



PERMANENT MISSION OF THE CZECH REPUBLIC
TO THE UNITED NATIONS

1109 MADISON AVENUE,
NEW YORK, NY 10028
TEL 1(646) 981-4000 • FAX 1(646) 981-4099

No. 997/2010

The Permanent Mission of the Czech Republic to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to his Note No. LA/COD/2 of April 9, 2010, based on the General Assembly resolution 63/125 of December 11, 2008, entitled „Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflict”, has the honor to transmit the enclosed information on this matter.

The Permanent Mission of the Czech Republic to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration. ↴

New York, May 18, 2010



His Excellency
Mr. Ban Ki-moon
Secretary-General
United Nations
New York

The 2010 Information of the Czech Republic on the Status of the Additional Protocols Relating to the Protection of Victims of Armed Conflicts of 1977

Incorporation of International Humanitarian Law (IHL) into the National Legal System

1. The Czech Republic is a party to all fundamental IHL instruments, including the four Geneva Conventions of 1949, their two Additional Protocols of 1977 and the third Additional Protocol of 2005, the Convention for the Protection of Cultural Property in the Events of Armed Conflict and the two Protocols, the Optional Protocol to the Convention on Rights of the Child on the Involvement of Children in Armed Conflict, and the Rome Statute of the International Criminal Court.
2. The Czech Republic made the declaration provided for under Article 90 of Protocol I to the Geneva Conventions, thus recognizing the competence of the International Humanitarian Fact-Finding Commission. In 2009, the Czech Republic co-sponsored the resolution granting an observer status for the IHFFC in the UN General Assembly.
3. According to Article 1 of its Constitution, the Czech Republic is obliged to obey all its obligations arising from international law. This provision makes no distinction between the treaty and customary international law. Furthermore, Article 10 thereof explicitly states that:

Promulgated international agreements, the ratification of which has been approved by the Parliament and which are binding on the Czech Republic, shall constitute a part of the legal order; should an international agreement make provision contrary to a law, the international agreement shall be applied.

Therefore, the Czech Republic has to comply with all the IHL principles, which may be derived either from the relevant treaties, or the customary international law.

Implementation of IHL

4. The key legal and policy documents of the Czech Republic contain several explicit references or safeguards concerning implementation of IHL:
 - The Constitution stipulates that the Czech Republic obeys its obligations arising from international law and that ratified treaties, including IHL instruments, which constitute an integral part of the Czech legal order.
 - The Act on Professional Soldiers (Act No. 221/1999 Coll.) enumerates - among other basic duties of soldiers - the duty to follow the IHL (Section 48). An identical obligation is contained in the Law on the Armed Forces of the Czech Republic (Act No. 219/1999 Coll.).
 - The Czech law imposes the above-mentioned obligation also on policemen, fire fighters, prison-guards etc.
 - According to the Act on Professional Soldiers, the soldiers are under a legal obligation not to obey orders of the superior, which would lead to committing any crime by the accomplishment of such orders (including the grave breaches under the Geneva

Conventions of 1949 and the Additional Protocol I that were implemented into the Criminal Code as crimes under domestic law – see further).

- The grave breaches of the Geneva Conventions of 1949 and other serious violations of the IHL had been implemented into the Criminal Code (Act No. 40/2009 Coll.), mainly in Chapter XIII (Crimes against Humanity, Crimes against Peace and War Crimes). The relevant crimes under the Czech Criminal Code are as follows:

Attack against Humanity (Section 401) - means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population - a) extermination, b) enslavement, c) deportation or forcible transfer of population, d) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity, e) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other similar ground, f) the crime of apartheid or other similar segregation or discrimination, g) deprivation of physical liberty of transferring on an unknown place or any other restriction of personal freedom, followed by the involuntary disappearance of persons, h) torture, i) murder, j) other inhumane act of a similar character.

War Crimes: the Criminal Code allows to prosecute military personnel, who use or order to use means or methods of combat that are prohibited by law, including attack on civilian population. The relevant crimes under the Czech Criminal Code are as follows: Employment of prohibited means and methods of warfare (Section 411), War cruelty (Section 412); Persecution of population (Section 413); Pillaging in the area of military operations (Section 414); Abuse of internationally recognized and state emblems (Section 415), Abuse of flag and ceasefire (Section 416), Causing a harm to the parlementaire (Section 417). The remaining acts considered War Crimes under the IHL are prosecuted under the general crimes provisions of the Criminal Code.

