

Comments from the International Committee of the Red Cross (ICRC) on the "Code of Ethics and Code of Conduct for Members and Employees" of the Italian Red Cross

The ICRC considers the Code of Ethics and Code of Conduct of the Italian Red Cross (the Code), as shared with the ICRC on 1 December 2010, as a very positive document which is instrumental for the Society to ensure the respect of the Fundamental Principles by all its employees, members and volunteers. The following recommendations for a future revision could further improve the quality of the Code. Certain points could appropriately also be addressed in the revision of the Italian Red Cross Statutes or in internal regulations.

At the ICRC Division for Cooperation and Coordination within the Movement, Mr Eduard Abegg, Mr Stephane Hankins and Ms Caroline Simond are at disposal for further comments and discussion.

- ***General provisions***

The ICRC recommends adding a Preamble or a new Article to the Code, which covers the following elements:

1. Due note is taken of the mention of the seven Fundamental Principles of the International Red Cross and Red Crescent Movement in the Code. However, it is encouraged to quote the full text of the Fundamental Principles of the Movement;
2. It is important that the general objectives and tasks of the Italian Red Cross be described in the Code;
3. National Societies are endorsed with a specific mandate for the performance of humanitarian action. In this regard, it is suggested to recall the auxiliary role of the Italian Red Cross Society to the public authorities in the humanitarian field in the present Code.

- ***Scope of application of the Code of Conduct***

The ICRC suggests including a new provision defining the legal status of persons engaged within the Italian Red Cross. Since volunteers, members and staff contribute to the achievement of the objectives of the Italian Red Cross in their respective capacities, it is recommended to set out the responsibilities, rights and duties associated with these positions.

As the Code is intended to bind employees, members and volunteers of the Italian Red Cross, it is recommended to include a reference to the "volunteers" under the first paragraph of Article 2 dealing with the personal scope of application of this legal instrument.

- ***Principles set out in the Code of Conduct***

The ICRC is pleased to note that members, staff and volunteers of the Italian Red Cross shall respect, disseminate and safeguard the seven Fundamental Principles of the Movement. In addition to the seven Fundamental Principles of the Movement, Article 4 also makes reference to a "fundamental principle" of the Italian Red Cross. In order to avoid any potential risk of confusion in the public mind, it is recommended using the terminology "Fundamental Principles" only when referring to those of the International Red Cross and Red Crescent Movement. Article 4 paragraph 1 should be amended accordingly. The principle referred therein could for instance be called 'basic principle'.

- ***Legal framework***

It is important to describe the legal framework in which the Italian Red Cross operates in order to clarify the legal obligations to which all persons listed under Article 2 are bound. The

legal framework is composed of the Statutes and internal regulations of the Italian Red Cross, relevant domestic legislation, 1949 Geneva Conventions and their Additional Protocols, the Statutes and resolutions of the International Red Cross and Red Crescent Movement and resolutions and decisions of the International Federation's General Assembly (in particular, the Constitution of the International Federation). It is recommended to add those references under Article 5 of the Code.

- ***Non-discrimination clause***

The ICRC is pleased to note that the Code provides an extensive clause safeguarding and promoting non-discrimination and the respect for diversity (Article 6). However, the ICRC encourages the Italian Red Cross not to limit the grounds of non-discrimination to those enumerated under Article 6 but rather to leave the definition open. The following terminology could serve as an example: *"without any adverse distinction on the grounds of race, nationality, religion, language, gender, political or other opinion, or any similar criteria"*.

Article 6 paragraph 1 stipulates that cases of inequalities of treatment could be justified for "objectives reasons". In order to avoid any misinterpretation of this clause, the ICRC suggests specifying cases where an inequality of treatment could be justified. According to our interpretation, these cases cover specific treatment and protection afforded by International Humanitarian Law or International Human Rights Law to the most vulnerable persons, for instance to children and women.

The word "citizens" should be removed from Article 6 paragraph b in order to fully reflect the spirit of the Fundamental Principle of Impartiality.

