

# M I S C E L L A N E O U S

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## PROTECTION OF AMBULANCE HELICOPTERS

*After recalling the radiant personality of the late Brigade-Colonel Hans Meuli, a former member of the ICRC, who had been Honorary President of the International Committee of Military Medicine and Pharmacy and founder of the international refresher course for junior medical officers, the International Review of the Army, Navy and Air Force Medical Services<sup>1</sup> publishes the papers presented by various eminent persons from different countries at the fifth session of the course which took place at Macolin in September 1970. Particular attention should be paid to one of these contributions, on the one hand, because it deals with matters concerning the Geneva Conventions, and on the other, because of the importance and topicality of the problem of medical aviation. The author is Surgeon Major-General E. Evrard (Belgium), and the most significant passages are given below :*

### THE GENEVA CONVENTIONS AND LEGAL PROTECTION OF AMBULANCE TRANSPORTS BY HELICOPTER IN ARMED CONFLICTS

The appeals outspoken by various legal associations or commissions have drawn attention to the problem of protection of the ambulance helicopter, which has great bearing to the functioning of the Medical Service in time of war.

Ambulance aviation was introduced into the Geneva Convention at the time of its 1929 revision. A special protective status was accorded to it. At that period, the term "ambulance aircraft" utilized in the text of the Convention referred in practice only to airplanes. The helicopter was not yet born.

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<sup>1</sup> Liège, 1971, No. 2.

The mass evacuation of wounded and sick persons by air is certainly one of the most important developments of the Second War in the medico-military field. No doubt, in military transport planes temporarily outfitted as ambulance craft making their flights with no reference to the requirements of the Convention, the medical staff and the wounded could not expect any guarantee of protection whatsoever in the course of transport.

At the time of the opening of the 1949 Conference assigned to prepare the revision of the Geneva Convention, the terminology covering ambulance aviation contained in the 1929 Convention was seen to have no more real practical importance.

Nevertheless, the same principles were again incorporated in the Conventions of August 12, 1949. It is true that a handful of fresh provisions sought to introduce a bit of flexibility.

In 1954, the French jurist, Paul de La Pradelle, declared: "Whether we wish it or not, as they now stand, the Geneva Conventions condemn the use of the helicopter in time of war. Article 36 is inapplicable to the case of the helicopter." (Bulletin International des Services de Santé, August 1945, pp. 376-380).

In certain recent publications, doctors and jurists have continued to call for a solution to this alarming situation.

A conception, tending to grant a particular status to the helicopter, would be of dubious value.

In addition, it would not be technically justifiable.

1st, it would be of dubious value because it would still further postpone the regulating of the status of ambulance aviation. Hence, it does not seem to us to be timely to set aside the general concept of the aircraft to enter into current technical particularities of one type of apparatus, on the pretext that its flying surface resolves and that it can "hover".

2nd, this notion of differentiation is not technically justified. The fact is that the inevitable re-adaptation of the status of ambulance aviation to current circumstances provided for the conduct of war touches on four essential points. These are precisely the ones where the texts in Conventions I and II are marked by gaps, by ambiguities and by imperfections. They refer not only to the *helicopter*, but to all *types of aircraft*.

## MISCELLANEOUS

They are:

*Gaps, ambiguities and imperfections in the present juridical status.*

a) *Definition of the protected apparatus.*

According to paragraph 1 of article 36 of Convention I, the benefit of protection is accorded to " aircraft exclusively utilized for the evacuation of wounded and sick persons as well as for the transport of ambulance personnel and equipment ".

This formulation is ambiguous.

We must note the disproportion between the availability of the apparatus and the growing variety of missions which the General Staffs can assign to them in the conduct of a modern war.

The number of these helicopters used specifically and exclusively for medical purposes represents only a small percentage of the American helicopter fleet (61 out of 1000 helicopters).

It is to be presumed that most of the military Health Services, even if they have their own medical helicopters, will, above all in time of war to cope with all their evacuation requirements, have to count on multiple-use machines, convertible as needed to assume ambulance functions.

The future statute protecting the ambulance helicopter should remove all uncertainty by taking into consideration without ambiguity two categories of machines:

- a) converted military helicopters carrying out occasional ambulance missions, provided that they distinguish themselves during these ambulance missions by means of identification internationally accepted for that purpose. This category should at present be given priority, since it includes the greatest number of machines.
- b) Ambulance helicopters, specially and exclusively reserved for medical ends.

This polyvalent solution eliminates any ambiguity and takes into account the unbalance that will always be found between the number of helicopters available for the health service in a theatre of military operations, and the number of victims whose lives depend on prompt evacuation to a treatment unit or centre.

b) *Signalization and identification of helicopters on ambulance mission.*

In addition, interceptor plane attacks are no longer made at a short distance. The machine, of whatever sort it may be, is detected by radar, then identified as friend or enemy. Even if it is visually recognized, the fighter plane starts its attack as soon as the machine comes within range of its weapons, well before it is possible to recognize the red cross or the white paint.

The range of radar detection and of repelling weapons in form of ground-air and air-air missiles renders this notion of identification by the red cross sign obsolete and untenable.

Recognizing the illusory and utopic nature of an identification solely based on the red cross painted on a white background, it is important to define now these other means of signalization or identification likely to be proposed at the time of a revision of the Convention.

For the plane, a review and study of the various existing means enabled us to choose an *indirect* visual means: a secondary radar of the IFF-SIF type. This means would enable aerial control stations operating for fighter interception and missile bases to instantaneously identify at great distances the aircraft on ambulance mission. Obviously, this system, which can only be expected to be effective at altitudes above 1,000 metres, would not be suitable for helicopters.

Fortunately for the latter, a direct visual means is enough, because of its low altitude travel.

The emission of luminous signals, whether by day or by night, at least triples the distance of detection and identification of an aircraft as compared to the distance based on silhouette and colour, given similar atmospheric conditions.

c) *Elimination of the prior agreement on the flight plan.*

d) *Practical delimitation of legal protection of helicopters on ambulance missions above the various zones of the theatres of operations.*

In the absence of specially reached agreement, ambulance helicopters or those on ambulance mission will not be allowed to fly over enemy territory or territory occupied by the enemy and the zone of contact of or with belligerent combat units. In case of flight over a forbidden zone, the helicopter will not be attacked, but may be summoned to alight.

## MISCELLANEOUS

In case of accidental or imposed landing on the above-mentioned territories or in neutral countries, ambulance helicopters in the strict meaning may only be seized on condition that they are utilized by the captor for exclusively medical purposes. The apparatus of International Institutions must be turned over to the latter along with their crews.

*Project for new juridical statute (code) for ambulance aviation.*

Recognizing gaps is one thing. Making constructive and coherent proposals to fill them is something else.

In order that a protective formula may have some chance of being applied in time of war, two things are indispensable.

a) *First, the confidence of the contracting parties* in an international statute protecting all forms of air ambulance missions, within certain fixed limits.

b) *Second, the concern felt by both belligerents to observe the laws of war and the international humanitarian conventions . . .*

. . . Despite the limits of our task, we believe that the text which has just been submitted to the International Red Cross Committee by the Medico-Legal Commission of Monaco, a text which, in its concise form, takes broadly into account the ideas and the realities here analyzed, will, in the long run, help us to reach a better solution, which is to say a more realistic solution to take care of the international legal statute of the ambulance helicopter within the framework of the Geneva Conventions.

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