

## *Synopsis VI*

### **Relief**

by **J. de Preux**

#### **A. GENERAL PRINCIPLES**

##### **Right to receive relief**

In case of armed conflict, the following groups are entitled to relief:

- the civilian population of an occupied territory (Fourth Conv., Art. 59; Prot. I, Art. 69);
- the civilian population of a territory under the control of a party to the conflict, other than an occupied territory (Fourth Conv., Art. 23, 38; Prot. I, Art. 70);
- prisoners of war and civilian internees in the territory of a Party to the conflict or in an occupied territory (Third Conv., Art. 72; Fourth Conv., Art. 108).

##### **The character of relief actions**

Relief actions must be humanitarian and impartial in character and conducted without any adverse distinction (Prot. I, Art. 70).

Exceptions may be made in situations where privileged treatment or special protection is justified (Prot. I, Art. 70). Individual relief is authorized (Third Conv., Art. 72; Fourth Conv., Art. 62, 98, 108).

### **Offers of relief**

Offers of relief shall not be regarded as interference in the armed conflict or as unfriendly acts (Prot. I, Art. 70; Third Conv., Art. 72, 75; Fourth Conv., Art. 59, 108, 111).

Such offers may be made by States, the Protecting Power, impartial humanitarian organizations such as the ICRC, relief societies (Prot. I, Art. 81; Third Conv., Art. 72, 75, 125; Fourth Conv., Art. 59, 61, 108, 109, 111, 142).

### **Free passage**

Each Party to the conflict and each Party to the Conventions and to the Protocol shall allow free, rapid and unimpeded passage of all relief consignments and, if necessary, protect them and facilitate their passage and distribution (Prot. I, Art. 70; Second Conv., Art. 38; Third Conv., Art. 72, 75; Fourth Conv., Art. 23, 59, 108, 111).

### **Conditions for free passage**

The granting of free passage may be conditional on verification of the consignment's contents, though this shall in no way impede their prompt distribution (Prot. I, Art. 70; Second Conv., Art. 38; Third Conv. Art. 72, 76; Fourth Conv., Art. 23, 61, 108, 112).

The granting of free passage may also be conditional on the observance of technical regulations concerning, for example, routings, dates, times, system of signals, etc. (Prot. I, Art. 70; Second Conv., Art. 38; Third Conv., Art. 72; Fourth Conv., Art. 23, 59, 108).

Finally, when relief is being sent to the civilian population of an occupied territory or the territory of a Party to the conflict, free passage may be made conditional on the distribution of the assistance being made under the local supervision of a Protecting Power (Prot. I, Art. 70; Fourth Conv., Art. 23, 59).

## **Diversion**

Relief consignments being sent to prisoners of war and civilian internees shall not be diverted from the purpose for which they are intended.

Relief consignments intended for the civilian population of an occupied territory or the territory of a Party to the conflict shall not be diverted from their destination, except in cases of urgent necessity, in the interests of the civilian population concerned and, in occupied territory, only with the consent of the Protecting Power (Prot. I, Art. 70; Fourth Conv., Art. 60).

## **Exemption from dues**

Relief consignments shall be exempt from all charges, taxes or customs duties (Third Conv., Art. 74; Fourth Conv., Art. 61, 110). Exceptions to this principle may be allowed (on the territory of the Parties to the conflict and in occupied territory) only in cases of urgent necessity, in the interests of the civilian population and of the economy of the territory (Fourth Conv., Art. 61).

## **Transport free of charge**

All the Parties to the Conventions and to the Protocols shall endeavour to permit the transit and transport of relief consignments free of charge (Prot. I, Art. 70; Third Conv., Art. 75; Fourth Conv., Art. 61, 111. (For prisoners of war and civilian internees, see Section D.)

