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Ministry of Foreign Affairs
Legal and Treaty Department

IV REPORT
ON THE IMPLEMENTATION AND DISSEMINATION
OF INTERNATIONAL HUMANITARIAN
LAW IN THE REPUBLIC OF POLAND

FOR 2015–2018

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Abbreviations

GC I – Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, signed in Geneva on 12 August 1949 (JoL of 1956, No 38, item 171, attachment)

GC II – Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, signed in Geneva on 12 August 1949 (JoL of 1956, No 38, item 171, attachment)

GC III – Convention relative to the Treatment of Prisoners of War, signed in Geneva on 12 August 1949 (JoL of 1956, No 38, item 171, attachment)

GC IV – Convention relative to the Protection of Civilian Persons in Time of War, signed in Geneva on 12 August 1949 (JoL of 1956, No 38, item 171, attachment)

CC SFS – Chief Commandant of the State Fire Service

CC – Act of 6 June 1997 – Criminal Code (JoL of 2016, item 1137, as amended)

Geneva Conventions – Conventions for the Protection of Victims of Armed Conflicts, signed at Geneva on 12 August 1949 (JoL of 1956, No 38, item 171, attachment)

Polish Constitution – Constitution of the Republic of Poland of 2 April 1997 (JoL, item 483, as amended)

Ottawa Treaty – Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction, made in Oslo on 18 September 1997 (JoL of 2013, item 323)

CCP – Act of 6 June 1997 – Code of Criminal Procedure (JoL of 2016, item 1749, as amended)

MNE – Ministry of National Education

ICRC – International Conference of the Red Cross and Red Crescent

MC&NH – Ministry of Culture and National Heritage

MND – Ministry of National Defence

IHL – international humanitarian law

MI&A – Ministry of the Interior and Administration

MFA – Ministry of Foreign Affairs

PRC – Polish Red Cross

PA I – Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), made in Geneva on 8 June 1977 (JoL of 1992, item 175, attachment)

PA II – Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), made in Geneva on 8 June 1977 (JoL of 1992, item 175, attachment)

Protocols additional – Protocols additional to the Geneva Conventions of 12 August 1949, made in Geneva on 8 June 1977 (JoL of 1992, item 175, attachment)

JU – Jagiellonian University

UW – University of Warsaw

MUT – Military University of Technology

Dear Sirs,

It is my great pleasure to present to you the Fourth Report on the Implementation and Dissemination of International Humanitarian Law in the Republic of Poland summarizing the activities home and abroad of public authorities, public institutions and Polish Red Cross between 2015 and 2018.

Similarly to the preceding reports, the present report bears testimony to the great weight Poland attaches to international humanitarian law and especially to the observance of it. Unfortunately, the significance of international humanitarian law becomes the most readily apparent when its norms are violated. Images of bombed Aleppo, of the use of chemical weapons in the suburbs of Damascus, or of attacks on convoys with basic products for the civilian population remind us all too frequently of the frightening results of failure to comply with the principles and norms of international humanitarian law.

To Poland, a country marked by the painful experience of crimes committed during the World War II, the importance and unique role of international humanitarian law are beyond any dispute and constitute one of the greatest achievements of the international community in its efforts to limit the civil population's suffering and to make sure its rights are respected during armed conflicts.

For many years Poland has been actively involved in the development of, and promotion of compliance with the international humanitarian law. Our compatriot, Rafał Lemkin, introduced to international law the concept of genocide that then was revolutionary, while nowadays constitutes one of the basic concepts in the terminology of international law. Poland is also party to a number of international treaties implying restrictions on the use of certain types of weapons in international conflicts. Despite the great importance placed by countries on security, it is necessary to keep in mind that the assurance of the security of a state must entail respect for international humanitarian law and international law of human rights.

As a non-permanent member of the UN Security Council, Poland made one of its priorities the promotion of international humanitarian law and the protection of those groups that are the most vulnerable to suffering and ill-treatment.

This report contains information about activities already undertaken by Poland in the field of implementation and dissemination of humanitarian international law, which are the continuation of those already described in the previous editions of this report. On the other hand, it provides an extensive description of changes in both domestic law and the international law binding on Poland, as well as new initiatives taken by Poland in the area of international humanitarian law in the recent years.

The present report, demonstrating Poland's efforts toward the implementation of international obligations assumed by her and promotion of international humanitarian law, could not have been accomplished without the significant participation of and support from the Ministry of National Defence, Ministry of National Education, Ministry of Science and Higher Education, Ministry of the Interior and Administration, Ministry of Culture and National Heritage, Polish Red Cross, universities, military academies and the competent departments of the Ministry of Foreign Affairs, including especially the Department of the United Nations and Human Rights and the Department of Development Cooperation. I would like to thank for the information provided about the respective activities underway and for the close collaboration in preparing this report.

I would also thank my collaborators – Piotr Czepulonis, Robert Drzazga, Mateusz Łabuz, Ewa Małys and Bartłomiej Sierzputowski – who, led by my Deputy Director Sławomir Majszyk, put a great deal of effort in the preparation and publication of this Report.

Piotr Rychlik

Director of the Legal and Treaty Department

Ministry of Foreign Affairs

PART I

Implementation of international
humanitarian law

Interpretation of international humanitarian law in Poland – objectives and principles

In this report the term 'international humanitarian law' (IHL) is understood as equivalent to the formerly used term 'international law of war' (*ius in bello*). International humanitarian law is composed of so-called rules of combat and rules of protection, respectively the rules applicable to the methods and means of combat and those applicable to the protection of persons and property under enemy control. Similarly to other areas of international public law, humanitarian law derives from international customs formed throughout centuries. From the second half of the 19th century onward both categories of rules have seen codification in a number of multilateral treaties. That evolution made international humanitarian law a collection of standards with the following specific features.

First of all, IHL is one of the areas of international public law with the greatest number of multilateral treaties. The complex codifications that came in the 19th and 20th centuries in the form of the Hague and Geneva Conventions were among the most significant lawmaking initiatives in modern international law. Moreover, besides the aforementioned codifications, many further conventions were adopted in the course of the so-called gradual development of international law inspired by, among others, technological innovations in the means and methods of combat.¹

Secondly, one of the specific features of this collection of international humanitarian law treaties has come to be the impact of the causal relationship between armed conflicts and legislative changes.

It is said that each new Geneva Convention appears one war too late. Newer and newer conflicts proved that there were quite a lot of gaps, ambiguities, inconsistencies and interpretative difficulties relating to the Conventions, which forced a natural regulatory reflex, that is the need to engage in codification efforts after the war, to amend and supplement existing treaty regulations.

¹ See probably the most complete collection of such instruments: D. Schindler, J. Tomas (eds.), *The Laws of Armed Conflicts. A Collection of Conventions, Resolutions and Other Documents*, Alphen aan den Rijn-Rockville and Geneva, 1981, at 933. Websites are also available, such as those of the International Committee of the Red Cross (ICRC) – Treaty Database and States Parties (www.icrc.org) or Yale Law School – The Avalon Project. Documents in Law, History and Diplomacy (<http://avalon.law.yale.edu>). Noteworthy Polish compilations include *Międzynarodowe prawo humanitarne konfliktów zbrojnych. Zbiór dokumentów*, M. Flemming *et al.* (ed.), Warsaw: National Defence University of Warsaw, 2003, at 587.

Thirdly, a significant portion of international humanitarian law has, due to the tendency discussed above, evolved into clearer and more precise norms, which is considered to be an important factor contributing to the observance of international humanitarian law, as opposed to unclear norms or those incapable of unequivocal interpretation.² Excessive precision in the formulation of convention provisions in respect of the various points of international humanitarian law, however, can also make those provisions exceedingly extensive.

Fourthly, as a specific consequence of the manner in which the norms of international law are drafted, developed upon and supplemented, many of them are now formulated in the language of self-executing rules, that is rules capable of direct application without need to enact domestic implementing measures.

Fifthly, and distinctly from other subdivisions of international law, there has been no reduction of the role of custom in international humanitarian law. On the contrary, treaty-based humanitarian law has been significantly strengthened by the development of a sort of collection resembling a code of norms of customary law.³

Sixthly, significant integration efforts took place within the normative system of international humanitarian law. The above manifested itself in the slow moving away from the distinction between the Hague law (rules of combat), contained mostly in the 1899 and 1907 Hague Conventions, and the Geneva law (rules of protection), reflected in the 1949 Geneva Conventions and the 1977 Protocols additional to them. Another such manifestation is the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction (the so-called Ottawa Treaty⁴), concluded at Oslo on 18 September 1997, which contains in a single instrument the rules of war-prevention or disarmament law (*ius contra bellum*), rules of combat in the form of a prohibition against the use of mines, and the rules of protection in the form of protective norms applicable to combatants and to the civilian population.

Seventhly, the trend toward convergence and integration of humanitarian law rules applicable to international and non-international armed conflicts has intensified significantly, which creates an opportunity to increase the protection extended to persons afflicted by the latter conflicts.

