

His fervent idealism and generosity and his vast experience in relief assistance were of invaluable service to the ICRC and will always be remembered by the Committee with profound gratitude.

Ratification of the Protocols by the Kingdom of Belgium

The Kingdom of Belgium, on 20 May 1986, ratified the Protocols Additional to the Geneva Conventions of 12 August 1949, relating to the protection of victims of international armed conflicts (Protocol I) and non-international armed conflicts (Protocol II), adopted in Geneva on 8 June 1977.

This ratification was accompanied by interpretative statements, the translation of which is reproduced hereafter.

Pursuant to their provisions, the Protocols will enter into force for the Kingdom of Belgium on 20 November 1986.

The Kingdom of Belgium is the 58th State to become party to Protocol I and the 51st to Protocol II.

Declarations of interpretation

On depositing the instrument of ratification by Belgium of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), done at Geneva on 8 June 1977, the Belgian Government makes the following declarations of interpretation:

1. The Belgian Government, in view of the travaux préparatoires for the international instrument herewith ratified, wishes to emphasize that the Protocol was established to broaden the protection conferred by humanitarian law solely when conventional weapons are used in armed conflicts, without prejudice to the provisions of international law relating to the use of other types of weapons.

2. The Belgian Government, in view of paragraph 3 of Article 43 (Armed forces) and the special status of the Belgian Gendarmerie (constabulary), has decided to notify the High Contracting Parties as follows of the duties assigned to the Belgian Gendarmerie in time of armed conflict. It considers that this notification fully satisfies any and all requirements of Article 43 pertaining to the Gendarmerie.

(a) *The Belgian Gendarmerie, which was formed to maintain law and order, is a police force stated by national legislation to be one of the armed forces and is therefore covered by the expression "armed forces of a Party to a conflict" within the meaning of Article 43 of Protocol I. Thus in time of international armed conflict members of the Gendarmerie have the status of "combatant" within the meaning of this Protocol.*

(b) *In addition to this notification the Belgian Government wishes to state exactly what duties the law entrusts to the Gendarmerie in time of war. Those duties are described in the "Act on the Gendarmerie" of 2 December 1957 (published in the "Moniteur belge" official gazette of 12 December 1957).*

Part VI of that Act, in its Articles 63, 64, 66 and 67, covers the special duties assigned to the Gendarmerie in time of war in addition to their peacetime duties. The said special duties are as follows:

"63. The Gendarmerie shall take part in the internal defence of Belgian territory to the extent fixed by mutual agreement between the Minister of National Defence, the Minister of Justice and the Minister of the Interior.

"Territorial units shall not be required to perform any duties other than intelligence and warning duties.

"Mobile units may be placed in support of units of the other armed forces.

"64. Throughout the duration of the time of war the Gendarmerie shall provide detachments known as "prévôtés" (military police) to maintain order in and police the other armed forces.

"Each prévôté shall be under the command of a "prévôt" (Assistant Provost Marshal), who shall be an officer of the Gendarmerie.

"66. Throughout the duration of the time of war the Gendarmerie shall keep in constant touch with prosecuting officers at courts martial.

The Gendarmerie shall report on events concerning security and public order.

"67. Throughout the duration of the time of war the Gendarmerie may be instructed by prosecuting officers at courts martial to serve subpoenas on the parties or witnesses."

(c) *The Belgian Government wishes to emphasize that even in time of war the Gendarmerie's principal duty is still the general one conferred on it by Article 1 of the "Act on the Gendarmerie."*

Indeed the Royal Order of 14 March 1963 "respecting the organization of the general service of the Gendarmerie" (published in the "Moniteur belge" official gazette of 29 March 1963) stipulates in its Article 17:

"In time of war :

- (a) The Gendarmerie shall retain its normal duties of maintaining law and order ;*
- (b) Without prejudice to Article 63 of the Act on the Gendarmerie and the measures that shall result from its execution, all Gendarmerie forces, whether mobile or territorial, shall remain under the command of the Commanding Officer of the Gendarmerie. He shall use and distribute them as the maintenance of order and the judicial service shall require. Each subordinate echelon shall act similarly within the limits of its powers and responsibilities."*

3. With respect to Articles 41, 57 and 58, the Belgian Government considers that, in view of the travaux préparatoires, the expression "feasible precautions" in Article 41 must be interpreted in the same way as the "feasible precautions" mentioned in Articles 57 and 58,¹ that is, those that can be taken in the circumstances prevailing at the moment, which include military considerations as much as humanitarian ones.

4. With respect to Article 44, the Belgian Government declares that the armed conflict situations described in paragraph 3 can arise only in occupied territory or in the armed conflicts covered by Article 1, paragraph 4, of the Protocol. Furthermore the Belgian Government interprets the term "deployment" used in subparagraph b of the said paragraph 3 as comprising any individual or collective movement towards a position from which an attack is to be launched.

5. With respect to Articles 51 and 57, the Belgian Government interprets the "military advantage" mentioned therein as being that expected from an attack considered in its totality.

6. With respect to Part IV, Section I, of the Protocol, the Belgian Government wishes to emphasize that, whenever a military commander is required to take a decision affecting the protection of civilians or civilian objects or objects assimilated therewith, the only information on which that decision can possibly be taken is such relevant information as is then available and that it has been feasible for him to obtain for that purpose.

7. With respect to Article 96, paragraph 3, the Belgian Government declares that the only authority that could address a declaration having the effects described in paragraph 3 of Article 96 would be an authority that in any case :

- (a) is recognized by the intergovernmental regional organization concerned, and*

¹ *Translator's note:* Whereas the term "feasible precautions" is used in all three articles in the English version of the Protocol, in the French version the term "précautions utiles" is used in Article 41 and the term "précautions pratiquement possibles" in Articles 57 and 58.

- (b) *does in fact represent a people engaged in an armed conflict the characteristics of which strictly and exactly conform to the definition given by Article 1, paragraph 4, and to the interpretation given to the exercise of the right of self-determination at the time of the adoption of the Protocol.*

Brussels, 16 April 1986

L. TINDEMANS

Minister for External Relations

(ICRC translation of the official French text)

Accession of the People's Republic of Benin to the Protocols

The People's Republic of Benin acceded, on 28 May 1986, to the Protocols Additional to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international armed conflicts (Protocol I) and non-international armed conflicts (Protocol II), adopted in Geneva on 8 June 1977.

Pursuant to their provisions, the Protocols shall enter into force for the People's Republic of Benin on 28 November 1986.

The People's Republic of Benin is the 59th State to become party to Protocol I and the 52nd to Protocol II.