- ***Safeguards against conflict of interest***

The ICRC is pleased to see that the Code contains safeguards against conflict of interest under Articles 11 and 15h. According to Article 15h, conflicts of interest arise from situations *"where private or personal interests are such that they can influence a member from working impartially and objectively in the fulfilment of institutional functions"*. It is recommended to extend this definition to members who are incumbents, or who are elected or appointed to a high-ranking position in the public service or a political party.

It is important that members of decision-making bodies be required to act solely in the interest of the Italian Red Cross and, in case of a conflict of interest, to abstain from taking part in the decision-making of the Society. In cases where they do not abstain to take part in the decision-making process, it is recommended to add the following safeguards under Article 11:

"Failing to abstain from participating in activities or decisions and as a minimum, the member shall do his or her utmost to ensure that his or her functions do not give rise to a conflict of interest. In the event of a conflict of interest, the member shall abstain from taking part in decision-making and the said conflict shall be resolved in the sole interest of the Italian Red Cross".

- ***Use of resources of the Italian Red Cross***

In order to uphold the protection afforded to the resources of the Italian Red Cross, it is recommended to restrict their use to one which is in accordance with the Fundamental Principles.

- ***Emblem***

It is important that members, staff and volunteers know and comply with the rules that govern the use of the red cross, red crescent and red crystal.

The ICRC suggests to specify the legal instruments governing the use and protection of the emblems, for instance the 1949 Geneva Conventions and their Additional Protocols, the 1991 Regulations on the use of the Red Cross or Red Crescent Emblems by the National Societies, national legislation and Resolutions of the statutory bodies of the Movement.

Lastly, the ICRC takes this opportunity to encourage the Italian Red Cross to further develop rules related to the protection and use of the emblems by members, staff and volunteers. In this respect, it is recommended that the Italian Red Cross adopts appropriate internal regulations on the emblem and use by the Society in accordance with the commitment undertaken in the 1991 Regulations on the use of the Red Cross or Red Crescent Emblem by the National Societies. Such an instrument offers the opportunity to detail accurately rules on the use and protection of the emblem by members, staff and employee. Once adopted, a reference to these regulations should be inserted to the present Code.

- ***Responsibility of the Italian Red Cross towards its members***

As underlined above, since this Code regulates the relation between the Italian Red Cross and its members, staff and volunteers, Article 12 should be amended to cover also staff and volunteers.

Furthermore, the following responsibility incumbent to the Italian Red Cross towards its members, staff and volunteers should be added: Recruitment of members, staff and volunteers shall be made irrespective of race, sex, class, religion, political opinion and language or any similar criteria.

- ***Rights and obligations of the members, staff and volunteers***

As already indicated in the Joint Statutes Commission letter dated 8 October 2008, rights and duties of members should be well defined.

1. It is recommended to add the following rights of members to the existing list: to elect and be elected; participate and vote in the meeting of the local assembly and if elected in the assemblies of higher levels of the organisation, to present proposals and raise issues with any authority in the National Society.
2. Since this Code is also applying to staff and volunteers, and as already indicated in this letter, it is recommended distinguishing and indicating the respective rights and duties of members, staff and volunteers. Articles 12 to 15 should therefore be amended accordingly. With regards to volunteers, it is recommend to refer to existing instruments for guidance such as the *Volunteering policy adopted by the International Federation in 1999* which is currently revised.

- ***Sanctions***

The ICRC would appreciate receiving a copy of the internal regulations related to the procedures laid down for sanctions as provided under Article 16. In this regard, we take this opportunity to recall that the main elements of the procedure of expulsion and sanction shall be defined either in the Statutes or in internal regulations of the Italian Red Cross to ensure fair treatment of all members, staff and volunteers. The following elements must be included: the body which may take the decision of expulsion; the right of appeal; the body in charge of taking the final and binding decision and the grounds for which such decisions could be taken.

Geneva, 28 December 2010