



EU Management of Global Emergencies

*Legal Framework for Combating
Threats and Crises*

Edited by
Inge Govaere and Sara Poli

Series Editor: Marc Maresceau

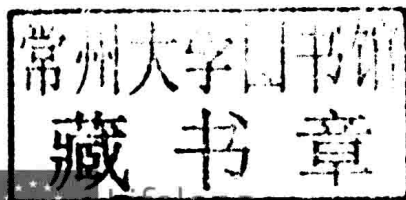
BRILL | NIJHOFF

EU Management of Global Emergencies

Legal Framework for Combating Threats and Crises

Edited by

Inge Govaere and Sara Poli



BRILL
NIJHOFF

LEIDEN | BOSTON

Aerial photo of Norway. © Przemyslaw Wasilewski, available at <http://www.iStock.com>.

Library of Congress Cataloging-in-Publication Data

EU management of global emergencies : legal framework for combating threats and crises / edited by Inge Govaere and Sara Poli.

pages cm. — (Studies in EU external relations ; v. 8)

Includes bibliographical references and index.

ISBN 978-90-04-26832-6 (hardback : alk. paper) — ISBN 978-90-04-26833-3 (e-book) 1. Emergency management—Law and legislation--European Union countries. 2. War and emergency legislation—European Union countries. 3. Emergencies—Law and legislation—European Union countries. 4. Crisis management in government—European Union countries. 5. Terrorism—Law and legislation—European Union countries. I. Govaere, Inge, editor of compilation. II. Poli, Sara, editor of compilation. III. Title: European Union management of global emergencies.

KJE7520.E97 2014
344.2405'34—dc23

2014014580

This publication has been typeset in the multilingual 'Brill' typeface. With over 5,100 characters covering Latin, IPA, Greek, and Cyrillic, this typeface is especially suitable for use in the humanities. For more information, please see brill.com/brill-typeface.

ISSN 4875-0451
ISBN 978 90 04 26832 6 (hardback)
ISBN 978 90 04 26833 3 (e-book)

Copyright 2014 by Koninklijke Brill nv, Leiden, The Netherlands.
Koninklijke Brill nv incorporates the imprints Brill, Brill Nijhoff, Global Oriental and Hotei Publishing.
All rights reserved. No part of this publication may be reproduced, translated, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission from the publisher.
Authorization to photocopy items for internal or personal use is granted by Koninklijke Brill nv provided that the appropriate fees are paid directly to The Copyright Clearance Center, 222 Rosewood Drive, Suite 910, Danvers, MA 01923, USA. Fees are subject to change.

This book is printed on acid-free paper.

EU Management of Global Emergencies

Studies in EU External Relations

Edited by

Marc Maresceau (*Ghent University*)

Editorial Board

Marise Cremona (*European University Institute*)

Günter Burghardt (*former EU ambassador Washington*)

Alan Dashwood (*University of Cambridge*)

Frank Hoffmeister (*European Commission*)

Pieter Jan Kuijper (*University of Amsterdam*)

VOLUME 8

The titles published in this series are listed at brill.com/seur

Preface

Nothing comes out of nowhere.

The broader context to this book on “Management of Global Emergencies, Threats and Crises by the European Union” is to be situated in a joint Pisa-Ghent project on “EU Governance of Global Emergencies”. The working basis was first provided by a duo-VLAC Fellowship sponsored by the Royal Flemish Academy of Sciences and Arts. It was in this framework that Sara was invited to develop the project further and for us to collaborate in performing research at the beautiful location of the Palace of the Academies in Brussels.

As the ambitions of the project grew both in terms of objectives and scope, financial input for the substantive research, the organisation of a high level conference and platform for discussion as well as the current book project was sought and graciously provided by the European Commission in the framework of Jean Monnet funding. Without the financial support in the form of a Jean Monnet life-long learning project hosted at Ghent University these activities would simply not have been possible.