## **Facilities for the ICRC**

The Parties to the conflict shall grant to the ICRC all the facilities within their power so as to enable it to carry out the relief activities assigned to it by the Conventions and the Protocol (Prot. I, Art. 81), particularly those in aid of the civilian population of an occupied territory (Fourth Conv., Art. 59, 61), the civilian population of a Party to the conflict (Fourth Conv., Art. 10, 30), prisoners of war (Third Conv., Art. 73, 75) and civilian internees (Fourth Conv., Art. 109, 111).

## **Facilities for the National Red Cross or Red Crescent Societies, for the League and for humanitarian organizations**

The Parties to the conflict and the Parties to the Conventions and to the Protocols shall grant, respectively, to their own National Societies and to all the organizations of the Red Cross, every facility to extend assistance to the victims of conflicts, in accordance with the provisions of the Conventions and the Protocol and the fundamental principles of the Red Cross (Prot. I, Art. 9, 12, 17, 22, 81; First Conv., Art. 26, 27; Second Conv., Art. 24, 25; Third Conv., Art. 125; Fourth Conv., Art. 142).

As far as possible, similar facilities shall be granted to other duly authorized humanitarian organizations which perform their activities in accordance with the provisions of the Conventions and the Protocol (Prot. I, Art. 9, 12, 17, 22, 81; First Conv., Art. 18, 26; Second Conv., Art. 24, 25; Third Conv., Art. 72, 75; Fourth Conv., Art. 30, 39, 59, 61, 98, 108, 109, 111).

### **Personnel**

Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for the transportation and distribution of relief consignments. The participation of such personnel shall be subject to the approval of the Party in whose territory they will carry out their duties. Such personnel shall be assisted, respected and protected, and their rapid and unimpeded passage shall be facilitated. Their activities may not be limited nor their movements restricted except in case of imperative military necessity.

Personnel may not exceed the terms of their mission and shall take account of the security requirements of the Party in whose territory they are carrying out their duties (Prot. I, Art. 70, 71).

## **B. OCCUPIED TERRITORY**

### **Principle**

Where the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population and facilitate them by all the means at its disposal (Prot. I, Art. 69, Fourth Conv., Art. 59).

## **Organizing relief schemes**

Relief action may be undertaken by States or by impartial humanitarian organizations such as the ICRC (Fourth Conv., Art. 59). Such schemes shall be implemented without delay (Prot. I, Art. 69).

## **Nature of the relief**

Relief consignments may consist of foodstuffs, medical supplies, clothing, bedding, emergency shelters and other articles necessary to the survival of the population.

They may also contain books and articles required for religious observance (Prot. I, Art. 69; Fourth Conv., Art. 58, 59).

## **Individual relief**

Individual relief shall be permitted (Fourth Conv., Art. 62).

## **Distribution**

The distribution of relief consignments shall be carried out with the co-operation and under the supervision of the Protecting Power. This duty may also be delegated to a neutral Power, to the ICRC or to any other impartial humanitarian organization (Fourth Conv., Art. 61).

When such consignments are being distributed, priority shall be given to persons such as children, pregnant women or women in labour who require special treatment. (Prot. I, Art. 70; Fourth Conv., Art. 23).

## **Transport free of charge**

All Parties to the Conventions and the Protocol shall endeavour to permit the transit and transport, free of charge, of relief consignments on their way to occupied territories (Fourth Conv., Art. 61).

## C. TERRITORY OF THE PARTIES TO THE CONFLICT (See A. General Principles and B. Occupied Territory.)

Moreover, in the distribution of relief consignments, *priority* shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who are to be accorded privileged treatment (Prot. I, Art. 70; Fourth Conv., Art. 23).

The Parties to the Conventions and Protocol which are involved in the relief action shall facilitate effective international *co-ordination* (Prot. I, Art. 70). Aliens shall also be enabled to receive individual or collective relief, or a cash allowance (Fourth Conv., Art. 38, 39).

