uk-1.html

The emergency is, therefore, handled within the territory where it occurred unless its nature raises specific issues that request the intervention of the appropriate UK central LGD. All the requests from English, Scottish or Welsh police forces for military assistance would normally be endorsed by the Home Office prior to be considered by the Ministers of the Defence (MoD).⁶⁸⁸ In Northern Ireland, such requests would be processed by the Northern Ireland Office ('NIO'). Any other requests for military assistance would normally be made via the relevant UK territorial department. It should be noted that the local response is the basic building block of the response to any emergency in the UK, thus reflecting the pivotal distinction between the independent role of the police and other statutory authorities, and the strategic direction/support provided by the central Government. The local response is based upon the delivery of individual agencies' responsibilities co-ordinated, where appropriate, through a multi-agency Strategic Co-ordinating Group ('SCG') which, in most cases, is chaired by a senior police officer. Operating below the local multi-agency SGC are three levels of command at a single agency level, namely: operational (**Bronze**), tactical (**Silver**) and strategic (**Gold**). Normally these levels will be implemented without the need for multi-agency co-ordination through the SCG and any necessary co-ordination will take place already at the silver or bronze level.⁶⁸⁹

THE OPERATIONAL FRAMEWORK in RESPONSE TO CBRN CRISIS: ACTORS AND PROCEDURES

The multi-agency co-operation through local resilience forums is regulated by the Civil Contingencies Act (2004). The Act divides emergency responders into two categories and explains in detail the duties incumbent upon them. "Category 1 responders" are those organisations at the core of the response to most emergencies (e.g. the emergency services, local authorities and NHS bodies).⁶⁹⁰ In particular it is worth to stress that they are subject to the full set of civil protection duties and are required to:

- assess the risk of emergencies occurring and use this to inform contingency planning;
- put in place emergency plans and business continuity management arrangements;
- put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency;
- share information and cooperate with other local responders to enhance coordination and efficiency; and

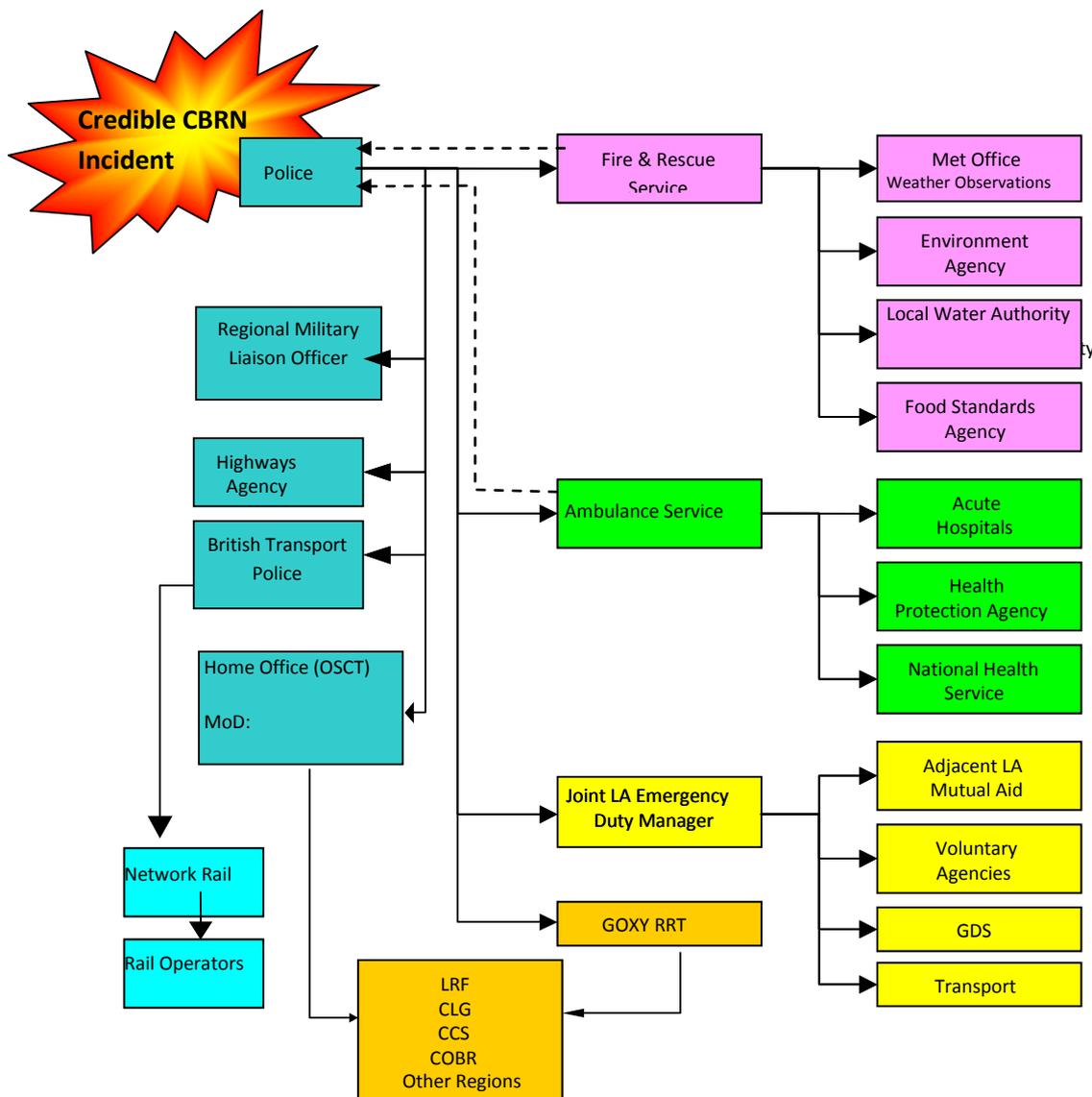
⁶⁸⁸ The Ministers in the Ministry of Defence are 6.

⁶⁸⁹ See Conops at 49.

⁶⁹⁰ "Civil Contingencies Act", Cabinet Office: UK Resilience, updated 17 January 2011, available at: www.cabinetoffice.gov.uk/resilience

- provide advice and assistance to businesses and voluntary organisations about business continuity management (local authorities only).

“Category 2 responders” (e.g. the Health and Safety Executive, transport and utility companies) are “co-operating bodies”. They are less likely to be involved in the heart of planning work but will be heavily involved in incidents that affect their sector. “Category 2 responders” have a lesser set of duties and are mainly required to cooperate and share relevant information with other Category 1 and 2 responders. The management of the risks of civil emergencies in the UK is directly coordinated by the Cabinet Office, working in partnership with other Government Departments and the Devolved Administrations.⁶⁹¹ The multi-agency cooperation among the different stakeholders is illustrated by the figure below.⁶⁹²



⁶⁹¹ The House of Common’s Science and Technology Committee, Report: “Scientific Advice and Evidence in Emergencies”, published on 2 March 2011, at 15.

⁶⁹² The figure has been provide by Cameron Mann Inspector PN CBRN, London Police Force, in response to the questionnaire submitted by the SSUP research team on 15th July 2013.

Category 1 responders

As stated above the police force plays a prominent role in responding to a CBRN event and it is the first responder requested to intervene. According to Law No. 5 (1998)⁶⁹³ the local police force bears the legal responsibility for responding to terrorist incidents and also for coordinating the activities of all the emergency services involved in the response. The police force provides a 24/7 Operational Support Centre which can supply initial Tactical Advice, mobilise CBRN specialist resources both regionally and nationally and liaise directly with the Scientific Advice. The police force deploys advisors and liaison officers to police commanders in the area of the event and also cooperates with specialist military and scientific assets on scene. Moreover, the police force acts as an interface with Government-level specialists to ensure that advice is consistent at all levels of command. The main role of the police force is *to co-ordinate the overall response* of the emergency services in order to achieve the following outcomes.⁶⁹⁴

- saving life and protect the public,
- minimising the impact of the incident on people, property and the environment,
- keeping the public informed, and
- assisting an early return to normality.

Approximately 5% of UK police officers are trained and equipped (with personally issued PPE) for responding to a CBRN attack.⁶⁹⁵ They are not grouped into special teams: they rather are on police patrols and, if needed, ‘mobilised’ from their normal duties to respond to a CBRN attack. Each “category 1 responder” has also a number of specially trained CBRN Commanders. CBRN Commanders from Fire, Police, Ambulance and Military are trained together to encourage information sharing between the agencies. All agencies which belong to the Category 1 responders hold quarterly Practitioners’ meetings on a multi-agency basis.

Category 2 responders

As already stated in the previous sections, the Civil Contingencies Act (2004) explicitly differentiates between category 1 and category 2 responders. Category 2 responders are defined as “co-operating bodies” and include the Health and Safety Executive, transport (land, sea and air) and utility

⁶⁹³ The Law on response to Nuclear Accidents In the Official Journal No. 2, 22.12.1998, at 31.

⁶⁹⁴ Emphasis added.

⁶⁹⁵ The activities of the Police Force with regard to CBRN events are regulated by manuals and guidelines such as: a Model Response to CBRN events (2006), The Police Strategic Management of CBRN Events (2008), the Police Tactical Management of CBRN Events (2011), the CBRN Bronze Commanders and CBRN Supervisors Handbook (2011).

companies.⁶⁹⁶ Category 2 responders are less likely to be involved in the heart of planning work, but will play a key role in case of incidents that affect their sector. Category 2 responders have a lesser set of duties, especially with regard to co-operating and sharing relevant information with other Category 1 and 2 responders. However, in case of emergency Category 1 and 2 organisations will come together to form Local Resilience Forums (based on police areas) in order to promote the co-ordination and co-operation between responders at the local level.