- Since 2010, a specific criminal act of “Commanders Responsibility” (Section 415) has been for first time introduced into the Czech Criminal Code. The Ministry of Defence is aware of the utmost importance of this responsibility and, therefore, already in 2008, issued a special handbook “The IHL for Commanders”.
- For the Czech Armed Forces, the obligation to conduct the military activities according to the IHL is stipulated in various non-legal political and internal documents, e.g., in the Military Strategy of the Czech Republic, Doctrine of the Armed Forces of the Czech Republic, etc.

5. In order to enhance the implementation and promotion of the IHL in the Czech Republic, the Ministry of Foreign Affairs of the Czech Republic established - on an informal basis - the National Commission for the Implementation of IHL.

Dissemination of IHL (Particularly in the Czech Armed Forces)

6. The Czech Republic has transformed the overall system of military training with regard to the fact that there have been fully professional armed forces since 2005. This system consists of training of an individual, regular daily training of individuals or units and the ad-hoc training, be it specialized courses for individuals or pre-deployment training of particular units. It is guaranteed, therefore, that every individual military professional is exposed to the IHL at the very beginning of his or her career, during regular annual training, whenever he or

she wants to be promoted and before any deployment to a real military operation. To promote implementation of IHL into field training, a manual for the instructors of IHL was introduced in 2008. It is based on the concept of the ICRC publication *Fight it Right*, adapted to the Czech conditions.

7. The military education is centralized within the Defense University located in Brno. This institution provides appropriate education, including mandatory courses on IHL to all prospective commanders. The lectures on IHL are included in both Bachelor's and Master's curriculum.

8. The compliance with the IHL within the military is promoted also by the military legal advisers. They are available on a brigade level and above, in some cases on a battalion level, too. Furthermore, the Czech Armed Forces have a limited number of reserve military legal advisers. Dealing with IHL issues is an inherent responsibility of every legal adviser. Although they are not responsible for training or tactical decision-making, they should be capable of providing necessary legal advice to their commanders. To summarize the basic legal knowledge, that any commanding officer and military lawyer should possess concerning use of force and rules of engagement, a special handbook on the Rules of Engagement has been drafted. This Rules of Engagement handbook, which covers a significant part of IHL, will be issued soon by the General Staff of the Czech Armed Forces. With relation to the preparation of the Czech Standing Rules of Engagement and its implementation into the Czech Armed Forces, special seminars on this issue were organized in December 2007 and in September 2009.

9. One of the most important aspects of the dissemination of IHL is the pre-deployment training of the Czech Armed Forces. The units selected for particular operations abroad receive additional training containing legal components directly related to their particular mission and their operational area. Such training is provided by the legal advisors of the General Staff and the International Law Department of the Ministry of Defence of the Czech Republic.

10. In the context of the Additional Protocol III to the Geneva Conventions of 1949, the use of the third distinctive and protective emblem is being promoted in the instruction materials published by the Ministry of Defense. Information about the "red crystal" emblem is included in the educational curricula as well.

11. The Ministry of Defense launched a specialized intranet site (accessible for the Ministry and Armed Forces staff) dedicated to the IHL in 2008. The site contains the information on the IHL focused on the needs of armed forces (introduction to the IHL, basic principles, individual and commander responsibility, emblems) and downloadable documents, including texts of the IHL treaties binding on the Czech Republic. In the near future, the site will be further expanded and moved over to the Internet so that the broader public can access it as well.

12. Outside the military, the IHL constitutes an integral part of curriculum at all four law schools in the Czech Republic, so every law student comes into touch with the IHL during his or her studies. Moreover, the IHL plays an important role in the curriculum of the Masaryk University Law School in Brno, Technical University School of Security Engineering in Ostrava and the Police Academy in Prague. These academic institutions entered into a co-operation agreement with the Czech Red Cross.

13. In addition, two comprehensive textbooks on IHL are available in Czech for everybody who wants to deepen his or her knowledge of this subject:

- 1) J. Fuchs: *International Humanitarian Law*, Prague, 2007, Ministry of Defence;
- 2) J. Ondřej, P. Šturma, V. Bílková, D. Jílek: *International Humanitarian Law*, C.H. Beck, Prague, 2010 (coming soon).

14. In 2009, during the Czech Presidency in the EU Council, the Czech Republic initiated a discussion on a more systematic approach to the implementation of the EU Guidelines on Promoting Compliance with International Humanitarian Law. A meeting of experts on the Implementation of these Guidelines took place in Prague on March 25, 2009. The conclusions from this expert meeting are currently being put into practice by the Working Group of the Council of the EU for International Law (COJUR) and Working Group of the Council of the EU for Human rights (COHOM).

15. Finally, on November 13, 2009, the Czech Red Cross and the Law School of the Charles University organized - under the auspices of the Ministry of Foreign Affairs of the Czech Republic - a workshop on the occasion of the 60th anniversary of the Geneva Conventions.