Eighthly, strengthening and expansion is seen in that part of international law which applies to the prosecution and punishment of serious and other violations of international humanitarian law. Significant development is taking place in international criminal law conducted to especially by the creation of several *ad-hoc* courts, hybrid courts and a permanent International Criminal Court.

These and other specific features of international humanitarian law and the dynamic changes happening in the latter must be reflected in this report for a better understanding of the process of its implementation and dissemination.

² Such a hypothesis is put forward by the supporters of the legitimacy theory in international relations. One of the proponents of it cites as an example the clarity – or ‘determinacy’ – of the rules on the treatment of prisoners of war (T. M. Franck, *Legitimacy in the International System*, *American Journal of International Law*, 1988, Vol. 82, at 713–719); this can also be referred to various other regulations in humanitarian law.

³ See *Study on Customary International Law*, conducted by the ICRC and published by Cambridge University Press in 2005. The study is available at the ICRC website (www.icrc.org) in a several language versions.

⁴ JoL of 2013, item 323.

International law in the Polish legal system

2.1. Poland's procedure for becoming bound by international treaties

Article 9 of the Constitution of the Republic of Poland of 2 April 1997 provides that: 'The Republic of Poland shall respect international law binding upon it.' In consequence, Poland has an obligation to adhere to the international agreements, customary norms of international law, the international community's general principles of law, and the legislative resolutions of the international organizations to which Poland is party. From Article 38(1)(d) of the Statute of the International Court of Justice it follows that judicial decisions have significant importance as subsidiary means for the determination of legal norms.

The principle enshrined in Article 9 of the Constitution of Poland acquires especial significance with reference to international humanitarian law, of which the customary norms have gained strong exposure in the decisions of international courts in the past decades.⁵ Several years' worth of work by the experts of the International Committee of the Red Cross, government consultants and non-government organizations produced successful results in a list of 161 customary norms agreed upon in 2005.⁶

Poland becomes bound by international agreements once they are ratified by the President of the Republic of Poland or approved by the Council of Ministers. Non-ratified agreements are only binding upon the organs of state administration having concluded them and do not constitute sources of universally applicable law (Article 87(1) of the Constitution), although they are binding on the State in international relations on par with ratified agreements.

Ratification is required for international agreements mentioned in Articles 89(1) and 90 of the Constitution and for such other international agreements that provide for such a requirement or allow for ratification and special circumstances so justify.

Where ratification is the case, the agreement is concluded by the Council of Ministers and the consent to be bound is given by the President of the Republic of Poland.

⁵ Case Concerning Certain Military and Paramilitary Activities in and Against Nicaragua, (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports, 1986, at 14.

⁶ J.-M. Henckaerts, Studium poświęcone zwyczajowemu międzynarodowemu prawu humanitarnemu: wkład w zrozumienie i poszanowanie zasad prawa dotyczących konfliktu zbrojnego, Warszawa: Centre for the Dissemination of International Humanitarian Law at the Main Board of the Polish Red Cross, 2006, at 45.

The President's powers of ratification are defined by Article 133(1) of the Constitution, which provides that the President shall: 'ratify and renounce international agreements, and shall notify the Sejm and the Senate thereof.' The President also carries out a preliminary review of the constitutionality of the agreement and, pursuant to Article 133(2), may request the Constitutional Court's judgment on the matter prior to ratification. The powers of the Council of Ministers and of the President are subject to scrutiny from the Parliament by, among others, making the ratification and renouncement of certain categories of agreement require prior consent granted by statute.

International agreement may be ratified:

- under Article 89(2) of the Constitution, without prior consent granted by statute (so-called small ratification), Article 12(2) of the Act of 14 April 2000 on International Agreements (JoL, item 443, as amended) prescribes small ratification for: 'such international agreements as contain a ratification requirement or allow for ratification and special circumstances so justify;'
- under Article 89(1) of the Constitution (so-called big ratification) – with prior consent granted by statute;
- under Article 90(2) of the Constitution – with prior consent granted by statute (agreements that: 'delegate to an international organization or international institution the competence of organs of State authority in relation to certain matters');
- under Article 90(3) of the Constitution – with prior consent passed by a nationwide referendum (agreements referred to in the point above).

Agreements not requiring ratification have to be approved by the Council of Ministers (Article 12(3) of the Act on International Agreements). Approval includes all ways of giving consent for a state to be bound by an agreement provided in the Vienna Convention on the Law of Treaties, made in Vienna on 23 May 1969 (JoL of 1990, item 439) and international practice that do not require the consent of the head of state. Neither the President nor the Parliament participate in this procedure.

A ratified international agreement, upon promulgation in the Journal of Laws of the Republic of Poland ('JoL'), becomes part of the domestic legal order and applies directly, unless its application depends on the enactment of a statute (Article 91(1) of the Constitution).

Ratified agreements may shape the legal situation of citizens, defining their rights and obligations. An international agreement ratified upon prior consent granted by statute has precedence over statutes, if the statute cannot be reconciled with the agreement (Article 91(2)).

Moreover, it should be emphasized that, pursuant to Article 241(1) of the Constitution, international agreements ratified in the past by the Republic of Poland on the basis of constitutional provisions applicable during the time of their ratification and promulgated in the Journal of Laws are deemed to be ratified with prior consent granted by statute; Article 91 of the Constitution applies to such agreements if from their contents it occurs that they refer to the categories of matters enumerated in Article 89(1) of the Constitution.

The significance of Article 241(1) is enormous since the core of the *corpus iuris* of international

humanitarian law, i.e. the Geneva Conventions and the Protocols additional were ratified by Poland before the enactment of the 1997 Constitution of the Republic of Poland. All of them were published in the Journal of Laws and undoubtedly belong to at least one category of matters listed in Article 89(1) of the Constitution, i.e. 'freedoms, rights or obligations of citizens, as specified in the Constitution.'

In consequence, almost all treaties in the area of international humanitarian law are part of the domestic legal order, i.e. they have been incorporated into it. This, in turn, paved the way to their direct application by the addressees of the norms, including courts of law, unless legislative changes are required for matters regulated in non-self-executing provisions. In practice, it is often the case that the parallel use of the transposition method is expedient, i.e. inclusion of the provisions of international agreements in domestic instruments. This need is often prompted by the language of the norms themselves, their complexity or the necessity for precise delimitation of the powers of the relevant organs. As a result, not only non-self-executing norms but also some of the self-executing ones are executed by enacting amendments to statutes or lower-order legislation in order to guarantee the proper implementation of international humanitarian law.

2.2. Obligations relating to international humanitarian law assumed by Poland at the 32nd Conference of the ICRC

In 2015, at the 32nd International Conference of the Red Cross and the Red Crescent, Poland assumed the following obligations of international humanitarian law:

1. To accede to the open obligation submitted by Switzerland to strengthen the position and role of the International Humanitarian Fact-Finding Commission. Poland consistently supported the activities of the Commission, established in 1991. As a result of Poland's efforts, Professor E. Mikos-Skuza was re-elected member and currently serves as a Vice-President. Poland encourages parties to armed conflicts to avail themselves of the options to investigate the facts relating to violations of international humanitarian law through the Commission.
2. To include efforts to prevent and combat sexual violence in armed conflicts in government programmes for the prevention and eradication of violence, including the National Programme for Activities Promoting Equal Treatment. Poland respects and fulfils this obligation. To this end, among other steps, a Government Plenipotentiary for Civil Society and Equal Treatment was appointed in the Chancellery of the President of the Council of Ministers (Prime Minister).⁷
3. In the perspective of future humanitarian challenges, the Republic of Poland and its national PRC pledge themselves to collaborative work toward the broadest possible dissemination and effective implementation of international humanitarian law. The completion of this report confirms living up to this commitment.

⁷ <https://www.spoleczenstwoobywatelskie.gov.pl/>.