CONCLUSIVE REMARKS

A multi-agency approach to developing tactics, doctrine and training is one of the most remarkable feature of the UK strategy to respond to CBRN events. Police Ambulance, Fire/Rescue and Military all work together to develop capabilities that are interoperable during CBRN preparations and response. CBRN Commanders from every agency attend the same commander training course delivered by a multi-agency team they learn and understand each other's capabilities and approaches and are assessed/qualified whilst working together in a simulated exercise environment.

Every major city, airport and seaport is provided with an operation multi-agency CBRN response plan. Moreover, every aspect of CBRN response has been carefully considered by the local responding agencies in order to identify and address potential weaknesses. All the plans must go through three stages of validation culminating in a large 'live play' exercise to make sure they work and that the local commanders can activate them to deal with the 'real life' challenges of a CBRN attack. The interplay among the different stakeholders, both at the local and at the central level, appears very well regulated and soundly disciplined, and this seems particularly sensible given the fact that the UK is an island, and in case of a CBRN event external interventions may be extremely challenging and not always well-timed.

⁶⁹⁶ See the Civil Contingencies Act, Part 3.

3. RESPONDING TO CBRN CRISES AND EMERGENCIES IN ITALY: DRAWING LESSONS FROM A COMPARATIVE ANALYSIS

Introduction

The present Mapping Report has so far thoroughly identified and analysed the Italian and – in a comparative perspective – other 10 EU Member States' Institutional and legal framework governing the response to CBRN emergencies or crises. In addition, the Report has also mapped and examined some technical-operational procedures and practices adopted by national law enforcement authorities, incident commanders and other first responders in dealing with these emergencies or crises. The goal of the investigation was two-fold: to identify the similarities and differences between the national approaches to CBRN threats; to recognise solutions or practices that may be adopted or implemented by Italy in order to foster its CBRN crises and emergency management system.

In this section, we elaborate further on the identified practices and solutions, and - whenever relevant or applicable – we recommend their adoption by the Italian CBRN crises and emergency management system.⁶⁹⁷ Some recommendations address also the EU legal and cooperation framework dealing with the subject matter. Indeed, as already discussed, since the Italian system – as well as those of other EU Member States – is closely tied up to the mechanisms and procedures established within the EU, and within other international cooperation mechanisms, some actions would be required at such supranational level.⁶⁹⁸

Making Room for Improved Response to CBRN Crises and Emergencies in Italy

The “Duality” of the Italian CBRN Crisis and Emergency Management System: Neither a Limit nor an Opportunity to Effective Response. So What?

As already discussed, the Italian CBRN crises and emergencies management system consists of two structures and mechanisms that are formally separated although intrinsically integrated: the Civil defence and the Civil protection.⁶⁹⁹ While the latter deals with natural disasters and man-made incidents affecting Italy and determining a situation of “emergency” at national-central, regional or local level, the former copes with the same kind of events but amounting to a situation of “crisis”. Furthermore, the Civil defence mechanism is triggered to manage crises stemming from man-made intentional activities like criminal, subversive and terrorists actions, or military attacks originating from State and non-State

⁶⁹⁷ Please, *cf. also* the “Conclusive Remarks” of each country reports in Section II where the above mentioned best practices have been pre-identified.

⁶⁹⁸ *Cf. supra* Section I.

⁶⁹⁹ *Cf. supra* Section II, Italy.

actors.⁷⁰⁰ Overall, these mechanisms aim to safeguard human life, goods, national heritage, human settlements and the environment from threats entailing a situation of emergency or crisis.

The main difference between, on one side, the Italian Civil defence and, on the other, the Civil protection mechanism lies in the fact that the former prioritizes national security and law enforcement related concerns, *i.e.* safeguarding the continuity of the Government action, protecting critical infrastructures, maintenance and/or restoration of the public order, forensic investigation, crimes' prosecution and so on; the latter, instead, focuses more on the safety of the persons and assets affected by dangerous events.

It has to be noted that a formal distinction between “Civil protection” and “Civil defence” was established also by other EU Member States' legal frameworks. These were the cases of Spain and Sweden. However, both countries have nowadays abandoned such a distinction, *i.e.* the notion and mechanism of Civil defence have been more or less replaced by or incorporated in the concept and apparatus of Civil protection.⁷⁰¹ Anyway, It is worth noting that the normative notion of Civil defence adopted by Spain and Sweden referred to the readiness of non-military resources in the service of National defence. In other words, it referred to the employment of civilian resources in response to some consequences stemming from an armed attack, *i.e.* a situation of war. This notion corresponds to the concept of Civil defence as it was originally elaborated and adopted by the Italian legal order, in particular after World War I. Since then It has developed further and ended up to the concept and related mechanism that is in force presently. As discussed above, nowadays, the Italian Civil defence mechanism can be activated independently from the National defence system, and to face critical situations originating from further threats than military aggressions only – *i.e.* natural or man-made disasters, criminal, terrorists or subversive actions.

It has to be noted that a “dual” or “bi-dimensional” emergency and crisis management system is nowadays in place also in Germany where there is a distinction between “civil protection in the broader sense” (*Katastrophenschutz*) and “civil protection in the narrow sense” (*Zivilschutz*).⁷⁰² The former encompasses all the concrete actions to achieve preparedness with respect to disasters in peace time and all the measures taken in order to keep the number of victims and the extent of damages as small as possible. On the contrary, in the functional area of Civil protection in the narrow sense fall the disasters caused by an on-going armed conflict in Germany. The described configuration is reflected in a dual regime of responsibility: on the one hand stand the States (the *Länder*) which are responsible for the Civil protection in the broader sense, and on the other hand the German Federation that is in charge of the Civil protection in the narrow sense. As one may understand, the described dichotomy of the German

⁷⁰⁰ In the latter situation, the Italian Civil defence mechanism will complement the wide National Defence system.

⁷⁰¹ As we reported, nowadays the Spanish legal order acknowledges the distinct concepts of Civil protection, on one side, and National defence on the other. The latter refers primarily to armed conflicts where, however, the structures and mechanisms provided by the Civil protection may be deployed as well – with the purposes of safeguarding citizens' lives and integrity, and public goods. Civil protection refers primarily to peace time dangerous situations (terrorism included) where the Spanish army can provide its assistance too. *See supra* Section II, Spain. With regard to Sweden, its crisis and emergency management system is nowadays mainly based on the Civil protection mechanism that is normally triggered during peace time crises or emergencies. However, Civil protection may be also activated in case of armed attack affecting Sweden, together with Military defence. *See supra* Section II, Sweden.

⁷⁰² *See supra* Section II, Germany.

crisis management system does not reflect nor correspond to the “duality” of the Italian system. The German dichotomy is based on the distinction between threats occurring in peace or in war time. As already mentioned, the Italian dichotomy disregards such a distinction.

In light of the above, it is evident the “peculiarity” of the Italian system in Europe. In other words, Italy is the only country whose CBRN crises and emergency management system is based on two formally separated mechanisms. Now, the obvious question to be asked is: does this “peculiarity” represent a limit to or an opportunity for the provision of an effective response to crises or emergencies that involve the release or fusion of CBRN agents?

If one looks at the Italian system as tested by recent real life emergencies and critical situations or by exercises or field trials, it is possible to conclude that the system works. In other words, the system proves sound, reliable and effective, although it presents – as in many other countries – some critical aspects of concern.⁷⁰³ From this perspective, the duality of the Italian system may not be deemed a potential limitation to the provision of an effective response.

Neither, it may be considered an opportunity or a model to be recommended for adoption by other countries. Some flaws exist. Indeed, especially when the nature and reach of the threats are not immediately evident (terrorist attack? industrial incident?) – therefore it is not possible to establish whether they amounts to an “emergency” or a “crisis” – the determination of the mechanism to be triggered and the authority to be activated constitutes an salient issue. This would require a better definition of the circumstances under which each mechanism should be activated or at least the establishment of more specific criteria or guidelines to distinguish a potential emergency from a crisis. These criteria could be for example based on the “criticality” of the threatened target. In other words, a CBRN event affecting specific and pre-identified infrastructures or service should amount to a situation of crises, thus triggering the Civil defence mechanism; the same event but involving a target (service or infrastructure) that is not deemed critical raise a situation of emergency that activates the Civil protection mechanism. We acknowledge that the matter here discussed is complicated and not amenable to easy and smooth solutions. Even our proposed criteria could be easily challenged. However, we think that further efforts aimed at clarify the issue are required.

Interestingly, the Dutch legislation distinguishes between “emergency” and “crisis” too but on the basis of the number of threats that are at stake. According to the Dutch legislation, an “emergency” is normally caused by a single event, while a “crisis” is triggered by a combination of factors. Irrespective of the validity of this approach, its adoption by the Italian normative framework does not seem contributing to the determination of the mechanisms to be triggered in response to CBRN threats. Indeed one should note that the Dutch legislation considers both emergencies and crises as disaster’s subtypes, triggering the same response structure and mechanisms.⁷⁰⁴ Still, in Italy, it would be a matter of choice between two mechanisms.