## D. PRISONERS OF WAR AND CIVILIAN INTERNEES

### **Right to receive relief**

Prisoners of war and civilian internees, in occupied territory or on national soil, shall have the right to receive individual or collective relief in the camps, before their arrival in a camp or in the course of transfer (Third Conv., Art. 72, Annex III, Art. 9; Fourth Conv., Art. 108, Annex II, Art. 8). Such relief consignments may be in kind or in cash (Third, Conv., Art. 61, 72; Fourth Conv., Art. 98, 108).

### **Limits**

Only the Protecting Power or, in respect of their own shipments only, intermediary relief organizations shall be able to place limits on these shipments (Third, Conv., Art. 72; Fourth Conv., Art. 109).

#### *1. Conveyance of relief by the Powers concerned*

### **Obligations of the Powers concerned**

The conveyance of relief shipments is primarily the obligation of the Powers concerned: the Power on which the prisoners of war

depend, the Detaining Power, or the country of transit, whether neutral or belligerent. The Power shall be relieved of this responsibility only when prevented from fulfilling it by military operations (Third, Conv., Art. 75; Fourth Conv., Art. 111).

### **Facilities**

The Powers concerned shall grant the necessary facilities, for example, means of transport, safe-conducts where necessary, protection against the effects of war (Third Conv., Art. 75; Fourth Conv., Art. 111; Prot. I, Art. 70).

### **Post**

Individual relief parcels, correspondence and authorized remittances of money may be sent by mail, either direct or through the Information Bureaux or the Central Tracing Agency (Third Conv., Art. 72, 74; Fourth Conv., Art. 108, 110).

### **Exemption from dues**

All relief shipments for prisoners of war and civilian internees shall be exempt from all import, customs and other dues, whatever their appellation, which are levied on goods from abroad (Third Conv., Art. 74; Fourth Conv., Art. 110).

### **Exemption from postal dues**

Correspondence, relief shipments and authorized remittances of money being sent to or by prisoners of war, whether direct or not, shall be exempt from all postal dues both in the countries of origin and destination and in intermediate countries (Third Conv., Art. 74; Universal Postal Convention, 1952, Art. 37).

For civilian internees, this exemption shall apply to everything sent by them through the post office and also to that which they receive, provided that it has been sent from a country other than the country in which they are interned (Fourth Conv., Art. 110).

## **Costs of transport**

The cost of transporting relief shipments not sent through the post office, for example collective relief, shall be borne by the Detaining Power in all the territories under its control, thus also in territories which it occupies. The other Powers party to the Convention shall bear the cost of transport in their respective territories, whatever the means of transport used: railway, road vehicle etc. (Third Conv., Art. 74; Fourth Conv., Art. 110).

In the absence of special agreements, the costs of transport by sea and by air shall be charged to the senders (Third Conv., Art. 74; Fourth Conv., Art. 110).

### *2. Conveyance of relief by an intermediary*

Should military operations prevent the Powers concerned from fulfilling their obligations to ensure the conveyance of relief shipments, the Protecting Power, the ICRC or any other duly approved organization may undertake to ensure the conveyance of such shipments (Third Conv., Art. 75; Fourth Conv., Art. 111).

## **Facilities**

The Parties to the Conventions shall endeavour to supply them with the necessary transport and to allow its circulation, especially by granting the necessary safe-conducts (Third Conv., Art. 75; Fourth Conv., Art. 111). ICRC transports may use the red cross emblem (First Conv., Art. 44).

## **Costs**

The costs occasioned by the use of such means of transport shall be borne, proportionally by the Parties to the conflict whose nationals are benefited thereby (Third Conv., Art., 75; Fourth Conv., Art. 111), unless special agreements have been made. The same would probably apply to costs arising from the organization of such transport where it is not provided free of charge.



## **Exemption from dues**

Exemptions are the same as those applying to conveyance of relief by the Powers concerned.

### *3. Nature of the relief*

#### **Relief in kind**

The relief may consist of foodstuffs, clothing, medical supplies and articles of a religious, educational, sporting or recreational character which may meet their needs.