The book in itself has led to a very fruitful collaboration with many people, first of all of course the contributors who accepted to share their knowledge and insights in this book. We are also much obliged for the enthusiastic support and help from the following persons who may be less visible throughout the book yet proved to be crucial to its production. Without the dedicated IT, linguistic and editorial help from Barbara Van Laere, Magali Carel, Grant Stirling and in the crucial last phase especially also Maaïke Cornelli and Anne-Lise Van der Meulen the book would surely look very different in appearance. Our special thanks goes also to our publishers Lisa Hanson and Marie Sheldon from Brill Academic Publishers for their patience as well as the always very helpful advice and tips. We are confident the final production and distribution of the book is safe in their professional hands.

Inge Govaere and Sara Poli

Foreword

Humanitarian Aid and Crisis Response

We live in a fragile world. Through force of nature, conflict or economic meltdown—emergencies are becoming more frequent and more severe. In more cases than ever before, they affect people regardless of national borders and go beyond the capacity of any one country to respond effectively on its own. The global financial crisis has demonstrated the speed with which contagion can tear through the markets in an interconnected world economy. The collective effort to deal with its consequences—be it at the G20 summit in London in 2009, or the massive mobilization of the EU and Eurozone since then—has underscored that only a concerted response can be effective.

Natural disasters, too, are striking with greater frequency and severity. Parts of the world that have traditionally been prone to recurrent emergencies—such as the Sahel, or the Horn of Africa—are being hit harder and with increasing frequency. It is the most vulnerable people who are most exposed but the developed world is not immune. Events such as Hurricane Sandy have underscored that we are all vulnerable. Climate change is an important driver of this, but it is by no means the only factor. Population growth and urbanization are compounding existing fragilities. All too often, conflict overlaps with and aggravates natural disasters—such as in the Horn, or in parts of the Sahel.

The only way to deal effectively with the impact of such emergencies is to strengthen our capacity to anticipate them, to mobilize our collective assets and respond swiftly—in short, to improve the governance of emergencies. It is heartening in this context that the economic and financial crisis has not diminished the willingness of European citizens to help respond to emergencies outside Europe's borders. Collectively, together with its Member States, the EU has done a great deal to step up its capacity not only to respond, but also to help prepare for the worst. To mobilize assets when emergencies strike but also to help the most vulnerable become more resilient to crises which we know will not go away and which in many cases are likely, if anything, to hit with ever greater frequency and severity.

This book is timely in that it allows us to take stock of how far Europe has come in dealing with global emergencies, including emergencies originating outside Europe but which affect the EU as well as emergencies outside Europe in which Europe plays a major role as a responder. It will also no doubt show how much more remains to be done. This book is timely also because it comes just as the dust from the first few years of implementation of the Lisbon Treaty is starting to settle and we are getting a clearer

idea of how a new institutional architecture, new legal bases and new instruments may contribute further to responding to and preventing emergencies. It promises to be an invaluable compass to a complex issue that will not go away.