In conclusion, we suggest that the interplay between the Italian Civil Protection and Civil defence mechanisms should be better determined. This determination would help to prevent potential

⁷⁰³ See *supra* Section II, Italy, spec. “Concluding Remarks”.

⁷⁰⁴ See *supra* Section II, The Netherlands.

procedural uncertainties that cause loss of time, as well as to avoid conflicts of competence between the authorities that are responsible for responding to CBRN threats.

A Coherent and Comprehensive Normative Framework is Needed.

From the analysis of the Italian normative framework governing response to CBRN crises or emergencies more aspects emerged that can be further discussed in light of the experiences observed in the other countries. In the first place it is worth underlying the fact that the Italian normative framework appears to be “fragmented”, *i.e.* this specific topic is disciplined by a large number of laws and regulations adopted at different level (national and regional mostly). The same was reported with regard to other countries, such as Belgium, France, Spain and Sweden, where there has been a proliferation of legislation concerned with emergency response over the past 20 years.⁷⁰⁵

In some settings, instead, the response to CBRN events is governed by a more organic and less complicated set of laws. Valid examples of less articulated normative frameworks can be found in several countries. For instance in Czech Republic two legal instruments cover all levels of Institutional action, from national to local and represent the key provisions regulating the legal framework of crisis management and response.⁷⁰⁶ In The Netherlands the legislation concerning emergency management and crisis control was previously laid down in a number of separate laws and acts, eventually substituted in January 2010 by a more comprehensive legal instrument.⁷⁰⁷ Moreover, in the Dutch system CBRN-E incidents are considered as crises that have to be counteracted with generic crisis management, taking into account specific knowledge and expertise in CBRN-E. Similarly in the United Kingdom CBRN events are dealt with according to the general legal framework which disciplines the response to emergencies. The whole subject is regulated by the provisions enshrined in one single legal instrument.⁷⁰⁸

Interestingly, in some countries, *e.g.* Ireland, preparedness and response to CBRN emergencies are not established by statutory regulations, but are defined by Plans adopted at the national, regional and local level according to common planning and management standards. This does not mean that the Irish crisis management system is completely defined by these standards and plans only. Of course there are some acts and regulations that are relevant and applicable in case an emergency occurs; and they are not a few.⁷⁰⁹

With regard to the Italian case, we conclude that a more coherent and comprehensive normative framework dealing with CBRN crises and emergency management is needed. The definition of such a framework will improve the delivery of an effective response to CBRN crises. On the contrary a fragmented normative framework may generate uncertainty especially with regard to identification of the roles and responsibilities of national authorities and first responders. This uncertainty becomes more troublesome when the above actors are asked to cooperate to achieve a common goal. In particular, for

⁷⁰⁵ See *supra* Section II.

⁷⁰⁶ See *supra* Section II, Czech Republic.

⁷⁰⁷ See *supra* Section II, The Netherlands.

⁷⁰⁸ See *supra* Section II, The UK.

⁷⁰⁹ See *supra* Section II, Ireland.

the specificity of the subject dealt with in this study, it would be crucial to count on an harmonious and smooth cooperation of all the stakeholders involved in the response to CBRN events.

Therefore we recommended Italy to review/rearrange its normative framework regulating the response to CBRN threats. The proposed review should have the goal to make that framework more sound, rational and accessible. It should focus on the rationalisation and organisation of the existing laws and regulations in one text (a Consolidation Act?), able to encompass all the laws and principles that discipline the response to CBRN threats.

Do Not Forget Explosives: the “E” Factor in CBRN Crises and Emergency Management

As we have pointed out, the Italian normative framework does not directly link the explosive (‘-E’) element/factor to “CBRN” threats. The risks posed by explosives are dealt with legislation – again fragmented and dated - that do not considered them in association with the risks posed by CBRN agents. However, it should be stressed that the Italian civil authority dealing with threats posed by explosives – *i.e.* the Police and its artificers – is slowly building a strong expertise in CBRN-E, which can be particularly valuable to face the so-called “dirty bomb”.⁷¹⁰

To tell the truth, response to “CBRN-E” events is disciplined in an organic way only by a couple of Countries in Europe. These are France and The Netherlands.⁷¹¹ All the other countries included in the present study do not consider “-E” events as automatically associated with CBRN, and some of them, for instance Sweden, deal with –E events through a specific but separate legislation.⁷¹²

Actually we do not know whether the inclusion of the E factor in to CBRN relevant normative discipline could improve significantly the effectiveness of the response to these kind of threats or not. However, in light of what we have recommended above concerning a general review/rearrangement of the Italian normative framework dealing with CBRN emergencies or crises, it seems that the inclusion of the E factor may improve the comprehensiveness of the latter framework and limit the risk of potential legal uncertainties.

Sound Leadership and Efficient Multi-Agency Coordination are Paramount to the Delivery of Effective Response.

In Italy, both the Civil defence and the Civil protection mechanism are structured with a command and control chain, where the Prime Minister takes national decisions supported by different decision-making and coordination committees and *ad hoc* structures. On-site decision-making and assistance coordination are provided by different kind of local authorities each of them contributing to the response with their own resources. On the operative level, first response is provided by several actors interacting together on the basis of some pre-established criteria. Broadly, the above model reflects the

⁷¹⁰ See *supra* Section II, Italy.

⁷¹¹ See *supra* Section II, France; *ibidem*, The Netherlands.

⁷¹² See *supra* Section II, Sweden.

organization of the crisis and emergency management systems in all the country surveyed. Of course, one may not overlooked the fact that these countries have different characteristics, needs and priorities; they have therefore set up *ad hoc* crisis and emergency management systems fitting their characteristics and responding to their needs.

As one may understand, achieving efficient coordination between several authorities and agencies that are involved in the response activity at different level constitute a difficult goal. The same goes for the determination of the authorities who are responsible for command, *i.e.* for leading the response activities. As above said, in Italy coordination is established through the establishment of *ad hoc* collective organisms. Depending on the level considered (central, regional or local) and the mechanism triggered – Civil defence or Civil Protection – the leadership is assigned to particular authorities as established by law.⁷¹³

In this context, it is worth reporting the solution adopted in Ireland to deal with the leadership issue. As described above, the Irish emergency management system is built around the crucial concept of “lead role/agency”.⁷¹⁴ This concept applies at the national, regional and local level of emergency management (and planning) and when multi-agency action is required. It ensures the possibility to quickly identify the authority (Government department or agency) that takes the lead of the response operations and coordinates all the actors involved in the response. Broadly speaking, the lead is taken “automatically” by a concerned authority depending on the specific type of emergency at stake and on the interests/sectors it affects. Two official documents provide the determination of the “lead agency”. The *ratio* of pre-establishing the Department/agency that is taking the lead in emergency management is to assign as quickly as possible responsibility for the co-ordination function. It is worth stressing that the lead Department/agency role may change over time, to reflect the changing circumstances of the major emergency. Ownership of the leadership may be reviewed at appropriate stages of the major emergency. Different departments or agencies may take the lead in case of an emergency involving respectively the accidental or voluntary release/fusion of C, B and RN substances.

The above described is an example of a different approach that is applied to cope with command (and coordination) issues in CBRN response. Given the present configuration of CBRN crises and emergency management system in Italy, we doubt the Irish solution could be adopted and implemented *tout court*, say, unless a radical review of the entire normative and Institutional framework is put in place.

Crisis and Emergency Communications Strategies and Policies Are Paramount to the Provision of Effective Response

As the above investigation shows, the adoption of sound, reliable and efficient information and communication infrastructure by first responders authorities is a fundamental requirement considered by every national CBRN crises and emergency management system. Together with “Command” and “Control”, “Communication” plays a very central role with respect to the provision of an effective

⁷¹³ See *supra* Section II, Italy.

⁷¹⁴ See *supra* Section II, Ireland.

response to CBRN emergencies and crisis. Command and control cannot be accomplished without the existence of two-way communications. Commands could not be passed from the commander to subordinates. Control would be impossible unless feedback in some form could take place. Basic to any control system is the incorporation of a reliable communications networks.

Fast and reliable communication infrastructures are also paramount to the provision of information that may be consumed by decision makers and stakeholders for detecting or foreseeing potential CBRN threats. They are essential also for monitoring an on-going crisis or emergency, its evolution and for assessing the effectiveness of the response measures that are adopted. In sum, they are relevant for producing intelligence.

In Italy the above aspects are disciplined by the existing law and plans for crisis and emergency management, CBRN threats included. At the operative level, a sound information system (“the System”) established within the Civil Protection mechanism but that may be employed for Civil defence purposes too, monitors potential and actual emergencies occurring in Italy and worldwide, provides updated information to all the stakeholders involved, alerts and activate the various components and operational structures of participating to the emergency management.

