

IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW NATIONAL MEASURES

*Information received by the International Committee
of the Red Cross on
implementation measures taken by
the States at the national level*

The importance of adopting national measures to implement international humanitarian law has been stressed on many occasions. It was repeated in the Final Declaration of the International Conference for the Protection of War Victims (Geneva, 30 August-1 September 1993), which reaffirmed the obligation laid down in Article 1 common to the four Geneva Conventions to respect and ensure respect for international humanitarian law in order to protect the victims of war. The Declaration urged all States to make every effort to “*adopt and implement, at the national level, all appropriate regulations, laws and measures to ensure respect for international humanitarian law applicable in the event of armed conflict and to punish violations thereof*”.¹ The Conference thus reasserted the need to bring about more effective compliance with that law.

Concerned by the inadequacy of domestic laws and other national implementation measures, the international community had in the past frequently encouraged the ICRC to take action.

Though it had already approached the States in this regard, the ICRC made a series of written representations to impress upon them the importance of passing laws and issuing regulations to ensure full implemen-

¹ International Conference for the Protection of War Victims (Geneva, 30 August - 1 September 1993), Final Declaration; Report on the Protection of War Victims, drawn up by the International Committee of the Red Cross and published in the *International Review of the Red Cross*, September-October 1993 (No. 296), p. 379.

tation of international humanitarian law.² It sent questionnaires to the States party to the 1949 Geneva Conventions in order to ascertain what steps they had taken or intended to take at the national level to ensure compliance with the law in times of armed conflict.³

All the information that the ICRC received by 30 April 1991 on the relevant domestic laws and regulations adopted by the States was compiled and published in *Replies received from States to the ICRC's written representations concerning national measures to implement international humanitarian law*.⁴

The following data — listed by country in alphabetical order — were received after 30 April 1991 and thus complete the survey. They are an inventory of laws, regulations and other practical measures, such as the establishment of interministerial committees.

Argentina

Interministerial Committee

Decree No. 933/94 of 16 June 1994 established the *Comisión de aplicación del derecho internacional humanitario* (Committee for the Application of International Humanitarian Law), composed of representatives of the Ministries of Defence, the Interior, Foreign Relations, Justice and Trade. This Committee has been entrusted with the mandate to propose laws and regulations aimed at ensuring compliance with humanitarian law. It is also responsible for shaping and coordinating activities to promote knowledge of international humanitarian law among various target groups.

² These steps were a follow-up to Resolution V of the 25th International Conference of the Red Cross (Geneva, 1986). The resolution, entitled *National measures to implement international humanitarian law*, reminded the States of their obligation to adopt or supplement the relevant national legislation. It also called on governments and National Red Cross and Red Crescent Societies to give the ICRC their full support and the information it required to monitor progress in this area.

³ The action taken by the ICRC in pursuance of Resolution V of the 25th International Conference of the Red Cross was published under the title *National measures to implement international humanitarian law — Resolution V of the 25th International Conference of the Red Cross (Geneva, 1986) — Written representations by the International Committee of the Red Cross*, International Committee of the Red Cross, Geneva, October 1991.

⁴ This compilation was annexed to the document entitled *Implementation of international humanitarian law — National measures*, which was drawn up by the ICRC for the 26th International Conference of the Red Cross and Red Crescent, to have been held in Budapest in November-December 1991 (Doc. C.I/4.1/1, Geneva, 1991).

Belgium

Repression of breaches

Loi relative à la répression des infractions graves aux Conventions internationales de Genève du 12 août 1949 et aux Protocoles I et II du 8 juin 1977, additionnels à ces Conventions

(Law on the repression of grave breaches of the international Geneva Conventions of 12 August 1949 and Protocols I and II of 8 June 1977 additional to those Conventions)

Adopted on 16 June 1993, this law sets out the penalties for grave breaches of humanitarian treaties, which Additional Protocol I describes as "war crimes". The law is applicable in the event of both international and non-international armed conflicts. It contains major innovations such as the outlawing of certain acts intended to facilitate violations, a declaration that no statutory limitation will apply to these crimes and the barring of any justification based on military necessity.

The law has four articles and was published, in French and Flemish, in the *Moniteur Belge* of 5 August 1993.