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4. In respect of the implementation of international humanitarian law, together with its national PRC in particular to take action toward the development of a report for a new mechanism of compliance with international humanitarian law, which will be preceded, among other things, by a review of the legislation guaranteeing the proper implementation of international humanitarian law and especially criminal law legislation, later to be uploaded to the ICRC Advisory Services servers. Poland conducts ongoing analysis of the statutory framework guaranteeing the implementation of international humanitarian law. The results of the review of domestic legislation concerning international humanitarian law are updated and uploaded to ICRC Advisory Services servers: <https://www.icrc.org/en/document/icrc-advisory-services-international-humanitarian-law>.
 5. Together with its national PRC, with which it engaged for many years now in a partnership – to promote, disseminate and implement international humanitarian law, recognize the necessity of emphasizing the importance of the recognition and protection of the red-cross emblem nationwide. In this connection, the Republic of Poland and its national PRC commit themselves to strengthening the legal mechanisms and taking up promotional and educational activities concerning the protection of the red-cross sign. The above obligation continues to be fulfilled by Poland consistently and with no interruption. To this end, Poland conducts ongoing analyses in relation to the above-described problem with a view to comprehensively regulate the matter.
 6. Together with its national PRC to intensifying their collaboration and joining their efforts with regard to ensuring access to humanitarian protection and assistance to refugees in connection with their outflow to Europe. Polish humanitarian aid is granted in accordance with the European Consensus on Humanitarian Aid and the Good Humanitarian Donorship principles defined therein, as well as with other international guidelines specified, among others, by the United Nations and the European Union. It is worth emphasizing that in September 2018, the Minister of Foreign Affairs Jacek Czaputowicz, together with the President of the International Committee of the Red Cross, Peter Maurer, signed the Memorandum of Understanding on Humanitarian Aid Cooperation, which defined, among other things, the principles for the financing of humanitarian-aid activities.
 7. Together with its national PRC to continue their ongoing collaborative activities for the assurance of protection of and aid to those in need. Polish Red Cross is the Republic of Poland's national society of the Red Cross in the understanding of the Geneva Conventions on the Protection of Victims of War of 12 August 1949 (JoL, item 171) and Protocols additional to the Conventions of 8 June 1977 (JoL 1992, item 175). It operates on the basis of the Act of 16 November 1964 on the Polish Red Cross (JoL, item 276) and the Statute (i.e. charter) enacted thereunder and approved by the Regulation of the Council of Ministers of 20 September 2011 (JoL of 2011, item 1284). The Republic of Poland appreciates the unique role of the PRC and its commitment to fulfilling the mission of preventing human suffering and mitigating its consequences, as well as protecting human dignity, without any discrimination on the grounds of ethnicity, race, sex, religious beliefs or political convictions.
 8. To translate into the Polish language, for educational and operational purposes, the so-called San Remo Manual on International Law Applicable to Armed Conflicts at Sea. Both the Manual and the Commentary were published in electronic form (at the ICRC website)

and book form by Cambridge University Press – ‘San Remo Manual on International Law applicable to Armed Conflicts at Sea’ (ed. Louise Doswald-Beck), Grotius Publications, Cambridge University Press, Cambridge, 1995 (ISBN 0521 55188 9, hardback and ISBN 0521 55864 6, paperback). In the light of the lack of a regular manual in Poland, the translation of such a publication, authored by a group of international experts, appears to be fully justified. Intensified works are currently in progress on a complex translation of the San Remo Manual.

9. To supplement the normative information on Polish legislation implementing the non-self-executing provisions of the instruments of international humanitarian law. The ICRC website for ‘War and Law. Advisory Services. National Implementation of IHL’ needs to be updated in part concerning Poland in respect of the amended provisions of the CC, CCP and other legislation. The Polish side updates on an ongoing basis the information provided on the ICRC website: https://ihldatabases.icrc.org/applic/ihl/ihl-nat.nsf/vwLawsByCategorySelected.xsp?xp_countrySelected=PL.

The present report demonstrates significant effort on the part of the Polish authorities in the process of implementation of international humanitarian law. Despite the great number of self-executing norms contained in the Geneva Conventions and other international instruments, translation of their contents into a language enabling their full implementation is necessary. The advantage of this approach lies in a fuller transposition of international norms into domestic law and verification of any areas in which suitable norms of domestic law may be lacking.

Restrictions on methods and means of combat

The Armed Forces of the Republic of Poland implement positive obligations to act, contained in international agreements binding on Poland, and prohibitions against the use of specific methods and means of combat while:

- conducting programme training and supplementary training for subunits;
- conducting various forms of operational and tactical training (especially command and staff exercises and military tactical exercises), which prepare military commands and soldiers to execute tasks in line with the military purpose;
- preparing military commands and soldiers to execute tasks during operations on foreign soil within Polish military contingents;
- reflecting in the legislation, that regulates the rules for the use of force by the soldiers of the Polish Military Contingent, the restrictions arising from international humanitarian law.

Polish Armed forces constantly monitor new acquisitions in the area of types of armament and military ordnance to make sure that they meet the requirements arising from restrictions on means of combat.

Moreover, in respect of various international agreements, which impose restrictions or prohibitions on the use of specific methods and means, the implementation and dissemination of international humanitarian law is carried out in the following way:

1. Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed in Geneva on 17 June 1925 (JoL of 1929, item 278)
2. The Protocol (as regards the use, in armed activities, of biological agents as means of combat) supplements the provisions of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done at Moscow, London and Washington on 10 April 1972 (JoL of 1976, item 1) and of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, done at Paris on 13 January 1993 (JoL of 1999, item 703), which prohibits the states parties from possessing or developing,

and mandate the destruction, of chemical and biological weapons. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on their Destruction done at Moscow, London and Washington on 10 April 1972 (JoL of 1976, item 1) (so-called BTWC Convention)

Polish Armed Forces have never possessed or researched biological weapons and comply fully with the provisions of the Convention. Every year, the MND prepares and provides the MFA with its own contribution to the declaration on activities relating to the Convention.

3. Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, opened for signatures in Geneva on 18 May 1977 (JoL of 1978, item 132)

The Convention imposes on states parties the obligation to refrain from artificially changing – through deliberate manipulation of natural processes – the dynamics, composition or structure of the Earth. Poland complies with the provisions of this international agreement.

4. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (with Protocols), made in Geneva on 10 October 1980 (JoL of 1984, item 104, as amended) (so-called CCW Convention)

Poland is party to the CCW Convention and to all Protocols annexed thereto:

- on Non-Detectable Fragments (Protocol I) – Polish Armed Forces do not possess weapons with fragments escaping X-ray detection in the human body;
- on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II, as amended on 3 May 1996).

Polish Armed Forces have completed steps to make sure that any use of mines (other than anti-personnel mines) comply with the Protocol's restrictions (e.g. the obligation to mark minefields, subsequently demine them, and to prepare relevant documentation). Each year Poland submits national report on the application of the provisions of the Amended Protocol II. The reports are available on the websites of the United Nations Office in Geneva (www.unog.ch) in the Disarmament/The CCW Convention/Amended Protocol II tab:

- on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III) – Polish Armed Forces do not possess incendiary weapons;
 - on Blinding Laser Weapons (Protocol IV) – Polish Armed Forces do not possess blinding laser weapons;
 - on Explosive Remnants of War (Protocol V) – every year Poland submits national report on compliance with the provisions of Protocol V. The reports are available on the websites of the United Nations Office in Geneva (www.unog.ch) in the Disarmament/The CCW Convention/Protocol V tab.
5. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, made in Paris on 13 January 1993 (JoL of 1999, item 703) (the so-called CWC)

Having never possessed any chemical weapons, Poland is not subject of any obligations with regard to their destruction. The function of the National Body for the implementation of the CWC belongs to the MFA while the actual implementation, i.e. drafting declarations, receiving inspections, cooperating with the OPCW, also involves the Minister competent for economy, the MND, and the MI&A. The following legislation regulates the implementation of the Convention:

- Act of 22 June 2001 on the Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (JoL of 2001, item 812; JoL of 2010, item 1228);
- Regulation of the Minister of the Economy of 21 May 2014 on Reporting on Activities Involving Chemical Compounds and Precursors Thereof (JoL, item 783);
- Regulation of the Council of Ministers of 30 December 2010 on the Special Procedure for Receiving Inspections of the Organization for the Prohibition of Chemical Weapons in the Territory of the Republic of Poland (JoL of 2011, item 40);
- Regulation of the Minister of National Defence of 9 November 2010 on the Development, Production, Processing and Use of Toxic Chemicals and Precursors Thereof (JoL of 2010, item 1432; JoL of 2013, item 1502);
- Decision No 450/MON of the Minister of National Defence of 25 November 2011 on the Implementation of the Provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, by Organizational Units of the Ministry of National Defence and Organizational Units Subordinate to or Supervised by the Minister of National Defence (Official Journal of the Ministry of National Defence, item 379, and of 2013, item 328).

To carry out the obligations resulting from the above-mentioned documents, the CWC within the portfolio of National Defence is implemented through:

- monitoring trade in toxic chemicals and their precursors, as listed in Schedule 1 to the Convention (in permitted quantities and for permitted purposes);
 - annually drafting a general overview (and providing plans for the following year) on the use of chemical substances listed in Schedule 1 to the Convention;
 - training courses, conferences and workshops organized under the patronage of or directly by the OPCW;
 - use of toxic chemical compounds or precursors thereof, as listed in Schedule 1 to the Convention, for defensive purposes as part of the training in the armed forces, on terms defined in the 'Training manual for protection against chemical warfare agents and radioactive substances in the Armed Forces of the Republic of Poland' (Chem. ref. 405/2013).
6. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction, done at Oslo on 18 September 1997 (JoL of 2013, item 323) (the so-called Ottawa Treaty).

Poland has been bound by the Convention since 1 June 2013 but had previously voluntarily submitted annual compliance reports already since 2003. Acting in the spirit of the Ottawa Convention, when taking part in peacekeeping missions abroad, members of Polish Armed Forces actively involve themselves in raising awareness among civilians of the menaces relating to anti-personnel mines and other dangerous remnants of war, and make significant contribution to demining and decomposition of unexploded mines in regions where they operate.