However, the importance of communication is not limited to the above described realm only. In other words, it does not concern exclusively the way first responders and relevant authorities share and examine information that are useful for decision-making. From a broad perspective, communication in crises and emergency management refers also to the way first responders and relevant authorities impart information to the population directly or indirectly affected by the dangerous event. As widely acknowledged, good and efficient crisis communication solutions targeting the population are a key element for solving an emergency or crises situation. Crises and emergencies are characterized by uncertainty in their nature, the resulting insecurity of the public and suddenly growing need for information. If true and precise information does not reach the people affected by the crisis or emergency (to crisis or emergency communication target groups), it might significantly hinder the its solution and reduce state authorities’ credibility. Some crises, such as terrorism, may activate groups who, incited by self-profit or other reasons, send out information that intensifies the crisis and misleads the public. Therefore it is the obligation of government bodies to gather and distribute correct and precise information as soon as possible, avoid speculations and refute false information.⁷¹⁵

It is noteworthy to observe that the Italian crisis and emergency management system lacks of communication strategies or policy to be implemented when needed. In other countries, instead, much more attention has been placed on the importance to enhance and make efficient the communication between the authorities and the population in case of emergency, including CBRN events. Positive examples of communication strategies could be found in three of the countries investigated. In Belgium for instance an Information Unit (‘CELINFO’) has been set up to: informs the general public about the protective measures to be taken; informs the media; monitors and evaluate the reactions of the

⁷¹⁵ Cf. what we have discussed about this topic in the Section II, Estonia,

population and the media in real time; sends the necessary information to the neighbouring countries; and ensures that all the authorities concerned are promptly and sufficiently informed.⁷¹⁶

Similarly in Estonia a lot of emphasis has been placed on the importance to guarantee an efficient crisis or emergency communication.⁷¹⁷ This duty is evenly shared by local governments, regional rescue centres and government authorities. All these actors, in fact, have (or should have) appointed communication specialists or established a crisis communication team that must be ready for starting crisis communication at any time. Moreover, in order to coordinate the interplay of different agencies and bodies, a permanent crisis communication team is set up. Interestingly in Estonia the Government Office has signed a memorandum with the largest media channels to regulate the cooperation if an emergency occurs. In addition to that, the Ministry of the Interior has also published a Crisis Communication Handbook.

An *ad hoc* body in charge of dealing with the communication with the population has been established also in The Netherlands.⁷¹⁸ The Communications Unit, one of the two bodies which compose the National Crisis Centre, is responsible of drafting and distributing risk and crisis-related information, both in its own capacity and on behalf of the central government.

In light of the above, we suggest Italy to develop a sound and comprehensive crisis and emergency communication strategy. As we have already pointed out, some norms, policies or standard procedures dealing with the subject matter can be likely found in national or local Civil defence and emergency management plans. However, we suggest to review such policies and procedures, and to adopt a more comprehensive strategy concerning how information should be provided to the population, by which relevant authorities, through what different media – the Internet included. We support the need to establish – also through the adoption of soft-law instruments or non-binding guidelines or set of principles – a better framework governing cooperation between relevant authorities and largest or local national media channels (both public and private) in case of emergencies or crises. We also suggest to develop a plan on how to deal with all foreign media during emergencies especially in the case international assistance is requested. Indeed media handling information under such circumstances might require a coordinated approach from Italian national authorities.⁷¹⁹

In addition, the above crisis and emergency communication strategy should also propose some basic principles “governing” the provision of information on-line (*e.g.* through blogs or in social networks) by individuals employing new ICT (*e.g.* smart phones). In particular, we think about guidelines targeting the population and suggesting how private individuals can contribute to the first responders’ efforts to solve the crisis by sharing relevant and validated(!) information and news. On the other side, the communication strategy should also try to educate individuals to communicate only valid information and to recognise and disregard incorrect news that can generate panic.

⁷¹⁶ See *supra* Section II, Belgium.

⁷¹⁷ See *supra* Section II, Estonia.

⁷¹⁸ See *supra* Section II, The Netherlands.

⁷¹⁹ Cf. also Commission, *Eu Host Nation Support Guidelines*, cit., p. 3.

Constant Training for Stakeholder: Civil Population Included!

The provision of constant training to stakeholders involved in the response to CBRN events is a fundamental aspect considered by all the above examined countries' legal framework. Good practices regarding this specific aspect have been found in several contexts. Exercises which test and improve the interplay of the different actors that cooperate in case of emergency have been organised in a number of countries, including Italy. Other examples can be found in Germany where the LÜKEX exercise has been established since 2004.⁷²⁰ LÜKEX is a cross-*Länder* and cross-departmental exercise at political-administrative level in the area of national crisis management. As explained above, the groups targeted by the exercise are also political decision-makers from the Federation and the *Länder* and providers of critical infrastructures. In Belgium crisis management plans are regularly practiced, especially the Nuclear Emergency Plan, which is exercised at least four times a year and can include the participation of foreign countries.⁷²¹ Estonia in 2011 held an exercise particularly relevant for CBRN events. The EU CREMEX, Chemical and Radiological Emergency Management Exercise, fulfilled several objectives, but foremost it pursued the goal of “testing the understanding, knowledge and response in the framework of the Union Civil Protection Mechanism”.⁷²²

Other countries perform their training on a smaller scale, organising exercises for the local stakeholders, in particular for the actors which play the most prominent role. In Czech Republic, for example, where an “Integrated Rescue System” is in place, the Fire Rescue Service has a specific training which take place on a monthly basis.⁷²³ Each municipal fire station and each regional Fire and Rescue Brigade have their own exercise plans, which are coordinated at the national level to ensure that other actors (i.e. the Medical Rescue Services, the police, the army, ministries and other bodies of the Integrated Rescue System) are incorporated into these plans. In the UK, where the Police Force acts as the main stakeholder, every major city, airport and seaport is provided with a multi-agency CBRN response plan. All the plans must go through a three stages validation, which culminates in a large “live play” exercise to make sure they are efficient and that the local commanders can activate them to deal with the ‘real life’ challenges of a CBRN event.⁷²⁴

We would like to point out that training is extremely important for improving first responders' capacity to operate during a CBRN crises or emergency situation. And what about the population that might be affected by these situations? Generally speaking, population usually take part to training and exercises. However, we think that more resources should be allocated to the provision of these training programs and exercises for communities that are particularly exposed to CBRN threats.⁷²⁵ Training should teach basic norms of behaviour, *i.e.* what to do and not to do during an emergency.

⁷²⁰ See *supra* Section II, Germany.

⁷²¹ See *supra* Section II, Belgium.

⁷²² See *supra* Section II, Estonia.

⁷²³ See *supra* Section II, Czech Republic.

⁷²⁴ See *supra* Section II, The UK.

⁷²⁵ For example, training should be provided to people living close to nuclear power stations, factories dealing with hazardous substances or next to facilities that are at risks of terrorists attacks.

The International Dimension of CBRN Response: Towards Better Governance of Incoming Assistance?

As we have already discussed, the Italian CBRN crises and emergency management system is closely linked with the mechanisms and procedures established within the EU, as well as within other international cooperation mechanisms (NATO, OPCW to cite a few).⁷²⁶ The same goes with the 10 EU Member States' systems we have surveyed in this Report. In case of CBRN emergencies or crises and according to specific conditions, these States may require international assistance from other States that participate to the above mechanisms as well as provide them with their support. Here we want to discuss the former aspect, i.e. the reception or hosting of international assistance by a State whose territory and population are affected by a CBRN event.

Indeed, there are a wide range of issues that may prevent or hinder a State to effectively benefit from support provided by other Countries. These issues include hosting State's national legislation on entry, customs law, taxation, and transport rules that may pose some barriers to the deployment and action of foreign first responders.⁷²⁷ At the international level and depending on the form of cooperation at stake, different initiatives have been promoted in order to cope with the above issues.⁷²⁸ As far as the EU is concerned, it is worth recalling the *Host Nation Support Guidelines* that propose specific (though non-binding) solutions to be adopted by States in order to receive international assistance during a major emergency in the most effective and efficient manner.⁷²⁹ The Guidelines highlight key actions to be taken in relation to emergency planning, emergency management and coordination, logistics, transport and legal and financial issues. With regard to the legal issues, the Guidelines stress the need for State receiving assistance (or "Hosting Nation") to make legal arrangements to allow for the delivery of emergency support within their territory. As they declare: "It is crucial for a smooth delivery of international assistance that the Participating States [*to civil protection cooperation mechanism, Ndr*] have solid and systematic solutions ready to identify relevant legal issues that may constitute obstacles to the overall objective of facilitating the provision of international assistance and, if appropriate, modify their legislation."⁷³⁰ In addition, the Guidelines recommend the Hosting Nation to "... ensure that assisting countries and relevant international organisations are provided with temporary authorisation to legally operate on their territory so as to enjoy the rights [...] for the purpose of providing assistance".⁷³¹

⁷²⁶ Cf. also *supra* Section I.

⁷²⁷ Cf. *Analysis of Law in the EU and a Selection of Member States pertaining to Cross-Border Disaster Relief. Synthesis Report and Recommendations*, International Federation of Red Cross and Red Crescent Societies, 2010, pp. Ch. 3-5, available at <http://www.ifrc.org/Global/Publications/IDRL/country%20studies/EU-IDRL-Study-Synthesis-Report.pdf>. For example, as stated in the cited report, p. 21: "Personnel sent to assist Member States in the aftermath of a disaster may possess specific skills and qualifications that are regulated in the affected State. Regulated professions include doctors, nurses, paramedics and engineers. For professionals with foreign qualifications, permission to practice is dependent on a process of recognition. For qualifications obtained within the EU, existing EU law calls for a so-called "automatic" system of recognition when services are provided on a temporary basis. However, states are still allowed to take up to one month for processing the request." Cf. also Civil Protection Cooperation for the Candidate Countries and Potential Candidates, *Analytical Study On Host Nation Support*, Lot 3 Europaid/128936/C/Ser/Multi, 2012, available at http://ipacivilprotection.eu/hns_study.pdf.

