

North Atlantic Treaty Organization: Statement by the International Committee of the Red Cross

North Atlantic Council, meeting of 22 December 1999, Brussels
Statement by the President of the International Committee of the Red Cross, **CORNELIO SOMMARUGA**

First of all I would like to thank the North Atlantic Council most warmly for inviting me to speak at such a significant moment in history. We are approaching the end of a year marked by the 50th anniversary of the 1949 Geneva Conventions, and indeed of NATO, as well as the eve of a new millennium. This is also a time for assessment of the Balkan crisis, an issue taken very seriously by the entire international community, including NATO, and including the ICRC. Finally, as you probably know, this is also a special time for me personally, as in a few days I will be handing over the presidency of the ICRC to my successor, Mr Jakob Kellenberger. I have held this post for 12 years, and I am now coming to the end of my third presidential mandate.

But the main reason for my addressing you today is no doubt the increasing number of topics and situations which have confronted both NATO and the ICRC over the last few years. They are discussed in detail at the appropriate levels, but there is a need for me to review briefly the most important among them with the highest political authority of the Alliance. There are at least three matters of particular concern to the ICRC that I would like to raise here today.

The first is the validity and relevance of the 1949 Geneva Conventions — the basis of modern international humanitarian law — even in present-day conflicts. Indeed, their applicability to armed conflicts cannot be challenged. The Conventions, ratified by 188 States, including all NATO member countries, are quite clear in this respect. They are supplemented by their two Additional Protocols of 1977, other humanitarian treaties, and the relevant customary law, all of which lay down rules applicable in both international and non-international armed conflicts. And I urge those few NATO member States which have not yet become party to these Protocols to do so.

From a close look at those rules it appears obvious that they are sufficient to cover most of the situations that military personnel and civilians may face in armed conflicts. The reasons for violations are to be found in lack of willingness to implement international humanitarian law rather than in the inadequacy of the rules themselves. This brings us to the issue of responsibility: the responsibility of combatants, but also of all individuals along the chain of command, up to the highest level of the authorities, be they civilian or military.

Article 1 common to the four Geneva Conventions reads: "The High Contracting Parties undertake to respect and to ensure respect for the Conventions in all circumstances". By adhering to the Geneva Conventions, therefore, 188 States have committed themselves to ensuring compliance with the provisions of the Conventions in all circumstances. This obligation includes seeing to it that the treaties are universally respected and employing all available means to achieve that goal: diplomatic pressure, pressure within the framework of international organizations, and economic pressure, insofar as exceptions are made in favour of the most vulnerable population groups. Does this obligation go as far as to authorize the use of force? International humanitarian law does not provide for such an option, nor does it rule it out. This is an issue that needs to be addressed in the light of the provisions of the United Nations Charter, as stated in 1977 Protocol I. It is essential that an organization such as NATO takes into consideration the international obligations of each of its members when taking action in accordance with its mandate.

The second matter I wish to raise is the relationship between military and political players on the one hand and humanitarian players on the other. For several years now NATO and the ICRC have developed constructive contacts at different levels, at headquarters in Brussels, with SHAPE, in different NATO schools and in operational areas. In 1996 SHAPE and the ICRC signed a Memorandum of Understanding aimed at giving their relationship a specific structure based on training in international humanitarian law, and at making our two organizations more familiar with one another. In the spring of 1999, at the height of the Kosovo crisis, the North Atlantic Council expressed the wish that NATO interact directly with the ICRC, thus acknowledging the special nature of our mandate.