Additional information about the implementation of the Ottawa Convention is provided in the annual reports submitted by Poland available on the website of the United Nations Office in Geneva (www.unog.ch) in the Disarmament/Anti-Personnel Landmines Convention/Article 7 reports tab.

On 28 June 2013 the Republic of Poland submitted to the depositary – the United Nations Secretary General – its new declaration, which states as follows:

'In line with Article 3(4) of the Protocol, the Government of the Republic of Poland hereby declares that:

- Under the Polish law the minimum age in the case of obligatory recruitment of the Polish citizens into the national Armed Forces is eighteen (18) years.
- Under the Polish law the minimum age for the voluntary recruitment of the Polish citizens into the national Armed Forces is eighteen (18) years. The candidate is obliged to show document certifying the date of his/her birth.'

The basis for the above declaration is found, among others, in Article 124(2) of the Act of 11 September 2003 on the Military Service of Professional Soldiers (JoL of 2010, item 593 as amended). The aforementioned provision complies with the international humanitarian law on the protection of the rights of children establishing the minimum age at 18 years and prohibiting recruitment into the armed forces below that age.

7. The Arms Trade Treaty, done at New York on 2 April 2013 (JoL of 2015, item 40) (ATT)

The Treaty establishes common international standards for the import, export, brokerage and transfer of conventional arms and military equipment and technologies for the production thereof and for the prevention and eradication of the illegal trade in such weapons. The ATT provisions apply to all types of conventional weapons included in the seven categories of the UN Register of Conventional Arms (battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships as well as missiles and missile launchers) and small arms and light weapons. The legal and organizational framework currently in force guarantees full implementation by Poland of the provisions of the Treaty.

8. Declaration of the Government of the Republic of Poland of 11 July 2013 concerning change of the scope of application of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, done at New York on 25 May 2000

In line with the Government declaration of 11 July 2013 on amending the scope of the Optional Protocol to the UN Convention on the Rights of the Child on the involvement of children

in armed conflicts, adopted on 25 May 2000 in New York (JoL item 1094) it was made public that pursuant to the Act of 10 October 2012 Amending the Scope of the Optional Protocol to the UN Convention on the Rights of the Child on the involvement of children in armed conflicts, done at 25 May 2000 in New York, (JoL item 1335), on 29 May 2013 the President of the Republic of Poland decided to amend the scope of the Protocol by presenting, pursuant to Article 3(4) of the Protocol, a new declaration of the Republic of Poland replacing the declaration of the Republic of Poland on Article 3(2) of the Protocol, submitted on 7 April 2005 to the depositary – UN Secretary General – along with the ratification document dated 14 February 2005.

Protection of certain categories of persons

4.1. Protection of civilians

The protection of civilians is one of the elements of civil defence. In Poland civil defence is governed by the following legislation:

- a. Protocol I additional to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts, 8 June 1977;
- b. Act of 21 November 1967 on the Universal Duty to Defend the Republic of Poland (JoL of 2004, item 2416, as amended), in particular its Article 17 and Division IV: Civil Defence;
- c. implementing acts, including in particular:
 - Regulation of the Council of Ministers of 25 June 2002 on the Detailed Scope of Activities of the Chief of National Civil Defence and the chiefs of civil defence of voivodeships, powiats and communes (JoL of 2002, item 850);
 - Regulation of the Minister of the Interior and Administration of 26 September 2002 on Service in the Civil Defence (JoL of 2001, item 1391; JoL of 2008, item 698);
 - Regulation of the Council of Ministers of 28 September 1993 on the Common Self-Defence of Citizens (JoL, item 421);
 - Regulation of the Council of Ministers of 5 October 2004 on Personal Contributions to Defence at Peacetime (JoL, item 2307);
 - Regulation of the Council of Ministers of 3 August 2004 on Material Contributions to Defence at Peacetime (JoL, item 1872);
 - Regulation of the Minister of National Education of 28 August 2009 on the Method of Educating for Safety (JoL, item 1131, as amended).

The structure of civil defence in the Republic of Poland is based on the administrative division of the country, with civil defence in each territorial unit headed by the head of its administration (*wójt, starosta, wojewoda*). At the central level, the Chief of National Civil Defence reports to the Minister of the Interior and Administration. Civil defence formations are the basic organizational units competent to perform civil defence tasks.

Taking into account the need to regulate the issue of protecting civilian population in

a comprehensive manner by statute, the MI&A of the Republic of Poland has commenced works on inventory for a draft bill on the protection of the population. The main objective of this endeavour is to regulate the system of protection of population in line with the current situation and threats by providing precise specification of the tasks of various institutions, in particular those of government and local-government administrative level. This new national framework for the protection of population has the objective of ordering up a number of issues belonging to this field and consolidate them into a single statute. Furthermore, the new act is intended to establish a population protection system to perform tasks in both peacetime and war. The foundation of the new framework will be the principle of public administrative authorities having the responsibility for the safety of citizens in line with the principle of subsidiarity and mutual support among various tiers of public safety administration authorities whenever a specific task cannot be adequately performed by public administration authorities at a given level. The act will also put emphasis on the formation of societal awareness and promotion of appropriate conduct in the face of various threats.

On 29 April 2014 the Council of Ministers adopted the Resolution on the establishment of the Rescue and Population Protection Programme for 2014–2020. The programme is the joint work of the Ministers of: the Interior and Administration; Digitization; Health; and National Defence. It governs the interactions between the national rescue and fire-fighting system, the State Medical Emergency Service and the emergency notification system. The Programme is the first document to discuss in a holistic and comprehensive manner the issue of organization of rescue operations for the protection of life, health, property and the environment by all public and societal actors performing such tasks. The Programme seeks to define the objectives to be followed in the area of rescue operations and population protection in 2014–2020, the requirements, and the core legal, financial and organizational instruments necessary to this end. The Programme also takes into consideration the role of social rescue organizations that operate in the fields of fire protection, water rescue, mountain rescue and other types of rescue activities, whose indisputable contribution and potential have for many years made a significant impact on the safety of our citizens. Partner-level co-operation between state services and such organizations is an important requirement for the achievement of the Programme's objectives.

4.2. Protection of medical and religious personnel

The special protection extended to medical and religious personnel under international humanitarian law applies to these categories of persons who have been authorized or ordered by a belligerent party to serve the victims of war. The protection and respect afforded to this type of personnel entails a prohibition against attacking its members or preventing them from performing their humanitarian functions (Articles 24–26 of GC I, Article 36 of GC II, Article 20 of GC IV, Articles 8 and 15 of PA I, and Article 9 of PA II). No one may be harassed or punished for medical activities consistent with medical practices and ethics, no matter for whose benefit the activities are performed (Article 18 of GC I, Article 16(1) of PA I, Article 10(1) of PA II). Such persons may not be forced to perform acts or works contrary to their professional ethics or other norms that protect the welfare of the wounded and sick, or be forced to refrain from the activities required by such norms (Article 16(2) of Additional Protocol I, Article 10(2) of Additional Protocol II).

Despite the obligation to refrain from active participation in combat, medical staff may use light personal weapons for their own defence or for that of the wounded and sick in their charge (Article 22(1) of GC I, Article 13(2)(a) of PA I).

Medical and religious staff's special protected status continues after they fall into the hands of the enemy (Articles 33 and 35 of Geneva Convention III). Though they are not formally considered prisoners of war, they receive all of the benefits and protection available to POWs. While in prisoner-of-war camps they must not be forced to do any work unrelated to their medical service or religious ministry. They should have direct access to the camp's competent authorities in all matters relating to their duties. Chaplains are to exercise freely their service amongst prisoners of war of the same religion and are free to correspond with the ecclesiastical authorities in the country of detention and with international religious organizations.

In order to materialize the protection applicable to religious and spiritual staff, such persons may use the protective emblems defined by international law (Articles 38 and 44 of GC I, Article 18 of PA I, Article 12 of PA II) and identity badges and cards. In Polish law the use of protective emblems is governed by Defence Standard NO-02-A032:2009 – Displaying and concealing the Geneva Emblem on medical premises on land, introduced by Decision No 105/MON of the Minister of National Defence of 1 April 2011 on the Adoption and Introduction of Normalization Documents Pertaining to Defence and National Security (Official Journal of the Ministry of National Defence, item 90). Identity badges and cards, on the other hand, are regulated by Article 54a of the Act of 21 November 1967 on the Universal Duty to Defend the Republic of Poland and the related executive legislation.

Intentionally directing attacks against buildings, material, medical units and transport or personnel using the distinctive emblems of the Geneva Conventions is classified in accordance with international law as war crimes pursuant to Article 8(2)(b)(XXIV) of the Rome Statute of the International Criminal Court. Such conduct fulfils the elements of the criminal offence defined in Article 122 of the CC, which criminalizes attacks on undefended objects and the use of other methods of combat prohibited by international law. Moreover, Article 123 of the CC makes it a crime to kill medical or religious personnel in violation of international law, cause such persons to suffer a serious detriment to health, subject them to torture, cruel or inhuman treatment, experiment on them even with their consent, use their presence to protect an area or facility or one's own armed units from warfare, or keep such persons as hostages.