Kristalina Georgieva

European Commissioner for International Cooperation

List of Abbreviations and Acronyms

AASM	Association of the Associated African States and Madagascar
ACP	African, Caribbean and Pacific countries
AGIR	Alliance Globale pour l'Initiative Résilience Sahel
AJIL	American Journal of International law
AMISOM	African Union Mission in Somalia
ASEM	Asia-Europe Meeting
ATAA	Air Transport Association of America
Aust. YBIL	Australian Yearbook of International Law
BIMCO	Baltic and International Maritime Council
BMP	Best Management Practices
CBD	Convention on Biological Diversity
CBRN	Chemical, biological, radiological and nuclear defence
CCA	Crisis Coordination Arrangements
CCP	Common Commercial Policy
CCS	Carbon Capture and Storage
CDM	Clean Development Mechanism
CECIS	Common Emergency Communication and Information System
CFSP	Common Foreign and Security Policy
CGPCS	Contact Group on Piracy off the Coast of Somalia
CISAR	Chinese International Search and Rescue Team
CJEU	Court of Justice of the European Union
CMCO	Civil-Military Coordination
CMF	Combined Maritime Forces
CMPD	Crisis Management Planning Department
CO ₂	Carbon dioxide
COP	Conference of the Parties
COSI	Committee on Internal Security
CPCC	Civilian Planning and Conduct Capability
CPM	Civil Protection Mechanism
CPR	European Civil Protection Mechanism
CRED	Centre for Research on the Epidemiology of Disasters
CSDP	Common Security and Defence Policy
DG ECHO	Directorate-General for Humanitarian Aid and Civil Protection
DG HOME	Directorate-General for Home Affairs
DG SANCO	Directorate-General for Health and Consumers
EBA	Everything But Arms initiative
EC	European Community

ECB	European Central Bank
ECHO	European Community Humanitarian Office
EDA	European Defence Agency
EEA	European Economic Area
EEAS	European External Action Service
EEC	European Economic Community
EFSF	European Financial Stabilisation Facility
EFTA	European Free Trade Association
EGS	European Global Strategy
EJIL	European Journal of International Law
EMO	Chinese State Council Emergency Management Office
EMU	European Monetary Union
EPA	Economic Partnership Agreement
ERC	European Emergency Response Centre
ERCC	Emergency Response Coordination Centre
ESA	European Space Agency
ESCAP	United Nations Economic and Social Commission for Asia and the Pacific
ESM	European Stability Mechanism
ESS	European Security Strategy
ETS	Emissions Trading Scheme
EU	European Union
EUCAP	EU Capacity building mission
EUMC	European Union Military Committee
EUMS	European Union Military Staff
EUSF	European Union Solidarity Fund
EUTM	EU Trainings Mission
FAO	Food and Agriculture Organization
FLEGT	Forest Law Enforcement, Governance and Trade
FTA	Free trade agreement
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GEO. L.J.	Georgetown Law Journal
GHGs	Green House Gases
GSP	Generalised System of Preferences
HFA	Hyogo Framework for Action
HFC-23	Trifluoromethane
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
IFRC	International Federation of the Red Cross and the Red Crescent Societies
IfS	Instrument for Stability

ILC	International Law Commission
ILO	International Labour Organisation
IMB	International Maritime Bureau
IMF	International Monetary Fund
IMO	International Maritime Organization
INSARAG	International Search and Rescue Advisory Group
INTCEN	EU Intelligence Analysis Centre
IRTC	Internationally Recommended Transit Corridor
ITTO	International Tropical Timber Organisation
LDC	Least developed country
LRRD	Linking relief, rehabilitation and development
MCDA	Military and Civil Defence Assets
MEAs	Multilateral Environmental Agreements
MFN	Most Favoured Nation
MIC	Monitoring and Information Centre
MoU	Memorandum of Understanding
MSCHOA	Maritime Security Centre Horn of Africa
N ₂ O	Nitrous Oxide
NATO	North Atlantic Treaty Organization
NAVFOR	Naval Force
NIEM	Chinese Institute for Emergency Management
nyr	not yet reported
OCHA	UN Office for the Coordination of Humanitarian Affairs
OECD-DAC	Development Assistance Committee of the Organization for Economic Cooperation and Development
OJEU	Official Journal of the European Union
OPCW	Organisation for the Prohibition of Chemical Weapons
OpsCenter	Ad-hoc military Operations Center
PCIJ	Permanent Court of International Justice
PS	Participating States
PSC	Political Security Committee
QMV	Qualified Majority Voting
RCSC	Red Cross Society of China
ReCAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia
REDD+	Reducing Emissions from Deforestation and forest Degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stock in developing countries

