

International and European Disaster Law Course – Jean Monnet Module

Group exercises

Scenario: Earthquake in “Incognita”

The following group exercises will draw on this fictional scenario.

On 13 June 2016, a severe earthquake registering 7.8 on the Richter scale struck the country of Incognita at 4:48 a.m. It was centred about 28 km south from its capital, Incognitaville, in Ovni Province. The earthquake was preceded by massive ground movements in the vicinity of Incognitaville and closely followed by numerous aftershocks, the largest of which was a 5.7 magnitude jolt at 7:36 the same morning.



The marine barrage, built to keep out seawater, was seriously affected, letting the sea flood penetrate deeply inland and causing further damage and losses in the coastal areas. The earthquake also affected more remote communities while landslides from the earthquake have made it difficult to reach those areas.

The quake resulted in widespread destruction of buildings in the capital, killing an estimated 8,000 people and injuring some 49,000. Many Incognitans have left their damaged houses and are sleeping outside. According to Incognitan local news, hundreds of thousands may have been displaced by the earthquake.

The Incognitan Army is only able to reach areas outside the capital in a limited number of off-road vehicles, because more than 2000 kilometres of road have been affected. The few hospitals in the coast and capital area that are still operating, are completely overwhelmed and cannot cope with the number of casualties being brought in. Because of damage to sewers and the flooding along the coast, authorities are worried about water-borne diseases. The Incognitaville International Airport has suffered major damage, and only a single runway is usable.

For the purposes of today's exercise, assume that Incognita is a State member of the European Union

Question 1 (45 minutes)

Reference documents:

- Article 222 Treaty of the Function of the European Union
- [EU Host Nation Support Guidelines](#) of 1 June 2012
- [Decision No 1313/2013/EU](#) of 17 December 2013 on a Union Civil Protection Mechanism
- [Council Decision 2014/415/EU](#) on the arrangements for the implementation by the Union of the solidarity clause
- [Council Regulation 2016/369](#) of 15 March 2016 on the provision of emergency support within the Union

Following the earthquake, waves generated, inundating 50 km of Incognita's coast causing a sea flood. Overwhelmed by the diverse outcomes of the waves and worried for the destiny of those living along the affected portion of the coast, the Prime Minister of Incognita calls on fellow European Union member States for assistance via an interview with an international news broadcaster. During such appeal for assistance, the Prime Minister affirms that "this is a situation in which mutual assistance among EU member States has to be implemented" and generally refers to "impelling needs of those in danger", without further specifying the type of support requested.

Journalists on the ground report though that villages in the affected are left without electricity or running water and that the population is progressively running short of bottle water, food, medication and blankets. No casualties are reported and the inundation is circumscribed in the territory of Incognita.

Upon the generic call for assistance of Incognita's Prime Minister, the European Commission communicates the situation in Incognita to the contact points of other European Union member States. Initial responses by the latter are laconic. The representative of one State goes as far as to affirm that "the EU is not meant to perform tasks that Incognita should do itself and its Prime Minister cannot now cry solidarity for its unpreparedness!", whereas others pinpoint procedural shortages of the Prime Minister request in respect of the European Union Civil Protection Mechanism provisions and accordingly refuse to provide assistance.

Vis-à-vis these obstacles, the Prime Minister of Incognita eventually decides to lodge an assistance request through the European Union Emergency and Response and Coordination Centre (ERCC). The Disaster Management Authorities of Incognita fills the Template included in [Annex 2 of the EU Host Nation Guidelines](#) looking for teams and modules and among other requests they ask European Union member States to also make available "military staff and their equipment". A series of EU Member States fills Annex 3 of the EU Host Nation Support Guidelines clarifying the extent of the support provided to Incognita. However they refuse to get the military involved, claiming that the choice of means through which provide assistance rests upon responding States. Transit through the territory of Eastland will be required as to permit the arrival of some modules/teams.

- Were the European Union member States correct in refusing assistance to Incognita vis-à-vis the Prime Minister's request through a TV programme? Was the European Commission correct in complementing the shortages of the Prime Minister's request by lodging the request itself?
- In any event, are European Union member States legally obligated to respond to assistance requests? In your opinion, does the described sea flood qualify as a disaster within the scope of article 222 TFUE?
- Separate into 2 groups and fill Annexes 2 and 3 of the EU Host Nations Guidelines. Discuss potential legal problems for the planned operation in case conditions for assistance provided by the affected State and the assisting States are different.
- Evaluate legal problems posed by the transit of some modules/teams through the territory of Eastland and comply with procedures provided by the EU Host Nation Guidelines for assisting States.
- Were member States correct in refusing military assistance? Could they refuse to offer the type of assistance specifically requested by the Prime Minister?

Question 2 (45 minutes)

Reference documents:

- [European Convention on Human Rights](#)
- [Commentary](#) to the ILC Draft Articles on the protection of persons in the event of disasters
- [Aarhus](#) Convention

Some time after the earthquake, relatives of individuals who lost their lives due to the disaster start complaining that Incognita's authorities failed to provide them with life-saving information following the massive ground movements and shocks preceding the earthquake. In particular, the victims lived in houses built before the adoption of anti-seismic legislation. Renovation works of such houses had been on the municipality's agenda for a long time, but never started. Such group of indirect victims approaches a lawyer based in Incognita affirming that Incognita should be held responsible for having failed to comply with its obligations to take appropriate measures to mitigate the risks to their lives. In particular, the group claims that the State was negligent in providing emergency warning. The lawyer decides to sue the State's authorities falling short of providing information. The government affirms that earthquakes cannot be predicted.

Divide yourselves into two groups, one representing the reasons of the victims, the other the State authorities' sued.

- Are there any rights implicated here?
- How do you think this situation should be handled?