Another important concern is the need for action to ensure full protection of the 'Civil Defence' emblem. It must be noted that the protection of the international 'Civil Defence' emblem during warfare, in accordance with PA I, is regulated in Article 126(2) of the CC. Article 126(1) imposes a criminal penalty for conduct consisting in the use of the Red Cross or the Red Crescent in a manner inconsistent with international law during warfare. Article 126(2) also criminalizes conduct consisting in the use of the protective emblem for cultural heritage or any other protective emblem receiving protection of international law in a manner inconsistent with international law during warfare (...). The international 'Civil Defence' emblem is an example of such an emblem.

4.3. Protection of Polish Red Cross personnel and the personnel of other humanitarian organizations

This issue is regulated primarily by Article 26 of GC I. The goal of this provision is to authorize aid services to support regular medical services of the armed forces of a given country on an equal footing with armed forces medical personnel, both with regard to the protection they enjoy and the treatment upon falling into the hands of the enemy power.

Literature on the subject enumerates the following conditions for granting protection to the personnel of authorized societies designated to assist regular medical services of the armed forces of the power on which they depend:

1. The relevant organization must be recognized by the government of the state in whose territory it operates; as regards the Polish Red Cross, its role and tasks are defined in the Act of 16 November 1964 on the Polish Red Cross (JoL, item. 276) and the Polish Red Cross Charter binding pursuant to the Regulation of the Council of Ministers of 20 September 2011 on the Adoption of the Charter of the Polish Red Cross (JoL, item 1284).
2. The organization must be authorized to lend its assistance to the medical service of the armed forces. Under Polish law this condition is fulfilled through Article 2 of the Act on the PRC, which provides that the Polish Red Cross is an organization providing voluntary assistance to citizens' medical services and those of the Armed Forces. Furthermore, § 9(1) of the PRC Statute stipulates that the Polish Red Cross provides assistance to the military and civilian medical services during armed conflict, in line with the provisions of the 1949 Geneva Conventions and the 1977 Additional Protocols, and conducts humanitarian activities for the benefit of the victims of armed conflicts.
3. Appropriate notification must be given; any government having authorized one or more societies to assist the medical services of its armed forces must, at the latest before actually employing their personnel, so notify all other states parties (in peacetime) or its adversaries (pending armed conflict). This requirement accrues to the benefit of the personnel concerned themselves, given as otherwise an counterparty to the armed conflict that has not been notified could refuse to grant due protection to the personnel. The commentary suggests that for the avoidance of any misunderstanding this requirement should also be fulfilled with respect to the personnel of the national Red Cross or Red Crescent society, even though the existence of such an organization in the country concerned is common knowledge and is affirmed in international relations (through the recognition of the national society by the ICRC or the participation of the national societies, together with states and with the Movement's bodies, in the ICRC). The MFA should play a leading role in the implementation of this requirement.
4. National societies' personnel must, in time of war, be subject to military laws and regulations while acting on behalf of the state concerned; this requirement stems from the international legal principle of the state's responsibility for actions of its representatives and organs. In practice, this means that the societies' personnel are under the command of military superiors and that military authorities are obligated to issue such organizations' personnel with suitable identity badges and cards. The latter obligation is implemented

through Article 54a of the Act of 21 November 1967 on the Universal Duty to Defend the Republic of Poland (restated text: JoL of 2018, item 1459) and the related Regulation of the Minister of National Defence of 10 April 2008 concerning identity cards and badges (JoL, items 472 and 676). Aid–society personnel’s subordination to military authorities does not make the organizations forfeit their own identity and status; being put on an equal footing with regard to protection does not incorporate the organizations’ personnel into the armed forces. The terms of such subordination should be defined in domestic law (e.g. in the form of executive regulation under the Act on the Polish Red Cross).

5. Aid–society personnel should perform the same tasks as military medical personnel; this principle means that special protection is only extended to those among the relevant society’s personnel who actually perform the tasks of military medical personnel (and not to all personnel of a society authorized to fulfil an auxiliary role in relation to the medical services of the armed forces). These tasks are defined in Article 24 of GC I and consist in the search for, the collection, transport or treatment of the wounded or sick, as well as disease prevention and the management of health–care units and facilities.

It must be noted that such in–depth regulation of the situation of societies’ medical personnel originated mainly from the fact that the GC I affords protection to military medical personnel, while the GC IV makes the status of civilian medical personnel equal to that of military medical personnel only in exceptional situations. Following the adoption of the 1977 Protocols additional, this problem is of less significance to states parties to the Protocols, such as Poland. This is due to the fact that the Protocols protect medical personnel as a whole (Article 15 of PA I and Article 10 of PA II). Article 8(3) of PA I provides that the term ‘medical personnel’ extends not only to military and civilian personnel of the parties to the conflict and the personnel of civil–defence organizations but also the ‘medical personnel of national Red Cross (...) and other national voluntary aid societies duly recognized and authorized by a Party to the conflict.’ The emphasis has thus been shifted – the status and protection of such personnel is not a special privilege but the rule. However, due to the fact that the personnel must be ‘duly recognized and authorized’ by their governments and that not all states are parties to the Protocols additional (as opposed to the Geneva Conventions, which are truly universal), a cautionary approach implies the need to fulfil the above–mentioned requirements under Article 26 of GC I, which Poland has fulfilled.

4.4. Prisoners of war

Matters relating to the treatment of prisoners of war, in line with the provisions of GC III of 1949, have been regulated in the following Defence Standards enacted by Decision No 105/MON of the Minister of National Defence of 1 April 2011 on the Confirmation and Implementation of Normalization Documents Pertaining to National Defence and Security:

1. NO–02–A020:2010 Procedures for the treatment of prisoners of war, captured equipment and documents of the enemy power defining the rules for the treatment of prisoners of war and their possessions and specimens of documents needed to keep records of prisoners and their personal and military possessions.

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2. NO-02-A036:2010 Interrogation of prisoners of war laying down the procedures for the interrogation of prisoners of war, the allocation of prisoners of war to categories depending on the information in their possession and the subdivision of the interrogating units, specimens of interrogation reports and procedures for forwarding them to the competent intelligence services.
 3. NO-02-A042:2001 Military exercises – Rules for the treatment of persons pretending to be prisoners of war defines procedures aimed at acquiring appropriate habits as far as the treatment of prisoners of war is concerned.

Division III of Chapter 2 of the 1967 Act on the Universal Duty to Defend the Republic of Poland specifies the types of military ranks (subdivided into privates, non-commissioned officers and officers) and the rules for awarding and revoking military ranks. Article 43 of the GC III does not provide for a precise method of communicating to the enemy power the titles and ranks of persons entitled to the status of prisoners of war or of those who may enjoy treatment reserved for prisoners of war, for the purpose of ensuring equal treatment; it only requires combatant states to convey the relevant information upon the opening of hostilities. In practice, the fulfilment of this obligation could take any form, provided it ensures that the provision is given due effect.

4.5. Refugees

The international legal order incorporates a number of instruments aimed at protecting those who seek asylum from persecution or who have been officially recognized as refugees. Their impact extends to the entire international community, also on the regional level. Customary international law, which applies equally to all countries, is also of significant importance. Refugee status is not automatically granted to anyone fleeing the consequences of an armed conflict.

Below are the main instruments of international law on refugees to which the Republic of Poland is party:

1. Convention relating to the Status of Refugees, done at Geneva on 28 July 1951 (JoL of 1991, items 515 and 517);
2. European Agreement on the Abolition of Visas for Refugees, signed in Strasbourg on 20 April 1959 (JoL of 2005, item 1929);
3. The Protocol relating to the Status of Refugees, done at New York on 31 January 1967 (JoL of 1991, item 517);
4. European Agreement on Transfer of Responsibility for Refugees, signed in Strasbourg on 16 October 1980 (JoL of 2005, item 1931).