Bolivia

Interministerial Committee

The *Comisión nacional permanente para la aplicación del derecho internacional humanitario* (National Standing Committee for the application of international humanitarian law) was set up by Decree No. 23345, published in issue No. 1768 of the official gazette. The Committee is made up of representatives of the Ministries of Foreign Affairs, National Defence, the Interior, Justice, Education and Public Health, as well as representatives of the Supreme Court, the academia and the Bolivian Red Cross. The Committee's task is to ensure the application of humanitarian law, to consider and prepare laws and other implementation measures aimed at filling gaps in national legislation and to submit the resulting proposals to the appropriate legislative and executive bodies.

Germany

Military manuals

Humanitarian law in armed conflicts — Manual

This manual was prepared by the Ministry of Defence and published in August 1992. It is the English-language version of the German military manual entitled *ZDv 15/2 Humanitäres Völkerrecht in bewaffneten Konflikten* and also published in August 1992. The English-language version was drawn up in close conjunction with government experts from 18 countries and representatives of the ICRC and the International Institute of Humanitarian Law in San Remo, Italy. As stated in the preface, the manual is intended for military and civilian personnel responsible for organizing courses, military exercises and other types of training.

A commentary on the German-language manual was published as *Handbuch des humanitären Völkerrechts in bewaffneten Konflikten* (Dieter Fleck, ed., Verlag C.H. Beck, Munich, 1994). An English-language version of the commentary is currently being prepared. It will be entitled *Handbook of humanitarian law in armed conflicts* and will be published by Oxford University Press.

Abridged editions of the military manual are planned in both German and English.

Netherlands

Military manual

Toepassing humanitair Oorlogsrecht (*Compliance with international humanitarian law*)

This military manual was drawn up for the army by the Ministry of Defence and published on 7 October 1993. It replaces the previous military manual and covers all the rules applicable to international and non-international armed conflicts.

Switzerland

Instructions to commanders

Principes régissant le droit des gens en temps de guerre à l'intention des commandants (*Principles governing the law of nations in time of war for commanders*)

Directive No. 51.7/IV f. to field commanders from the Swiss army's head of training was published on 12 December 1990 and deals with the principles governing the international law of war. This ten-page document, with 24 provisions and four annexes, sets out the fundamental principles of the law of armed conflicts.

Uruguay

Interministerial Committee

The *Comisión nacional de derecho humanitario* (National Committee for Humanitarian Law), set up under Decree No. 191/92 of 12 May 1992, is composed of representatives of the Ministries of Foreign Affairs, National Defence, the Interior, Public Health and Education, as well as representatives of the Supreme Court, the Law Faculty and the Uruguayan Red Cross. The Committee was given the task of considering and proposing national measures to implement international humanitarian law. It was instructed to present to the authorities within 90 days a report on practical steps that could be taken at the national level. On 24 November 1992, following the report, the Committee was entrusted with a permanent mandate by Decree No. 677/992. The work of the Committee has since led to the adoption of measures in the following areas.

Respect for the emblem

Decreto 677/992. Díctanse normas para el uso de los emblemas de la cruz roja y de la media luna roja, así como de los vocablos "Cruz Roja", "Cruz de Ginebra" y "Media Luna Roja".

(*Rules for the use of the red cross and red crescent emblems and the names "Red Cross", "Geneva Cross" and "Red Crescent"*)

This decree brings up to date Act 6.186 of 16 July 1918 on the use of the red cross emblem. It incorporates relevant provisions from the 1949

Geneva Conventions and their Additional Protocols of 1977 and includes protection for the international distinctive sign of civil defence.

Dissemination

Decreto 678/992. Cométese la instrumentación de cursos, relativos al Derecho Internacional Humanitario, en coordinación con la Comisión Nacional de Derecho Humanitario

(Establishment of courses on international humanitarian law, in coordination with the National Committee for Humanitarian Law)

This decree made official the courses in humanitarian law given at the Ministries of National Defence and Foreign Affairs.

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The information compiled above reflects only the replies that were sent to the ICRC as a result of its written representations. They are thus not exhaustive as other States may well also have taken national measures concerning international humanitarian law. The ICRC would therefore appreciate being kept informed of developments in this regard, as this will enable it both to keep others informed and to maintain a comprehensive view of the situation. The ICRC will then be in a better position to identify areas where it can do more to assist the States in meeting their obligations.

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