SARS	Severe Acute Respiratory Syndrome
SCO	Shanghai Cooperation Organisation
SHADE	Shared Awareness and Deconfliction
SHARE	Supporting Horn of Africa Resilience
SLOCs	Sea Lines of Communications
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TFG	Transitional Federal Government
TSCG	Treaty on Stability, Coordination and Governance in the Economic and Monetary Union
UAE	United Arab Emirates
UK	United Kingdom
UKMTO	United Kingdom Maritime Trade Operations
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNISDR	United Nations Office for Disaster Risk Reduction
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNODC	United Nations Office on Drugs and Crime
UNPOS	United Nations Political Office for Somalia
UNSC	United Nations Security Council
USA	United States of America
USAR	Urban search and rescue
VPA	Voluntary Partnership Agreements
WASH	Water, Sanitation and Hygiene
WEU	Western European Union
WFP	World Food Programme
WG	Working Group
WTO	World Trade Organisation

List of Contributors

Alberto Alemanno

is Jean Monnet Professor in EU Law and Risk Regulation at HEC Paris. He is also Global Clinical Professor at NYU Law School where he directs the HEC-NYU EU Regulatory Policy Clinic and Adjunct Professor at Georgetown University Law Center where he teaches Global Risk Regulation. Prior to joining the HEC faculty, he clerked at the Court of Justice of the European Union, worked as a Teaching Assistant at the College of Europe in Bruges and qualified as an attorney at law in New York. Originally from Italy, Alemanno earned a *Laurea in Giurisprudenza cum laude* from the Università degli Studi di Torino, LL.M. degrees from Harvard Law School and the College of Europe, and a PhD in International Law and Economics from Bocconi University. He has published extensively in the areas of EU law, international economic law and risk regulation, including the books *Trade in Food—Regulatory and Judicial Approaches in the EU and the WTO* (Cameron May, 2007), *Governing Disasters—The Challenges of Emergency Risk Regulation* (Edward Elgar, 2011) and *Better Business Regulation in a Risk Society* (Springer, 2013). His latest edited volume is *Foundations of European Food Law & Policy—The First Ten Years of the European Food Safety Authority* (Ashgate, 2013). He is currently co-editing a volume provisionally titled *Regulating Lifestyle Risks—Europe, Alcohol, Tobacco and Unhealthy Diets* (Cambridge University Press, 2014—with Amandine Garde). He is the founder and editor of the *European Journal of Risk Regulation* he serves in the editorial boards of the *Revue du Droit de l'Union européenne* and the *European Food and Feed Law Review*.

Giacomo Biagioni

is Assistant Professor of International Law at University of Cagliari, where he teaches International Law and Global Governance Law. He holds a degree in Law (*magna cum laude*) from University of Florence and a Ph.D. in European Union Law from University of Trieste. He taught at several institutions in Europe. He is regular speaker at various meetings and author of a monograph and about forty articles, especially on European Union law and private international law, as well as the co-editor of two books.

Michal Bobek

is Professor of European Law at the College of Europe, Bruges. He is also research fellow at the Oxford University Institute of European and Comparative Law. He has qualified as a judge in the Czech Republic and previously worked

as legal secretary to the Chief Justice and the head of the Research and Documentation Department at the Supreme Administrative Court of the Czech Republic. His areas of research interest include various aspects of EU law, European human rights law, comparative (public) law, and legal theory. He (co)authored ten books, two academic commentaries and dozens of articles and case notes, published in Czech, English, French and German, with works translated also into Romanian, Polish, Russian and Chinese. His latest book entitled “Comparative Reasoning in European Supreme Courts” appeared with the Oxford University Press.

Steven Blockmans

is Senior Research Fellow and Head of the EU Foreign Policy Programme of the Brussels-based think tank Centre for European Policy Studies (CEPS), Professor of EU External Relations Law and Governance at the University of Amsterdam (part-time), and one of the founding members of the Centre for the Law of EU External Relations (CLEER).