Also the European Community, in establishing the Common European Asylum System, has made a significant contribution to the harmonization of the provisions in question with EU law. Since 1999, EU Member States have adopted, among others, the following legislation forming the EU's asylum *acquis*:

1. Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving

temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12);

2. Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1–30);
3. Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31);
4. Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60);
5. Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013, p. 96);
6. Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

Transposition of these documents into domestic asylum law has resulted in the establishment of a legal framework for the protection of refugees and persons who seek refugee status in Poland. The rules for the arrival of such persons and their stay in the Republic of Poland are governed by the Act of 12 December 2013 on Foreign Nationals (JoL, item 1650). Binding European and international standards have found reflection in the Act of 13 June 2003 on Granting Protection to Foreign Nationals in the Territory of the Republic of Poland (JoL of 2012, item 680), and in numerous executive legislation and especially in:

- Regulation of the Minister of the Interior and Administration of 6 December 2011 on the Rules of Stay in a Centre for Foreign Nationals Seeking Refugee Status (JoL of 2011, item 1654);
- Regulation of the Minister of the Interior and Administration of 10 November 2011 on the Amount of Aid for Foreigners Seeking Refugee Status (JoL of 2011, item 1564);

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- Regulation of the Minister of Health of 1 March 2011 on Medical Examinations and Sanitary Treatments of the Body and Clothing of Foreign Nationals Seeking Refugee Status (JoL of 2011, item 313);
 - Regulation of the Minister of the Interior and Administration of 23 June 2009 on the Geneva Convention Travel Document (JoL, item 835);
 - Regulation of the Minister of the Interior and Administration of 30 January 2009 on the Temporary Foreign National's Identity Certificate (JoL, item 168, as amended);
 - Regulation of the President of the Council of Ministers of 9 December 2008 on the Organizational Charter and Rules of Procedure for the Refugee Council (JoL, item 1469);
 - Regulation of the Minister of the Interior and Administration of 27 May 2008 on the Specimen of the Refugee Status Application (JoL, item 579);
 - Regulation of the Minister of the Interior and Administration of 20 May 2008 on the Procedures for Granting Funeral Allowances and the Conditions for Financing the Funerals of Foreign Nationals with State Funds (JoL, item 574);
 - Regulation of the Minister of the Interior and Administration of 7 September 2005 on the Specimen of the Fingerprint Card for the Purposes of Taking Fingerprints of Foreign Nationals (JoL, item 1558);
 - Regulation of the Minister of the Interior and Administration of 25 July 2005 on the Specimen of the Pass for Foreign Nationals Enjoying Temporary Protection in the Republic of Poland Due to Be Transferred to Another EU Member State (JoL, item 1228);
 - Regulation of the Minister of Labour and Social Policy of 9 March 2009 on Providing Aid to Foreigners Who Have Been Granted Refugee Status or Subsidiary Protection in the Republic of Poland (JoL, item 366);

The Act of 12 December 2013 on Foreign Nationals (JoL, item 1650), in its Chapter 9 of Division V, grants the temporary stay status in the territory of the Republic of Poland to foreign nationals deemed to be trafficking victims. In Chapter 3 of Division VIII the Act allows for a foreign national's stay in the territory of the Republic of Poland for humanitarian reasons and maintains permits for tolerated stay that were previously regulated by the Act on Granting Protection to Foreigners in the Territory of the Republic of Poland.

The Geneva Conventions for the Protection of War Victims of 12 August 1949 (especially Article 22 of the GC III and Article 13 of the GC IV) and the Protocols additional of 8 June 1977 require Poland to establish and operate a bureau for the purpose of collecting information on the victims of wars and armed conflicts and conveying such information to their families. In accordance with the Act of 16 November 1964 on the Polish Red Cross the PRC operates a National Information and Tracing Bureau upon state mandate.

Starting from 1 January 2013 the supervision of all tasks connected with the PRC's activities relating to the operation of the National Information and Tracing Bureau belongs to the Minister of the Interior and Administration.

In performing its tasks, the Information and Tracing Bureau of the PRC collaborates abroad with the Central Tracing Agency of the International Committee of the Red Cross in Geneva and with the ICRC Delegations in conflict zones, the International Tracing Service in Bad Arolsen (Germany) and several dozen national societies of the Red Cross and the Red Crescent. Domestically, the Bureau cooperates with numerous institutions having information on victims of World War II and of contemporary armed conflicts at its disposal (e.g. the Institute of National Remembrance, Warsaw Rising Museum, Jewish Historical Institute, Office for Foreigners, National Archives). For many years the number of tracing requests submitted to the National Information and Tracing Bureau of the Polish Red Cross has remained on a stable level. There are approximately 600 family tracing requests p.a., 1800 applications for certificates confirming a person's fate during war, 3900 requests to trace war graves and 3100 cases of correspondence relating to the verification of the details of war victims and handing part of them over for investigations run by the prosecution service. At the same time a change can be observed in the nature of such cases. During the last four years, besides the traditional family tracing requests, a new phenomenon has emerged with the Red Cross internal procedure termed 'allegation of arrest' by the International Committee of the Red Cross. The procedure owes its origin to modern armed conflicts, and in the case of the aforementioned requests made with the National Information and Tracing Bureau of the PRC it has so far concerned Syrians arriving in Poland and stating a detention facility as the most probable destination of their family members. The vast majority of the so-called permanent requests, on the other hand, related to World War II inquiries.

Protection of specific categories of locations and facilities

5.1. Protection of the natural environment in armed conflicts

Article 120 of the CC defines as a war crime the use of means of mass destruction prohibited by international law. The list of prohibited means that can be used for mass destruction includes in particular chemical and biological weapons the application of which can cause extensive, protracted and serious damage to the natural environment.

Poland is party to:

1. Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, done at Moscow on 5 August 1963 (JoL, item 288);
2. Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, opened for signatures in Geneva on 18 May 1977 (JoL of 1978, item 132);
3. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989 (JoL of 1995, item 88, attachment), and
4. Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, signed at Geneva on 18 May 1977 (JoL, item 132).

Protection of natural environment is comprehensively regulated by the Act of 27 April 2001 on Environmental Protection (JoL of 2008, item 150, as amended).

In its policy on environment protection, the MND seeks to minimize damage to the environment caused by the operation of armed forces. Due to its complex and interdisciplinary nature, environmental protection is treated by Polish Armed Forces as a separate sub-system within the structural framework of the MND. The development and the operation of this sub-system rest on the following principles:

- protection of the environment and of its resources is the task of every soldier and every employee of the Ministry;
- organization of environmental protection is the task of commanders at all levels of the Armed Forces and managers of other organizational units of the Ministry;

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- military training and planning and fulfilment of other tasks follow the principle of minimization of adverse impact on the environment;
 - rational use must be made of the natural resources;
 - environmental education is an integral part of every form of training and education in the Armed Forces of the Republic of Poland;
 - Polish Armed Forces set a positive example on the protection of the natural environment.

The implementation of the objectives and strategies on environmental protection within the defence sector is based on the following elements:

- minimization of environmental degradation caused by current activities;
- prevention of future degradation, also in the legislative dimension;
- elimination of past environmental damage;
- securing adequate funds for the defence sector's pursuit of its environmental goals;
- oversight of environment-oriented activities.⁸

Annual reports are made on the state of the environment in areas under the administration of the Minister of National Defence and on the fulfilment by the organizational units of Polish Armed Forces of environment protection requirements, such as:

- compilation of the quantities of gas and dust emissions and volumes of water intake and sewage discharge;
- assumptions for a data collection system about infrastructural objects with substantial impact on the environment as the foundation for establishing a central database on such type of objects used by the Ministry of National Defence,
- assumptions for a data collection system about hazardous and other than hazardous waste.

The Decision of the Minister of National Defence of 8 June 2010 (196/MON) established a Team for the Operation and Refining of the National System for Contamination Detection and Alerting. The Team is currently drafting an amendment to the Regulation of the Council of Ministers on Contamination Detection and Allocation of Competences in Respect Thereof. The objective of the amendment is to improve the effectiveness of cooperation procedures for entities operating within the National System for Contamination Detection and Alerting and to define the role of the Government Centre for Security in the operation of contamination-detection and contamination-alerting systems.

⁸ To this end a number of legislative instruments have been adopted, including the Regulation of the Minister of National Defence of 16 October 2008 Designating Organs with Oversight Responsibilities for Environmental Protection in the Organizational Units of the Ministry of National Defence and Organizational Units Subordinated to the Minister of National Defence or Under the Minister's Supervision (restated text: JoL of 2013, item 1232) and the Regulation of the Minister of National Defence of 9 August 2002 on Detailed Rules for Preparing Training Instruction to Meet the Requirements of Plant and Animal Protection During the Training of Polish Armed Forces on Testing Grounds (JoL, item 1157).

For the purpose of safeguarding external national security and exercising overall leadership in matters of national defence, on 16 October 2006 the Council of Ministers adopted the Regulation on Contamination Detection and Allocation of Competences in Respect Thereof (JoL, item 1415), enacted on the basis of Article 6(2)(5) of the Act of 21 November 1967 on the Universal Duty to Defend the Republic of Poland. This Regulation applies in the event a state of emergency is declared, in particular due to a natural disaster, in order to avert the consequences of natural disasters, technical malfunction or terrorist activities, that may lead to chemical, biological or radioactive contamination.

5.2. Protection of cultural property

The Republic of Poland is party to the Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention, the First Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, both signed at The Hague on 14 May 1954 (JoL of 1957, item 212), and the Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on 26 March 1999 (JoL of 2012, item 248).

The basis for the system – created during peacetime – of security measures against the predictable consequences of armed conflict lies in the Act of 23 July 2003 on the Protection and Care of Historical Monuments (JoL of 2014, item 2153). Under the aforementioned statutory delegation the minister competent for culture and protection of the national heritage issued the Regulation of 25 August 2004 on the Organization and Manner of Protection of Historical Monuments in the Event of Armed Conflict and of Crisis Situations (JoL of 2004, item 2153), requiring the relevant tiers of public administrative authorities and heads of organizational units having historical monuments in their care for the planning, preparation and execution of preventive, documentation, protective, rescue and conservation activities intended for their protection from destruction, damage or loss during armed conflict and in other crisis situations.