⁷²⁸ In general, the established CBRN emergency or crisis management cooperation mechanisms do not provide detailed rules coping with the subject matter.

⁷²⁹ EU Commission, *Eu Host Nation Support Guidelines*, cit. Cf. also *supra* Section I.

⁷³⁰ EU Commission, *Eu Host Nation Support Guidelines*, cit. p. 7.

⁷³¹ *Ibidem*.

With regard to the “smooth” and effective reception/hosting of international assistance by a State affected by a crisis or emergency, national legislation does matter. Broadly speaking, the hosting State should have a proper normative or procedural framework dealing with the governance of international “incoming” assistance established. We mean a framework consisting of rules or, at least, principles aimed at “governing” or “managing” support provided by foreign first responders. These rules or principles should cope with different issues ranging from the identification of the national authority(ies) responsible for liaising – at different level, *i.e.* political, tactical or operative – with foreign first responders, to the definition of duties and rights the latter have.

As the investigation we have carried out in the present Report shows, Italy lacks a sound and comprehensive framework dealing with the management or governance of international incoming assistance. Whereas it is not disputed which national authorities are entitled to ask for international assistance at strategic political level – both within the Civil defence and Civil protection mechanisms –, it has yet to be established a clear and detailed framework determining the roles, responsibilities, powers, rights and functions of incoming actors. However, in this respect Italy does not stand alone in the EU. Similar observations can be made for other countries we have surveyed. We refer to Spain, France, Belgium, Ireland and Germany.⁷³² For example, with regard to the latter country’s relevant framework, it is unclear which federal body is responsible for requesting international disaster relief and liaising with international aid providers.⁷³³ In Sweden legislation provides for the request for international assistance to originate from a local or regional authority when needed. However a comprehensive and detailed framework concerning the management of (incoming) international assistance has yet to be developed.

A set of basic principles and rules governing the duties and functions of foreign first responders providing assistance are established in Estonia.⁷³⁴ As we have described, the Estonian law provides for the Estonian Rescue Board to involve an administrative authority of another country in rescue operations (and explosive ordnance disposal) on the territory of the Republic of Estonia. The competence and powers of this authority should be established (and detailed) by international agreement. However, more explicit and precise are provisions detailing the functions of foreign authorities that are asked by the Ministry of Interior to contribute in carrying out policing activities within the Estonian jurisdiction.⁷³⁵

In The Netherlands international assistance is properly outlined in an operational manual.⁷³⁶ The Manual is divided in 3 parts dealing separately with the topics of National Disaster Response, Cross-Border Assistance (Germany and Belgium) and International Assistance (EU and non-EU) respectively. It clarifies that foreign assistance may be provided to The Netherlands via various organisations such as the EU, NATO and UN, but it can also be rendered directly by a neighbouring country or any other country. The procedure described in the Manual is applicable in each and every circumstance, regardless of where the assistance is coming from. Moreover the Manual carefully explains which are the authorities, local or national, entitled to request assistance and which are the bodies that play a role in the deployment of

⁷³² Cf. *supra* Section II.

⁷³³ Cf. *supra* Section II, Germany. As noted above, in Germany rather than a national focal point, various focal points exist whose responsibility is determined according to the legal basis of the international request for assistance.

⁷³⁴ Cf. *supra* Section II, Estonia.

⁷³⁵ *Ibidem*.

⁷³⁶ Cf. *supra* Section II, The Netherlands.

external help.⁷³⁷ Despite its uncontroversial importance and uniqueness the Manual presents two shortcomings: firstly it has not been legally embedded and secondly its application is limited to incoming foreign inter-State relief, both from EU Members and non-EU Members, but does not cover at all the incoming relief rendered by non-State actors like NGOs or the Red Cross.

In light of the above, we recommend Italy to adopt a comprehensive framework dealing with the governance of incoming international support – both from State and non-state actors – to face CBRN crises or emergencies. This framework should be premised upon a preliminary mapping activity of all relevant international obligations or cooperation mechanisms Italy takes part. Whenever gaps emerge, ascribable to the lack of international laws or lack of implementation thereof, it is important that the national authorities step in. This should happen both at the international level (through the negotiation and adoption of the necessary legal instruments) and at the national one.

Given that many surveyed countries' national framework lack of specific norms dealing with the governance of international incoming assistance, it seems necessary they take some action too. As far as Europe is concerned, The EU could support and drive the process. As we said, the EU have already adopted the *Host Nation Support Guidelines*. However, irrespective of the fact they are not binding, we think that the EU Guidelines should be more detailed and comprehensive than they presently are.⁷³⁸

⁷³⁷ *Ibidem*.

⁷³⁸ As reported by E. Mosquini, *Host Nation Support – Six European National Societies Assess Implementation of the Guidelines*, 9 December 2013, available at <http://www.ifrc.org/en/what-we-do/disaster-law/news/europe/host-nation-support--six-european-national-societies-assess-implementation-of-the-guidelines-63944/>, “The National Societies of the Icelandic, Irish, Italian, Finnish, Latvian, and Polish Red Cross, have each conducted extensive legal review and consultations to assess their country’s legal preparedness for international disaster response. [...] Despite the countries’ very different risk profiles and institutional arrangements several common challenges were identified. Among these were strict restrictions on the entry of search dogs and reliance on (often inconsistent) bilateral arrangements for disaster assistance.”

4. RECOMMENDATIONS

In light of the study carried out in the present Mapping Report as well as its main findings, we propose the following set of recommendations aimed at improving the Italian Institutional, normative and operational framework dealing with CBRN crises and emergencies. Whenever relevant or applicable some recommendations address also the EU legal and cooperation framework dealing with the subject matter.

- 1) **WE RECOMMEND** Italy to establish a more coherent, easily-accessible and comprehensive normative framework dealing with CBRN crises and emergency management. This would require a general review/rearrangement of the laws and regulations dealing with the subject matter, as well as their rationalisation in one comprehensive text (a Consolidation Act?), able to encompass all the rules and principles that discipline the response to CBRN threats.
- 2) **WE RECOMMEND** Italy to clarify further the interplay between its Civil Protection and Civil defence mechanisms. This clarification will contribute to the prevention of potential procedural uncertainties that may delay the delivery of effective response to CBRN threats; it will contribute to avoid conflicts of competence between the authorities that are responsible for responding to such threats within the two mechanisms. The process should entail a better definition of the circumstances under which each mechanism may be activated or at least the establishment of more specific criteria or guidelines to distinguish a potential CBRB emergency – triggering Civil Protection - from a crisis – activating Civil defence.
- 3) **WE RECOMMEND** Italy to include the “E” threats in the CBRN relevant normative framework thus improving the comprehensiveness of its established response system;
- 4) **WE RECOMMEND** Italy to maintain an efficient and reliable crises information and communication system based on new ICT and infrastructures. This system is paramount to accomplish effective command and control during a crises or an emergency, as well as to produce intelligence, *i.e.* information that may be consumed by decision makers and stakeholders for countering potential or actual CBRN threats. A constant flow of information is also essential for monitoring an on-going crisis or emergency, its evolution and for assessing the effectiveness of the response measures that are adopted to counter its consequences.
- 5) **WE RECOMMEND** Italy to develop a sound and comprehensive crisis and emergency communication strategy. In particular, we suggest
 - a. a revision/rearrangement of relevant policies and procedures that are established by Civil defence or emergency plans, and to adopt a more comprehensive strategy;
 - b. the establishment – also through the adoption of soft-law instruments, non-binding guidelines or set of principles – of a better framework governing cooperation between relevant authorities and largest or local national media channels (both public and private) in case of emergencies or crises.

- c. the drafting of a plan/guidelines concerning how to deal with foreign media during emergencies or crises, especially when international assistance is requested. Indeed media handling information under such circumstances might require a coordinated approach from Italian national authorities;
 - d. the adoption of some basic principles “governing” the provision of on-line available information (e.g. through blogs or in social networks) by individuals employing new ICT (e.g. smart phones). In particular, we propose the adoption of guidelines targeting the population and suggesting how private individuals can contribute to the first responders’ efforts to solve the crisis by sharing relevant and validated(!) information and news. On the other side, principles should be aimed at “educating” individuals to communicate only valid information and to recognise and disregard incorrect news that can generate panic or mistrust.
- 6) **WE RECOMMEND** Italy to enhance its relevant framework regulating the provision of training programs to the communities that are likely to be affected by CBRN crises or emergencies. Depending on available resources, training should occur more often, on regular basis and teach basic norms of behaviour during a critical or emergency situation, *i.e.* what to do and not to do when a CBRN threat is at stake;
- 7) **WE RECOMMEND** Italy to adopt a comprehensive framework dealing with the governance of incoming international support to face CBRN crises or emergencies. These framework should be premised upon a preliminary mapping activity of all relevant international obligations or cooperation mechanisms Italy takes part. Whenever gaps emerge, ascribable to the lack of international laws or lack of implementation thereof, it important that the national authorities step in. This should happen not only at the international level (through the negotiation and adoption of the necessary instruments), but also at the national one.
- 8) **WE RECOMMEND** the EU to support and drive further initiatives aimed at harmonising its Member States’ legislation dealing with the governance of incoming international support to counter CBRN crises or emergencies. We acknowledge that the EU already adopted *Host Nation Support Guidelines* constitute a fundamental action in pursuing harmonisation. However, irrespective of the fact they are not binding, we think that the EU Guidelines should be more detailed and comprehensive than they presently are