The ICRC views humanitarian action as being governed by the principles of humanity, impartiality and neutrality, and being carried out independently of political and military objectives and considerations. This action involves affording the victims of armed conflict or internal violence not only assistance but also protection, as provided for by humanitarian law and principles. These imply compliance with a number of rules, including not taking sides and adopting a strictly non-discriminatory attitude vis-à-vis the victims. Humanitarian action is also inherently non-coercive, since it can never be imposed by force. It is precisely the principles of neutrality and independence — which armed forces bringing assistance to victims can hardly observe — that allow the ICRC to work in any situation, all over the world. I firmly believe that effective and comprehensive crisis management calls for good working relations and constructive dialogue among all the players involved. In view of the need for a comprehensive approach to conflict situations, operations must be harmonized and efforts focused on creating synergy. Indeed, there is no room for competition when human lives are at stake: it is our common responsibility, for the sake of humanity, to adopt a concerted approach to conflict management, and to act in a more consistent manner. Nevertheless, I must stress once again that a concerted approach does not mean that humanitarian activities can be subordinated to military or political considerations.

It is therefore essential, when considering action in the field, to respect the specific nature of each of our organizations, their respective mandates, and the limits imposed by the rules and principles guiding their operations. In the ICRC's humanitarian activities, the victims are the only concern, but a degree of complementarity can be found between different players in the field, within the framework of the principles I have just mentioned.

My last message is a formal appeal to NATO — as such, as a focal point, or through its member States — to contribute to the development of international humanitarian law, and to fulfil its duty to respect and ensure respect for that body of rules, notably through proper implementation, faithful application, and the imposition of penal sanctions when required; this should also cover respect for the red cross or red crescent emblem. Respecting international humanitar-

ian law not only helps alleviate the plight of those caught up in armed conflict, but also facilitates the return to lasting peace.

International humanitarian law is constantly evolving, partly in response to the rapid development of military technology. One of its cardinal principles is the ban on using weapons or methods that cause unnecessary suffering or superfluous injury, or that may cause damage indiscriminately to both military objectives and civilians or civilian objects. There are also more specific restrictions or prohibitions, which have been supplemented during the last two years by two new instruments on anti-personnel mines and blinding laser weapons. In any event, States must consider whether the weapons they possess or are thinking of acquiring are compatible with the principles I have just outlined.

Among weapons that raise questions, let me first mention cluster bombs and depleted uranium munitions, which have been used recently and whose long-term effect on the civilian population requires careful consideration. Then there is a new generation of weapons under development, the so-called "non-lethal" weapons. This term might at first glance seem eminently humanitarian, but on closer inspection it becomes clear that some such weapons will be lethal under certain circumstances. Some have already been prohibited, and others may not be compatible with existing principles. The ICRC considers that, as regards the rules of international humanitarian law, it is not possible to examine a whole range of weapons under one label. We encourage NATO to consider this issue very carefully, with special reference to its military, medical and legal aspects. The ICRC would welcome a dialogue with NATO on this subject.

Finally, when it comes to violations of international humanitarian rules, States are under an obligation to prosecute persons alleged to have committed war crimes, or to hand them over for prosecution. The international community has created ad hoc tribunals, one of them being of particular relevance for Europe and NATO. I refer, of course, to the International Criminal Tribunal for the former Yugoslavia. It is of paramount importance that all States send a clear signal to war criminals that they will be held responsible for the crimes they have committed and will have to face the consequences of their

acts. Going further, in July 1998 the international community adopted the Statute of a permanent International Criminal Court with jurisdiction over war crimes, genocide, crimes against humanity, and the crime of aggression. I call on all 19 NATO member States to sign and ratify this crucial treaty. I know that some members of NATO are already amending their national laws to prepare for ratification of the Statute, and would like to offer them my wholehearted support.

These three messages — the applicability of international humanitarian law in all armed conflict situations; the complementarity of the military, political and humanitarian approaches to a crisis, with full respect for their differences; and NATO's responsibility regarding international humanitarian law — are the ICRC's main concerns in preparing its future relations with NATO. You want to work for peace and security, we want to assist and protect the victims of armed conflict and internal violence; our respective aims are compatible and may be complementary. I hereby call, therefore, for a closer dialogue between NATO and the ICRC, as we can work together within the framework of international law.