Organizational units that own historical monuments are preparing plans for the protection of such monuments in the event of armed conflict or crisis situations. Simultaneously, such plans are also prepared on the national, voivodeship, powiat and commune levels. Plans for the protection of historical monuments in the event of armed conflict and of crisis situations indicate the condition of the protected resource, describe the potential threats, identify the scope of activities and the method for pursuing the tasks, and define the necessary means, duration and costs of its implementation. The documents are updated annually. The execution of monument protection tasks has been entrusted to Voivodeship Offices for Monument Protection, whose structures now include dedicated subunits for monument protection in the event of armed conflict and of crisis situations.

The scope of tasks pursued by these subunits includes in particular preparing and updating the voivodeship plans for the protection of historical monuments in the event of armed conflict and of crisis situations, agreeing upon plans for the protection of historical monuments in the event of armed conflict and of crisis situations on the level of powiats, communes and organizational units tasked with the execution of protection plans; carrying out supervision activities within the

voivodeship territory in respect of the safety of the monuments; engaging in training, information and educational activities; participating in defence exercises and training courses and tasks relating to crisis management organized by the voivode or by a unit of the territorial self-government.

In accordance with the Resolution II to the Hague Convention of 1954, the Republic of Poland operates a consulting body established by the Regulation of the Council of Ministers of 27 April 2004 on the Polish Advisory Committee (JoL No 102, item 1066). The Polish Advisory Committee is a supporting body to the Council of Ministers. The Committee continues to be headed by the Under-secretary of State in the Ministry of Culture and National Heritage – Conservator General of Monuments. The Committee includes the representatives of the Ministers of Culture and National Heritage; National Defence; the Interior and Administration; Justice; Foreign Affairs; and Science and Higher Education, as well as experts in the field of protection of the national heritage.

The specimen of the Hague Convention emblem and the rules for its placement on objects entered into the register of monuments continue to be defined by the Regulation of the Minister of Culture of 9 February 2004 on the Specimen of the Informative Emblem Placed on Immovable Historical Monuments Entered Into the Register of Monuments (JoL, item 259, as amended). Moreover, the emblem governed by the 1954 Hague Convention is placed on such objects as require the preparation of protection plans in the event of armed conflict and of crisis situations and on the packages intended for the evacuation of movable historical monuments. The specimen of the emblem and the rules for placing it on the packages are defined in an annex to the abovementioned Regulation of the Minister of Culture of 25 August 2004.

Provisions guaranteeing compliance with international legal norms for the protection of cultural property are included in the Decision No 72/MON of the Minister of Defence of 6 March 2014 on Compliance with the Rules of Protection of Cultural Property by the Minister of National Defence (Official Journal of the Ministry of National Defence of 2014, item 83).

The 'Instruction on the Rules for the Protection of Cultural Property by Polish Armed Forces in Their Operations' is currently being implemented in the Armed Forces. The Instruction specifies the detailed tasks and competences of the top officials in the MND and commanders of branches of the Armed Forces in the area of protection of cultural property. The organizational structure of the MND includes an officer responsible for compliance with international legal norms relating to the protection of cultural property. Specialist trainings in the field of protection of cultural heritage were organized for units preparing for missions in Afghanistan, in order to familiarize the members of Polish Armed Forces with the regulations dealing with the protection of cultural property in the event of armed conflict. The Ministry published a booklet titled: 'Afghanistan's Cultural Heritage. Legal and Organizational Aspects of Protection,' to assist with the performance of the tasks in Afghanistan.

Under Polish law persons who violate the Hague Convention during armed conflict are liable to sanctions under Chapter XVI of the Act of 6 June 1997 – Criminal Code for crimes against peace, crimes against humanity and war crimes.

The inclusion of these provisions in the Criminal Code fulfilled the requirements of Article 28 of the Convention, which obligates the States Parties to introduce sanctions for violations of the

Convention in their criminal law. The Criminal Code provides for the prosecution of perpetrators regardless of nationality and regardless of whether the offence was committed in the territory of another state.

Furthermore, in its domestic Memorandum of Understanding Among the Minister of Finance, the Minister of Culture, the Police Commander-in-Chief, and the Chief Commandant of the State Fire Service on Cooperation in Combating the Illegal Export or Import of Monuments of 3 November 2004, the Polish side expressed its firm resolve to combat illegal imports of cultural property as well. This is of significant importance in relation to any attempts at illegal transfer of monuments from war zones.

On 8 February 2018 the Memorandum of Understanding Between the Conservator General of Monuments and the Police Commander-in-Chief on cooperation in the prevention and combating of criminal activities against monuments and other cultural property.

Moreover, to protect and safeguard monuments in respect of fire protection, a Programme Council for the Protection of Cultural Property from Extraordinary Threats was established at the National Headquarters of the State Fire Service in 2002. The Council is a consulting and advisory body to the Chief Commandant of the State Fire Service on matters relating to the protection of cultural property. The Council includes representatives of the National Headquarters of the State Fire Service, the Fire Service College in Cracow, the Central School of the Fire Service, and other institutions and organizations competent for the protection of cultural property, such as: Ministry of Culture and National Heritage, MI&A, MND, and National Institute for Museums and Public Collections.

The Council develops and formulates recommendations on training tasks carried out by the Training Centre for the Protection of Civilians and Cultural Property of the Fire Service College of the State Fire Service in Cracow, including training courses on the protection of cultural property. It also launches other initiatives, such as conferences and seminars. The target audience for such activities are the officers of the State Fire Service, owners and administrators of historical monuments, institutions that collect national cultural property, and public administration officials.

Furthermore, under the day-to-day cooperation with the Main Board of the PRC, representatives of the National Headquarters of State Fire Service participate each year in the PRC's training and other courses on the international humanitarian law in respect of, among others, the protection of cultural property.

5.3 Protection of civilian and military hospitals

The obligation to protect civilian and military hospitals originates directly from the provisions of international humanitarian law and entails, among other things, the obligation to respect medical establishments, which also include hospitals (with no distinction made between civilian and military hospitals), and the prohibition of attacking them, as long as, besides their humanitarian function, they are not used for hostile activities (Article 27 of the Regulations annexed to the 1907 Convention respecting the Laws and Customs of War on Land, Article 19 of the GC I and Article 12 of PA I). Due respect for medical establishments means that external persons and authorities

must not interfere with their medical activity in any way capable of disturbing their work and the medical treatment process. Protection against attacks is supported by the obligation for due diligence to be taken in ensuring that such medical establishments and units are, as far as possible, situated far enough from military objects to make sure they are not exposed to danger during enemy attacks. Moreover, in order to materialize and highlight the right to special protection, medical units may be marked with protective emblems prescribed under the Geneva Conventions and their Protocols additional, e.g. the Red Cross emblem. The use of such emblems should be subject to state control. The above matters are regulated by the Defence Standard NO-02-A032:2000. Geneva emblem. Camouflaging of medical facilities on land.

There is no norm in international humanitarian law categorically obliging states to mark medical establishments with protective identification emblems. Therefore, a situation when medical establishments are not marked with protective emblems does not violate the law. Simultaneously, it should be emphasized that the prohibition of attacking such establishments is absolute, meaning that attacking them under the pretext that because of not using protective emblems they are allegedly not entitled to special protection is classified as a war crime in line with Article 8(2)(b) (XXIV) of the Rome Statute of the International Criminal Court.

5.4 Protection of objects and installations containing dangerous forces

International humanitarian law generally stipulates that buildings or facilities containing dangerous forces, and especially dams, dykes and nuclear power plants, must not be made the object of attack, even should they be military objectives, whenever such an attack could result in the release of dangerous forces and consequent severe losses among the civilian population (Article 56(1) of Protocol additional I and Article 15 of Protocol additional II). However, this protection is not absolute; it ceases when the objects or installations are used in order to provide regular, significant and direct support for military operations, if such attack is the only feasible way to terminate such support. If the protection ceases, the attacking party must take all practical precautions to avoid the release of the dangerous forces. The attacked party has the obligation to strive to avoid placing any military objectives in the vicinity of such buildings or facilities as contain dangerous forces. Nevertheless, the obligation does not extend to facilities the only purpose of which is to defend the protected buildings or facilities. Parties to the conflict may conclude further detailed agreements among themselves to provide additional protection for objects containing dangerous forces, and may mark them with a special emblem consisting of a group of three bright orange circles placed on the same axis, as specified in Article 16 of Annex I to PA I.

Legislation governing the protection of objects and installations containing dangerous forces in the meaning of Article 56 of Protocol additional I includes in particular the following documents:

- Act of 22 August 1997 on the Protection of Persons and Property (JoL of 2005, item 1221, as amended), which defines, among other things, the areas, objects and facilities subject to special protection, and supervision over persons and property;
- Act of 23 August 2001 on the Organization of Tasks for the Defence of the State to be Implemented by Entrepreneurs (JoL, item 1320), which lays down the rules for the organization of tasks for the defence of the state to be implemented by businesses

operating in the territory of the Republic of Poland (including those with particular significance to the defence economy) and specifies the competent supervising organs and the rules for the financing of such tasks;

- Regulation of the Council of Ministers of 24 June 2003 on Objects of Special Importance for State Security and Defence and their Special Protection (JoL of 2003, item 1090), which specifies the categories of objects of special importance for state security and defence, the tasks involved in their special protection and the competence of the relevant state organs in the relevant matters.