ANNEX I. Work Package 2, “Preparatory and Mapping Activity”

1. Introduction

WP2, “Preparatory and Mapping Activities”, aims at identifying and analysing the Italian and – in a comparative perspective – other selected EU Member States’ Institutional and legal framework governing the response to CBRN incidents. It also aims to map and examine the technical-operational procedures and practices adopted by law enforcement authorities, incident commanders and other first responders in dealing with these incidents. Achieving the above goals entails practically:

- a) To define some criteria in order to determine which EU Member States are eligible to be included in the comparative analysis;
- b) For each identified State, to search for and examine the relevant national and local laws, both general and sector-based, coping with the response to CBRN events. Reference is made to those legal instruments governing the management of an event involving Chemical, Biological, Radiological and Nuclear material that may cause significant harm to the population, and therefore listing the institutions and actors involved in the response to such events, their main responsibilities and tasks, as well as the way they interact at the local, national, regional, and, in case, at the international level;
- c) For each identified State, to investigate the organizational structure and specific functions of the actors involved in the first response to CBRN crisis, their capabilities (equipment and technologies included), the operational and technical modalities of their intervention, their interaction, cooperation and coordination.
- d) By referring to the Italian framework as the main term of comparison, to compare “horizontally” the results of the investigation processes carried out. The goal of the comparison is to identify the similarities and differences between the institutional, legal and, above all, technical-operational approach to CBRN events of the countries surveyed, as well as to recognise the best practices that can be adopted by the Italian first response authorities;
- e) To define a sound methodological approach in order to carry out the previously listed activities, paying particular attention to potential problems and risks concerning the collection of required information, and possible strategies to mitigate them.

In light of the above, the present document proposes and discusses the criteria to be adopted in order to select the EU Member States that, in addition to Italy – the main target of the research –, are eligible to be surveyed [a)]. It suggests then a methodology [e)] for collecting, examining, structuring and comparing the Institutional, legal and operative framework concerning the response to CBRN events in the countries surveyed [b), c), d)]. In the latter context, it provides also a schematic structure of the country reports and develops further the content of one of the research tools that will be employed (questionnaire).

It should be noted, however, that the national framework dealing with response to CBRN events in the States to be surveyed, or specific norms and procedures it consists of, has likely been established according to international obligations. Indeed, especially over the last decade, C, B, R, N issues have increasingly gained the international community's interest. Several legal and policy instruments dealing with the subject matter have been adopted at universal, regional and even at bilateral level. In order to comprehensively understand the implications generated by the national preparedness and, above all, response framework to CBRN emergencies it seems thus advisable to present an overview of these international instruments. It goes without saying that with regard to the discussion of instruments adopted at regional level only Europe will be considered.

2. An overview of the international obligations concerning CBRN preparedness and response.

(omissis)

3. The EU Member States that may be eligible to be included in the research scope and the criteria adopted for their selection

The EU Member States that are eligible to be surveyed may be identified according to the 4 main criteria proposed below. By applying these criteria, 10 EU Member States have been identified. It has to be noted that the decision to include these States in the research scope will further depend on the effective accessibility to the information concerning their Institutional, legal and operative framework dealing with CBRN events. With regard to this issue, please see infra par. 3.

RISK-BASED CRITERION. The first proposed criterion concerns **the risk** that an EU country is directly affected by a CBRN event having domestic origins, *i.e.* an event involving Chemical, Biological, Radiological and Nuclear material that is available in its territory (in loco availability).

¹ **The risk-based criterion is suggested on the basis of the assumption that the higher is the risk that a country is directly affected by a CBRN event, the more likely this country has adopted or developed plans and measures to respond to such an event.**²

To our knowledge, it does not exist, or it has not been made available yet, any official document, report or previously carried out research that classifies EU Member States according to the probability they may be affected by a CBRN event. Neither there is any study determining the factors and parameters that define a sort of "CBRN event risk indicator". Therefore, it seems necessary to build a "risk indicator" based on – as far as possible – objective factors/parameters or, at least, logical considerations.

⁽¹⁾ Of course, one State may also be affected by a CBRN event having transnational origin/nature. For example, Switzerland may be invested by radiations deriving from the explosion of a nuclear reactor in France.

⁽²⁾ This assumption implies that the national authorities have been aware of such a risk and have employed the necessary resources to develop and adopt countermeasures to CBRN events.

CBRN events are generally classified as *intentional* and *accidental*.³ The first category mainly concerns terrorist attacks using unconventional means.⁴ Although these attacks are not predictable, it seems nevertheless possible to determine which country is more likely at risk of being targeted by terrorism. According to the *Europol EU Terrorism Situation and Trend Report 2013*, “In 2012, 219 terrorist attacks occurred in seven EU Member States” (Table 1).⁵ Like in 2011, the attacks have mainly targeted **France**, **Spain** and **the UK**.⁶ As per 2013 it seems that **France** and **Spain** will be again under significant terrorism threat. Indeed, according to a study whose results are summarised in the table below, **Spain** and **France** are considered countries with a “medium” risk of terrorism and sabotage (Table 2).⁷

Table 1

EU Member States	Failed, foiled and completed attacks in 2012
Belgium	2
Bulgaria	2
France	125
Greece	1
Italy	11
Spain	54
United Kingdom	24
Total	219

Table 2

EU Member States	Country Risk Level (Terrorism and Sabotage)
Austria	Low
Belgium	Low
Bulgaria	Low
Denmark	Negligible
France	Medium
Germany	Low
Greece	High

⁽³⁾ Cf. The Centre for Excellence in Emergency Preparedness, in <http://www.ceep.ca/education/CBRNintrosheet.pdf>.

⁽⁴⁾ As recently stated by the EU CBRN Task Force, the employment of CBRN materials by terrorist groups has become an actual threat. Cf. *Report of CBRN Task Force*, 13 January 2009, available at http://www.ebsaweb.eu/ebsa_media/Downloads/Activities+-+Projects/Biosecurity+and+Biopreparedness/CBRNupdate02_02_2009/CBRN+TF+Report_20_01_2009.doc

⁽⁵⁾ *Europol TE-SAT 2013: Terrorism Situation and Trend Report*, The Netherlands, 2013, p. 42, available at https://www.europol.europa.eu/sites/default/files/publications/europol_te-sat2013_lr_0.pdf,

⁽⁶⁾ In 2011, France (121) and Spain (46).

⁽⁷⁾ AON's, *2013 Terrorism & Political Violence Map*, in <http://www.aon.com/terrorismmap/2013-Terrorism-Map-14-05-2013.pdf>. Each country has a rating (Negligible, Low, Medium, High and Severe) which represents the level of the risk or threat. It has to be pointed out that only the EU Member States with an actual “Terrorism and Sabotage” risk have been considered. It is worth noting that Greece is at a high risk level, probably for its current deep social and economic crisis.

Ireland	Low
Italy	Low
Netherlands	Low
Spain	Medium
Sweden	Low
United Kingdom	Low

Of course, the possibility to be targeted by a terrorist attack does not imply *per se* that such an attack will be carry out with CBRN material or will involve a CBRN threat.

The second category of CBRN events (accidental) refers to those incidents “caused by human error or natural or technological reasons, such as spills, accidental releases or leakages”.⁸ The probability that an accidental event will occur may be determined according to different parameters:

- With regard to Radiological and Nuclear events, the number of nuclear power plants and the quantity of produced radioactive waste per EU Member State. As far as the former is concerned, the higher is the number of nuclear power plants, the higher is the risk of a radiological and nuclear incident – and the higher is the probability the concerned States have adopted a “RN” response plan.⁹ According to the European Nuclear Society¹⁰, there are 132 nuclear power plants in the EU, divided as follows (Table 3)

Table 3

Country	In operation	Under construction
Belgium	7	-
Bulgaria	2	-
Czech Republic	6	-
Finland	4	1
France	58	1
Germany	9	-
Hungary	4	-
Netherlands	1	-
Romania	2	-
Slovakian Republic	4	2
Slovenia	1	-
Spain	8	-

⁽⁸⁾ Cf. The Centre for Excellence in Emergency Preparedness Information Document, cit., in <http://www.ceep.ca/education/CBRNintrosheet.pdf>

⁽⁹⁾ The above assumption does not consider the role that other factors may play in the determination of the risk like the regular maintenance of the facilities, *ad hoc* security measures, etc.

⁽¹⁰⁾ For the purpose of this research, it has not been reported the entire table which includes Russian Federation, Switzerland and Ukraine. These figures are accurate as of January 2013. See <http://www.euronuclear.org/info/encyclopedia/n/nuclear-power-plant-europe.htm>.

Sweden	10	-
United Kingdom	15	-
Total	132	4

According to the above data, **France** has the higher number of nuclear power stations (58), followed by the **United Kingdom** (15), **Sweden** (10), **Germany** (9) and Spain (8).

As far as the quantity of radioactive waste produced by EU Member States is concerned, a study supported by The Greens/EFA Parliamentary Group in the European Parliament⁽¹¹⁾ shows that 835,000 m3 of radioactive nuclear waste has been stored in interim storages in the EU Member States as of the end of 2009 (Table 4). The document highlights that “in many cases, the safety-related requirements are doubtful” and “in addition to the risks caused by the radioactivity, risks of acts of terrorism and extreme weather conditions are an additional contribution to the overall risk”.