Jenő Czuczai

is Legal Adviser in the Legal Service of the Council of the EU (since April 2006–). Visiting Professor at the College of Europe in Brugge-Warsaw (since 1997–). Graduated from ELTE Law Faculty with *summa cum laude* (1991). He was Head of Unit (Prime Minister Office, Budapest, 1991–1992), Director of the different Hungarian Privatization Institutions (1992–1995). He was Legal Adviser to the EC Delegation in Budapest (1995–2001) and Vice-President of the European Law Academy in Hungary (1999–2006). He is Member of the Hungarian Bar Association (since 2001–). He was founding President of the Hungarian European Law Association (2003–2006) and Member of the Board of Directors of the World Federation for European Law (since 2003). He was Chief Legal Adviser to the Hungarian Presidency of the EU Council (seconded from the GSC to Budapest). He is the author, editor, co-editor of 13 books, and author of about 100 articles.

Sanderijn Duquet

is a research fellow at the research Foundation—Flanders (FWO), the Leuven Centre for Global Governance Studies and the Institute for International Law, University of Leuven, Belgium, where she is preparing a Ph.D. on the contribution of the European Union to international diplomatic and consular law. She holds a Master of Laws, Ghent U. and an LL.M. in International Legal Studies, American U. Washington College of Law.

Florika Fink-Hooijer

has spent most of her career in the Commission on foreign external policy matters and in particular on crisis management and conflict prevention. She is currently the Director for Strategy, Policy and International Cooperation at the Directorate General for Humanitarian Aid and Civil Protection. Previously she was Head of Cabinet of Commissioner Kristalina Georgieva, who is responsible for humanitarian aid, international cooperation and crisis response. Inside the Commission Florika had set up the managerial and financial structures for CFSP and crisis management and has been directly involved in initiating numerous EU police, rule of law or protection missions in third countries. Her professional experience includes the design and management of various conflict prevention schemes such as instruments to counter the financing of terrorism as well as the EU's sanctions management in general. Florika has also been negotiating for the EU the Kimberley Process Certification Scheme to curb the trade in blood diamonds and has been responsible for EU relations with Japan, Korea, Australia and New Zealand. Inside the Secretariat General of the Commission she has been responsible for the Commission's external policy coordination after having advised various Commissioners as member of their cabinet on EU external policies at large as well as on justice and home affairs and internal market matters.

Kristalina Georgieva

is currently the European Commissioner for International Cooperation, Humanitarian Aid and Crisis Response. Before taking her position in the Commission she has been Vice President and Corporate Secretary of the World Bank Group, directly reporting to the President, from 2008 to 2010. She was the interlocutor between the World Bank Group senior management, its Board of Directors, and the 186 country shareholders of the World Bank Group. Previously, she was the institutions' Director and Resident Representative in the Russian Federation based in Moscow. She has also been the Director, Strategy and Operations, Sustainable Development in charge of overall directions and delivery of World Bank policy and lending operations in infrastructure, urban development agriculture, environment, and social development, including coordination of World Bank support to fragile and conflict-affected countries. Kristalina Georgieva received her graduate and postgraduate education from the University of National and World Economy, Sofia.

Inge Govaere

holds the Jean Monnet Chair in EU Legal Studies at Ghent University where she is Director of the Ghent European Law Institute (G.E.L.I.) and is Director of