Medical relief supplies shall generally be sent in collective shipments (Third Conv., Art. 72; Fourth Conv., Art. 108). The cost of any apparatus necessary for the maintenance of prisoners and internees in good health (artificial appliances, spectacles, etc.) shall be borne by the Detaining Power (Third Conv., Art. 30; Fourth Conv., Art. 91).

#### **Cash relief**

For prisoners of war, cash relief shall consist of sums forwarded to them by the Power on which they depend (Third Conv., Art. 61). For civilian internees, they shall consist of allowances from the Power to which they owe allegiance, the Protecting Powers, the organizations which may assist them, or their families, as well as any income they may have (Fourth Conv., Art. 98).

The sums forwarded by the Power on which the prisoners of war depend or granted to civilian internees by the Power to which they owe allegiance shall be the same for each category and may not be allocated on the basis of prohibited discriminations (Third Conv., Art. 61; Fourth Conv., Art. 98; Prot. I, Art. 70).

#### **Canteens**

Canteens shall be installed in all prisoner of war camps and in camps for civilian internees where suitable facilities do not exist. Prisoners of war and internees may procure foodstuffs, ordinary articles in daily use, soap and tobacco, at prices not higher than local market prices (Third Conv., Art. 28; Fourth Conv., Art. 87).

## **Establishing needs**

Prisoners' representatives and Internee Committees shall be allowed to complete and cause to be completed, for example by senior medical officers of hospitals, forms or questionnaires intended for the donors and relating to collective relief supplies (Third Conv., Annex III, Art. 5; Fourth Conv., Annex II, Art. 5).

## **Purchase of relief supplies**

The purchase of relief supplies in the territory of the Detaining Power for prisoners of war and civilian internees shall be authorized (Third Conv., Annex III, Art. 8; Fourth Conv., Annex II, Art. 7).

### *4. Receipt, distribution and supervision*

#### **Receipt**

The prisoners' representatives and Internee Committees shall be allowed to go to railway stations or other points of arrival of relief supplies near their places of internment, so as to be able to verify the quality as well as the quantity of the goods received, and to make out detailed reports thereon for the donors (Third Conv., Art. 73 and Annex III, Art. 3, Fourth Conv., Art. 109 and Annex II, Art. 3).

Receipts for each consignment, signed by the prisoners' or internees' representatives and the administrative authorities of the camp, shall be forwarded to the relief society or organization making the shipment (Third Conv., Art. 125 and Annex III, Art. 5, Fourth Conv., Annex II, Art.5).

#### **Distribution**

The distribution of collective relief shipments shall be effected equitably and in accordance with the instructions of the donors and with a plan drawn up by the prisoners' representatives or the

Internee Committee. The issue of medical stores shall be made for preference in agreement with the senior medical officers (Third Conv., Art. 73 and Annex III, Art. 2; Fourth Conv., Art. 109 and Annex II, Art. 2).

### **Supervision**

No agreement shall restrict the right of the Protecting Power, the ICRC or any other organization giving assistance to the prisoners and internees to supervise the distribution of relief supplies to their recipients (Third Conv., Art. 73; Fourth Conv., Art. 109).

The supervision by the Detaining Power shall not be such as to expose the goods to deterioration (Third Conv., Art. 76; Fourth Conv., Art. 112).

### **Assistance to relief societies and the ICRC**

Relief societies shall receive all necessary facilities for visiting the prisoners and internees and distributing relief supplies. The special position of the ICRC shall be recognized and respected at all times (Third Conv., Art. 125; Fourth Conv., Art. 142; Prot. I, Art. 81).

*In the case of armed conflict not of an international character, any impartial humanitarian body, such as the ICRC, may offer its services to the Parties to the conflict (First to Fourth Conv., Art. 3).*

The same is true, in high-intensity internal conflicts (Prot. II), of National Red Cross Societies with regard to their traditional activities (Prot. II, Art. 18). Finally, relief actions which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction, especially those to provide foodstuffs and medical supplies, may be undertaken (Prot. II, Art. 18).

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