Table 4

Country	Number of storage sites	Volume stored
Belgium	11	Approx. 2,677 tHM ⁽¹²⁾ Approx. 17,406 m3
Bulgaria	9	Approx. 872 tHM Approx. 12,443 m3
Czech Republic	19	Approx. 1,171 tHM Approx. 17,027 m3
Finland	13	Approx. 1,570 tHM Approx. 9,185 m3
France	41	Approx. 13,464 tHM Approx. 1,152,533 m3 + 33,000,000m3 ⁽¹³⁾
Germany	32	Approx. 5,432 tHM Approx. 193,677 m3
Hungary	13	Approx. 223.44 tHM Approx. 14,090.4 m3
Lithuania ⁽¹⁴⁾	9	Approx. 2,043.7 tHM Approx. 71,292.4 m3
Netherlands	7	Approx. 561.74 tHM

⁽¹¹⁾Intac GmbH, *Nuclear Waste Management in the European Union: Growing Volumes and no Solution*, Hannover, 2010.

⁽¹²⁾ “tHM” means “Tons of Heavy Metal”, contents of uranium or uranium and plutonium in fuel elements.

⁽¹³⁾ Waste generated through uranium mining distributed to 20 facilities.

⁽¹⁴⁾ Although Lithuania has not nuclear power plants, it has 9 storage sites. It is because, as explained by the *Intac report*, cit., nuclear waste is caused by, besides the operation of nuclear power plants, the exploration and processing of uranium, by reprocessing, by deCommissioning of nuclear facilities and by handling radioactive waste.

		Approx. 12,639.6 m ³
Romania	8	Approx. 764 tHM Approx. 483 m ³
Slovakian Republic	12	Approx. 996 tHM Approx. 28,920 m ³
Slovenia	7	Approx. 323 tHM Approx. 2,294 m ³
Spain	20	Approx. 4,449 tHM Approx. 65,689 m ³
Sweden	14	Approx. 5,332.08 tHM Approx. 49,412 m ³
United Kingdom	12	Approx. 5,861 tHM Approx. 1,061,590 m ³

In terms of number of storage sites, **France** holds the top position (41), followed by **Germany** (32), **Spain** (20), **Czech Republic** (19) and **Sweden** (14). In terms of volume of nuclear waste stored, the major EU Member States producers are **Belgium, France, Germany, Lithuania**, Spain and Sweden.

- With regard to chemical events, the number of chemical parks and clusters per EU Member State. Like in the case of nuclear power plants, the higher is the number of chemical industries (usually located in chemical sites or parks), the higher is the probability of a chemical incident.¹⁵ According to the European Chemical Industry Council,¹⁶ **Germany** is the largest chemicals producer in EU, with more than 2,000 companies located in 31 chemical parks (¹⁷). It is followed by **France** that has more than 350 enterprises in 5 major clusters.¹⁸ Then there is Italy followed by **The Netherlands** with 3 chemical parks gathering 203 businesses.¹⁹ The fifth producer in the EU is the United Kingdom with 2 chemical parks and 13 established companies. The sixth producer is Spain which has a single chemical park with 34 established companies.²⁰

¹⁵ According to the preliminary report prepared for the European Process Safety Center by C. Jochum "Large chemical sites with many potentially hazardous facilities operating in close proximity to one another and interconnected by pipe networks constitute an overall risk which may be greater than the sum of the hazards presented by the individual facilities. In chemical parks, there is nobody with direct responsibility for this overall risk", 2004, p. 15.

¹⁶ In 2011, Cefic – European Chemical Industry Council released the report *Facts and Figures 2011 – The European chemical industry in a worldwide perspective*. See [http://www.cefic.org/Documents/FactsAndFigures/\(Offline\)%202011/FF2011_Full%20Report_Chapter/Cefic_FF%20Rapport%202011.pdf](http://www.cefic.org/Documents/FactsAndFigures/(Offline)%202011/FF2011_Full%20Report_Chapter/Cefic_FF%20Rapport%202011.pdf).

¹⁷ For further information, see <http://www.chemicalparks.com/Seiten/default.aspx>.

¹⁸ See "French industry and Sustainable Chemistry: The benefits of clean development" by F. Ackerman and R. Massey, GDAE, 2005.

¹⁹ See "Integrated industrial sites in the Netherlands" by NAP, 2010.

²⁰ For the UK and Spain, see the European Chemical Site Promotion Platform (ECSP) website: <https://ecsp.org/>. The ECSP is an European forum where the European chemical sites may exchange information on matters of common interests and promote new investments.

- With regard to Biological events, the probability that a natural disaster may affect the EU countries. According to some sources, the accidental (or better natural) biological risk is largely considered linked to the arising or spreading of a pandemic event.²¹ “The risk of certain endemic and epidemic-prone diseases can increase following natural disasters”.²² For the purposes of this study, “natural disasters” encompass: earthquakes, landslides, floods and drought.²³
 - As per earthquakes, the countries with the highest hazard²⁴ potential are **Greece, Bulgaria and Romania**, followed by Slovenia, Spain and Portugal.
 - As per landslides, almost all the EU Member States may be considered at a high hazard. However, **Spain, the United Kingdom, Ireland**, Austria, Slovenia, Greece, Cyprus, Bulgaria, Romania and Hungary seem to be the most exposed to risk.
 - As per floods, the countries with the highest flood recurrence are **Romania, Germany and France**, followed by **the United Kingdom**, Poland and Belgium.
 - As per drought, the drought potential is high in EU countries such as **Portugal, Spain, Greece**, followed by Bulgaria, Romania, Hungary, France, Slovenia and Belgium.

PRECEDENT-BASED CRITERION. The second criterion is historical and based on the **precedent**, *i.e.* the earlier occurrence of a CBRN event in the territory of the EU Member States over the last century. **The adoption of the concerned criterion is based on the following assumption: those EU Member States that had experienced a CBRN emergency in the past are likely to have adopted plans or defined measures to respond to this type of emergency.** Since an intentional (terrorist) attack involving CBRN material has (fortunately!) not yet happened in Europe, the application of the precedent based criterion requires to consider only accidental events. It follows that:

- With regard to events involving nuclear material, the identified States are **France (12), Germany (4) and the United Kingdom (3)**.²⁵

⁽²¹⁾ See Council of the European Union, The Inventory of EU Instruments relevant for addressing CBRN risks, 5 June 2008. It namely highlights how “biological threats might arise from naturally occurring diseases, especially if they develop into pandemics”, p. 9, available at <http://register.consilium.europa.eu/pdf/en/08/st10/st10382.en08.pdf>.

⁽²²⁾ See WHO, *Communicable Diseases following Natural Disasters*, Study, 2006, available at http://www.who.int/diseasecontrol/emergencies/guidelines/CD_Disasters_26_06.pdf,

⁽²³⁾ The choice of these four natural disasters was inspired by the “Introduction” of the WHO study, *ibidem*. Data about the countries comes from *Environmental Hazards and Risk Management – Thematic Study of INTERREG and EPSON activities*, http://www.espon.eu/export/sites/default/Documents/Projects/ESPON2006Projects/ESPONINTERactStudies/RiskManagement/environmental_hazards_120.pdf.

⁽²⁴⁾ “An extreme natural event (of the average environmental, meteorological, hydrological or other natural conditions) that is statistically rare at a particular place and time. A natural hazard can be a source of risk but does not necessarily imply potential degree or frequency of occurrence. A natural hazard produces risk only if exposures create the possibility of adverse consequences.” in *Environmental Hazards and Risk Management*, cit., p. 7.

⁽²⁵⁾ B.J. Sovacool, *The Accidental Century - Prominent Energy Accidents in the Last 100 Years*, HSE – Accidents and Safety, 2009, available at <http://www.touchoilandgas.com/ebooks/A1ioj0/eandpvol7iss2/resources/134.htm>.

- With regard to events involving Radiological material, *i.e.* involving radioactive materials or ionizing radiation from artificial sources, the identified States are the **United Kingdom** (4),²⁶ followed by **Spain** and **Belgium** (2),²⁷ Poland and France (1).²⁸
- With regard to Chemical events, the concerned States are **Germany**, **United Kingdom** and **France**.²⁹
- With regard to Biological events, in particular cases involving anthrax, **Spain** and **Greece**.³⁰

EXISTING AD HOC STRUCTURES. The two criteria discussed above may be integrated by another criterion referring to the establishment of a **special CBRN response teams in the country surveyed**. Similar to Italy (³¹), other EU countries have also set up specific teams specialized in dealing with a CBRN emergency. This criterion may be considered relevant because the functioning of a special CBRN team seems to imply an established system to respond to CBRN events. The countries with special CBRN teams are **Ireland** (³²), **Spain** (³³) and the **United Kingdom** (³⁴) (³⁵).

SPECIFIC RELEVANCE GIVEN THE AIM AND SCOPE OF THE RESEARCH PROJECT: Given that the two table-top exercises foreseen by the Project are to be carried out in Estonia and the Netherlands, both countries need to be included in the research scope.

The following table shows the list of EU countries that have been identified on the basis of the established criteria and the information collected.

⁽²⁶⁾ Data comes from: <http://news.bbc.co.uk/1/hi/uk/81798.stm>; H. Wasserman & No. Solomon *Killing Our Own*, (Chapter 9 - Uranium Milling and the Church Rock Disaster) A Delta Book", 1982; T.E. McKone and K. Brand, *Environmental Health-Risk Assessment for Tritium Releases at the NTLF at LBNL* (Questions and Answers About Tritium)" Lawrence Livermore National Laboratory, April 1997.