the European Legal Studies Department at the College of Europe, Bruges. She studied law at Ghent University and obtained her Ph.D at the European University Institute (E.U.I.) in Florence (Italy). She was a Fulbright Scholar-in-Residence at Cornell University, N.Y. (USA) and was invited as a Visiting Professor and to give guest-lectures and conferences in the EU and abroad, a.o. European University Institute (E.U.I., Firenze), Cambridge University (UK), Yale University (USA), Columbia University (N.Y., USA), Pittsburgh University (USA), Bond University (Queensland, Australia), Sao Paulo (Brazil), Lima (Peru), La Paz (Bolivia), Sofia (Bulgaria), Budapest (Hungary), Warsaw (Poland), Tunis (Tunisia), Ankara (Turkey). Her publications include, inter alia, *The 1992 Challenge at National Level* (Nomos Verlagsgesellschaft, 1990), *The Use and Abuse of Intellectual Property Rights in EC Law* (Sweet & Maxwell, 1996), *The Oxford Encyclopaedia of EC Law* (Oxford University Press, 2005), *European Legal Dynamics/Dynamiques Juridiques Europeennes* (PIE, 2007), *Intellectual Property, Public Policy and International Trade* (PIE, 2007), *Intellectual Property, Market Power and the Public Interest* (PIE, 2008), *La Fonction Publique Communautaire* (Bruylant, 2008), *Trade and Competition Law in the EU and Beyond* (Edward Elgar, 2011), as well as many articles in law journals and contributions to edited books.

Sieglinde Gstöhl

is Director of the Department of EU International Relations and Diplomacy Studies at the College of Europe in Bruges, Belgium. She has been fulltime professor at the College since 2005. From 1999–2005 she was Assistant Professor of International Relations at the Institute of Social Sciences at Humboldt University Berlin, Germany. She holds a PhD and an MA in International Relations from the Graduate Institute of International and Development Studies in Geneva as well as an MA in Public Affairs from the University of St. Gallen, Switzerland. She was, inter alia, a research fellow at the Liechtenstein-Institut, Liechtenstein, and at the Center for International Affairs at Harvard University, United States.

Christophe Hillion

is professor of European Law at the Universities of Leiden and Stockholm, and Senior Researcher in Law at the Swedish Institute for European Studies (SIEPS, Stockholm). He has published on EU external relations, enlargement and constitutional law. He is a member of the editorial boards of the *Common Market Law Review*, the *European Foreign Affairs Review* and the *Ukrainian Journal of European Legal Studies*. He is also member of the governing board of the Centre for the Law of EU external Relations (CLEER, The Hague), academic

fellow at the European Policy Centre (EPC, Brussels), and member of the Jean Monnet Wider Europe Network (Sussex European Institute).

Christine Kaddous

is professor at the University of Geneva and head of the Centre for European Legal Studies. She holds a Jean Monnet Chair *ad personam*. After studying in Switzerland (University of Neuchatel), England (Cambridge University) and Belgium (Free University of Brussels), she was a professor at the University of Fribourg until 2002 and taught at the Europa Institute in Basel and the University of Bern before joining the University of Geneva. Her academic interests and activities cover various areas of law of the European Union, including external relations, internal market, litigation of the European Union, role of the EU in international organizations as well as protection of human rights. She publishes also in the field of international economic law, particularly the law of the WTO. She co-directs the Collection "Dossiers de droit européen". She is author and editor of several books on the law of the European Union, the most recent ones cover the "Free movement of persons and services" (2012), "European Energy Law" (2011) and "From Amsterdam to Lisbon: ten years an area of freedom, security and justice" (2010).

Kati Kulovesi

is Senior Researcher and Adjunct Professor (docent) in climate law at the Department of Law, University of Eastern Finland. She holds PhD and LL.M degrees from the London School of Economics and Political Science, and an LL.M from the University of Helsinki. She has published widely on climate law and WTO law, and worked on climate change issues as a practising lawyer and consultant for various organizations and governments.

Jing Men

has been the InBev-Baillet Latour Chair of European Union-China Relations since 2008 in the Department of EU International Relations and Diplomacy Studies, College of Europe. She obtained a PhD in Political Science (2004) at the Vrije Universiteit Brussel. She published widely on Chinese foreign policy and EU-China relations. She is the founder of the electronic journal EU-China Observer, launched at the beginning of 2009, where she edits and publishes articles on EU-China relations.

Elisa Morgera

is Lecturer in European Environmental Law at the University of Edinburgh School of Law, where she directs the LL.M Programme in Global Environment