⁽²⁷⁾ D. Lluma, *Former Soviet Union: What the Russians Left Behind*, in *Bulletin of the Atomic Scientists*, Vol. 56(3), May/June 2000, pp. 14-17; P. Fehribach, *SteriGenics: The Untold History*, 2001 available at <http://mapyourinfo.com/wiki/en.wikipedia.org/List%20of%20civilian%20radiation%20accidents/> March 20, 2001.

⁽²⁸⁾ See http://www-pub.iaea.org/MTCD/publications/PDF/Pub1180_web.pdf.

⁽²⁹⁾ *A Guide to Major Chemical Disasters Worldwide*, 2008, in <http://www.icis.com/Articles/2008/10/06/9160653/a-guide-to-major-chemical-disasters-worldwide.html>. ICIS is a large petrochemical market information provider

⁽³⁰⁾ European Agency for Safety and Health at Work, *Biological agents and pandemics: review of the literature and national policies*, 2009, para. 3.10.2, available at https://osha.europa.eu/en/publications/literature_reviews/lit_review_biological-agents.

⁽³¹⁾ See <http://corsinbc.difesa.it/> (only in Italian).

⁽³²⁾ See <http://www.defence.ie/WebSite.nsf/Speech+ID/95304F1CBEE30A3980257B4F002ED892?OpenDocument>.

⁽³³⁾ See <http://www.ejercito.mde.es/en/unidades/Madrid/emdnbg/> (only in Spanish) and <http://www.asanltr.com/newsletter/05-2/articles/Spanish.htm>

⁽³⁴⁾ See <https://www.gov.uk/defence-chemical-biological-radiological-and-nuclear-centre>

⁽³⁵⁾ It is extremely possible that there are more schools in other EU Member States but the available research instruments have not allowed to collect enough data about.

ADOPTED CRITERIA	TYPE of EVENT	EU MEMBER STATES			
RISK-BASED					
	Intentional (terrorism)	France	Spain	-	-
	Accidental				
	C	Germany	France	The Netherland	The UK
	B	Greece	Spain	Romania	The UK
	R -N. sites	France	Germany	Spain	Czech Republic
	R -Volume	Belgium	France	Germany	Lithuania
	N (N. nuclear power stations)	France	The UK	Sweden	Germany
PRECEDENT-BASED					
	Intentional	-	-	-	-
	Accidental				
	C	Germany	The UK	France	
	B	Spain	Greece	-	-
	R	The UK	Spain	Belgium	
	N	France	Germany	The UK	
EXISTING STRUCTURES					
		Spain	The UK	Ireland	-
AIM and SCOPE of the RESEARCH PROJECT		Estonia	The Netherlands		

In light of the above, it seems that **Germany, France, Spain, The UK and Belgium** are eligible for the comparative study. All of them are likely to have established an Institutional, legal and technical-operative framework dealing with C, B, R, N events. As per “RN” events it may be also useful to consider **Sweden** and the **Czech republic**. As par “C”, The Netherlands (see below). More difficult is to choose States with regard to “B”. Further to Spain (already considered – see supra), they may be Greece and Romania.

The fact that special CBRN response teams have been established in **Ireland**, make this country eligible too.

On top of the above cited countries, there are **The Netherlands** and **Estonia**.

To sum up, the proposed countries are: **Germany, France, Spain, The UK, Belgium, Sweden, the Czech Republic, Ireland, The Netherlands and Estonia**. These countries seem also to offer a quite balanced geographical representation of Europe.

4. A methodology to be adopted for investigating and analysing the Italian and other selected EU MSs' institutional, legal and operational framework dealing with response to CBRN events.

As described above, WP2 aims at identifying and analysing the Italian and – in a comparative perspective – other selected EU Member States' Institutional, legal and technical-operative framework dealing with response to CBRN incidents. It is therefore necessary to define:

- which information need to be collected;
- how it should be organized/systematised;
- the sources that may be consulted and the tools that may be employed to collect relevant information; and
- possible difficulties and risks in obtaining the required data and the relative mitigation strategies.

REQUIRED INFORMATION. The first type of information that should be gathered concerns the Country's adopted laws and regulations dealing with CBRN crisis, their scope and content. These laws may cope with the subject matter on the basis of an "all-hazard approach", meaning that they may cover all CBRN incidents whether intentional, accidental, natural or man-made. Otherwise, they may tackle only specific types of CBRN events or cover each aspect of the threat separately, that is "chemical", "biological", "radiological" and "nuclear". It is also plausible the existence of a normative instrument providing a general legal or policy framework on CBRN crisis, and sector-based regulations that contain specific provisions. In light of what has been discussed above, these laws are probably the result of the transposition of international obligations to the national legal order.

On the basis of the content of collected laws and regulations, the relevant institutions and actors involved in the first response to a CBRN crisis, their responsibilities, functions, tasks, practices and the adopted organisational structure for dealing with such a crisis should be identified. These institutions and actors may operate at central, regional or local level, have a different role ranging from coordination of the overall response to enforcement activities on the field, and interact or cooperate reciprocally on the basis of established protocols.

Of particular importance are the operative procedures and practices that first responders follow in the occurrence of a CBRN event. Information on these procedures should briefly include the description of activities that first responders carry out in preparedness of CBRN events (equipment, professional capabilities and further training). They should encompass the criteria for the identification of a CBRN crisis and for issuing the alarm. They should fully cover the *modus operandi* following the alarm. In particular, it is necessary to gather information aimed at understanding how the command, control and communication of the response operations are managed within a concerned first responder's organisational structure; and how coordination and communication among first responders occurs. Relevant information should also concern how the communication to the population that is affected - directly or indirectly – by the crisis is managed by first responders (through the media or other channels).

INFORMATION SYSTEMATISATION: The collected information should be examined and presented in a uniform and easy readable format. It should be systematised in a consistent structure that allows the comparison between the institutional, legal and operative framework of each surveyed country. As previously discussed, this comparison should aim at the identification of similarities and differences between country legal and operational approach to CBRN crisis. A further goal is to find best practices. A proposed “Country Report Structure” is presented *infra* at par. 4. The structure follows what has been discussed above with regard to the “information required”.

SOURCES AND TOOLS FOR INFORMATION GATHERING: Collecting all the relevant information on different States’ laws, regulations, procedures and actors dealing with response to CBRN events may be a difficult task. It involves identifying different set of rules adopted at national, regional and local level. It entails searching for and finding first responders’ protocols and manuals as well as getting information about their adopted practices. A primary (but perhaps superficial!) overview of the (on-line) available official sources providing relevant information (in Italian, English or French) on the subject matter has generally showed a great fragmentation of data. The screened official sources either focus on single elements of the crisis – *i.e.* C, B, R, N – or provide very brief information. If exists, no EU official document providing the required information has been yet found on-line. The limited availability of official documents may be also determined by the fact that some documents dealing with the response to CBRN crisis may be confidential. Furthermore, no significant information has emerged from a preliminary (again, perhaps superficial!) screening of the literature. Presumably, this is due to the fact that the research topic here addressed is brand new. In light of the above considerations, it is evident that gathering information only through secondary or desk research may not be sufficient. Primary research employing different research tool should be considered.

Before discussing the issue, a distinction has to be made between the potential accessibility of information on the Italian Institutional/legal/operative framework concerning the response to CBRN events, on one side; and on the identified EU Member States, on the other. With regard to the former, the participation in the consortium of representatives of the Italian first response authorities (Vigili del Fuoco, Polizia di Stato, Carabinieri, to name a few) may significantly facilitate the collection of relevant documentation. **It follows that effective contribution from the Italian representatives is paramount.**

As per documents and information concerning the Institutional/legal/operative framework of the selected EU Member States, a primary activity of searching, identifying and contacting “stakeholders” able to provide such information should be carried out. **This activity should involve all partners in the consortium.** The concerned stakeholders – being them institutional, representatives of the industry sector dealing with CBRN equipment or services or other experts – may be identified by on-line research and then subsequently contacted. However, a more effective approach would require to select and contact stakeholders on the basis of previously established contacts or through an institutional/official channel. **Again, a significant contribution to this task may be offered by the representatives of the**

Italian first response authorities that may contact their “mirrors” in the selected countries and ask for collaboration.

Once the above foreign stakeholders/contact points have been contacted and their commitment to collaborate obtained, they should be required to provide relevant information by sharing official documents (if available in English or in other languages that can be read by the researchers involved in WP2), by replying to questions submitted to them by an online questionnaire or by phone (phone interview). In the latter cases, questions should cover the range of information required but they should be limited to the minimum. In other words, responding to the questions should not be too time consuming. A draft questionnaire is provided *infra* at par. 4. It goes without saying that personal details and information provided through the questionnaire will be processed according to the relevant EU data protection legislation and standards. Informed consent form will be prepared and submitted to respondents.

POSSIBLE RISKS AND MITIGATION STRATEGIES. The main risk is a lack of documents and information on the selected EU Member States’ Institutional, legal and technical-operative framework dealing with response to CBRN crisis. Practically, it is associated with a lack of stakeholders/contacts that may be asked for the information or the scarcity of the information provided (through the questionnaire, phone interview etc).

5. A proposed Country Reports Structure + Questionnaire (on-line or phone interview based)

(omissis)

6. Proposed Timing (mid term)

(omissis)