5.5. Localities and zones under special protection

The Geneva Conventions of 1949 relating to the Protection of Victims of International Armed Conflicts and the PA I provide for the possibility of establishing various types of specially protected zones and localities, mainly for international armed conflicts. These include:

- *Hospital and safety zones* provided for in Article 23 of the GC I and Article 14 of GC IV and in Annexes I to the Conventions. Their purpose is to ensure protection for sick and wounded soldiers and personnel providing aid and administering these zones (GC I), as well as wounded, sick and aged persons, children under the age of 15, expectant mothers and mothers of children under the age of 7 (GC IV). Such zones may be established both in peacetime and after the outbreak of hostilities, but their factual protection depends on the agreements made between the belligerents;
- *Neutralized zones* provided for in Article 15 of the GC IV. Their purpose is to provide protection for wounded and sick combatants or non-combatants against the consequences of hostilities. For non-international armed conflict, Article 3 of the four Geneva Conventions of 1949 provides for the establishment of analogous zones for civilians. Such zones may be created during armed conflict on the basis of an agreement made among the belligerents;
- *Non-defended localities* provided for in Article 59 of PA I. Their purpose is to provide protection for the civilian population in its place of residence situated near or within a zone where armed forces are in contact. The status of non-defended localities proceeds from the declaration by a party to the armed conflict (if all of the conditions laid down in Article 59 have been fulfilled) or by agreement of the belligerents (if all of the conditions laid down in Article 59 have not been fulfilled);
- *Demilitarized zones* provided for in Article 60 of PA I. As in the case of non-defended localities, the purpose of demilitarized zones is to provide protection for civilian population in its place of residence. They are created by agreement of the belligerents, provided that the location of the zone may be established unilaterally already in peacetime.

The 1997 Criminal Code criminalizes violations of the provisions protecting the above-mentioned zones and localities against attack. Article 122(1) of the Criminal Code provides for imprisonment ('deprivation of liberty') for at least 5 years or for imprisonment for 25 years for making an attack on a 'non-defended locality or object, medical, demilitarized, or neutral zone (...).'

5.6. Administration of graves

The matter of the organization of cemeteries and burial of deceased persons is regulated by the Act of 31 January 1959 on Cemeteries and the Burial of Deceased Persons (restated text: JoL of 2011, item 687). Article 10 of said Act provides that the right of burial of military personnel deceased while on active duty rests with the competent military authorities, according to the provisions of military law.

The supervision and care of war graves and cemeteries is regulated by the Act of 28 March 1933 on War Graves and Cemeteries (JoL of 1933, item 311, as amended), which vests the authorities of the Republic of Poland with responsibility for care and due respect and decorum of war graves, irrespective of the nation and creed of those buried or the formation in which they served.

Matters relating to the transfer of bodies or their remains to other graves (including graves located abroad) are regulated by the provisions of Article 4 of the 1933 Act on War Graves and Cemeteries and Article 14 of the Act on Cemeteries and the Burial of Deceased Persons of 1959 along with the latter's executive Regulation of the Minister of Health of 27 December 2007 on the Issuance of Permits and Certificates for the Transport of Human Bodies and Remains (JoL, item 1866).

The procedures for burial during armed conflict are laid down in the Defence Standard NO-02-A053:2004 War operations- Procedures for the burial of killed and deceased persons enacted by Decision No 199/MON of the Minister of National Defence of 9 July 2013 on the Approval and Implementation of Normalization Documents Pertaining to Defence and National Security. The Standard defines the procedures for the emergency burial of the members of own, allied or enemy forces who have fallen (which means a person who has succumbed to injuries or other harm prior to receiving medical aid from medical personnel) or died on land. It also contains the rules for the treatment of persons killed or deceased at sea and of deceased civilians belonging to the armed forces but not taking part in hostilities.

Its provisions regulate the general principles for interment (observance of hygiene and counter-epidemic measures; protection of bodies against carrion-eating animals and birds, desecration or robbery; enablement of the exhumation and identification of bodies; prevention of environmental contamination through contact with bodies or remains contaminated as a result of the use of nuclear, biological or chemical weapons), selection of the place for burial, marking of graves and treatment of the bodies (with special attention to the treatment of those killed or deceased in consequence of the use of weapons of mass destruction), preparation of burial reports, and instructions concerning personal effects and identity badges. The Standard also contains a listing of the relevant provisions of the 1949 Geneva Conventions and their Protocols Additional concerning persons killed and deceased during hostilities.

Responsibility for breaches of international humanitarian law

6.1. Criminal laws dealing with violations of international humanitarian law

For a long time crimes against peace, humanity and war crimes had not seen comprehensive regulation in Polish law. Older criminal legislation penalized war crimes to some extent (Regulation of the President of the Republic of 21 October 1932 – Military Criminal Code, JoL, item 765). Expansion of the scope of criminal liability for such type of crimes came with the Decree of the President of the Republic of Poland of 30 March 1943 (JoL, item 6), penalizing the most egregious violations of international law against the Polish State, a Polish legal person or a Polish citizen; the Decree of 31 August 1944 on the Sentencing Limits for Nazi War Criminals Guilty of Homicide and Torture of Civilians and Prisoners of War and for Traitors to the Polish Nation (the so-called August Decree; JoL, item 16); and the Criminal Code of Polish Armed Forces of 23 September 1944 (JoL, item 27).

The attempt to include in the 1969 Criminal Code (JoL, item 94) a chapter titled ‘Crimes against Peace, Humanity and International Relations’ went unsuccessful. The chapter was removed during the legislative process in the Sejm, as the matter was intended for a separate act, which, however, was never passed. Only with the new codification the Criminal Code of 6 June 1997 (JoL, item 553, as amended) was given a Chapter XVI ‘Crimes against peace, crimes against humanity and war crimes’ with holistic regulation of the matter. Chapter XVI deals with several areas of protection: international peace (Article 117), fundamental human rights (Articles 118, 118a and 119), rules governing the production and handling of weapons of mass destruction and other means of warfare (Article 120 and Article 121), and the principal rules of warfare and conduct during armed conflicts (Articles 122–126).

The subdivision in the title of Chapter XVI of the CC reflects the Charter of the International Military Tribunal (Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis), signed in London on 8 August 1945 (JoL of 1947, item 367), Chapter VI of which defines crimes against peace, war crimes and crimes against humanity. Chapter XVI addresses the most socially damaging crimes, which is reflected in the severity of the attendant penalties.

The choice of the method for implementing in Polish law the provisions relating to violations

of international humanitarian law influenced the shape of the new provisions. It is reflected particularly in the departure from international humanitarian law's typical casuistry in defining prohibited methods and means of combat. The Criminal Code regulates these matters in a synthetic way, through references to the prohibitions specified in international law. It is worth noting that the provisions of Chapter XVI of the CC on war crimes make no distinction between international and domestic armed conflicts, which permits the conclusion that they apply to both.

The review of the state of implementation into Polish law of the provisions of international humanitarian law preceding the introduction of Chapter XVI to the CC did not include the provisions of the Rome Statute of the International Criminal Court of 17 July 1998 (JoL of 2003, item 708) (hereinafter the 'Statute'), which Poland had not yet adopted at the time. The Statute is not a typical criminal law agreement and does not contain provisions obligating the states parties to punish the crimes it covers; it merely lays down the scope of crimes subject to the jurisdiction of the International Criminal Court. However, considering that the definitions of crimes against humanity and war crimes set out in the Statute form the currently accepted standard in international law, the Ministry of Justice drafted an amendment to the Criminal Code, aimed at fully implementing the provisions regarding the crimes covered by the Statute into the Polish legal order. The Act Amending the Criminal Code was adopted on 20 May 2010 and entered into force on 8 September 2010.

The amendment consisted of the introduction to the CC of its Article 118a corresponding in scope to Article 7 of the Statute, the supplementation of the list of war crimes defined in Article 8 of the Statute (Articles 122, 124 and 125 of the CC) and the expansion of the scope of liability of military commanders and other superiors in line with Article 28 of the Statute (Article 126(b) of the CC).

6.2. Criminal law relating to war crimes – so-called 'grave breaches' of the Geneva Conventions and of Protocol I

Pursuant to Articles 49, 50, 129 and 146 of the four Geneva Conventions of 1949, the State Parties undertook to: 'enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of,' the Geneva Conventions.

The Criminal Code criminalizes the following 'grave breaches' of the Geneva Conventions:

a. **wilful killing** – criminalized under Article 123(1) of the Criminal Code:

Article 123 § 1. Whoever, in violation of international law, commits the homicide of:

1. *persons who surrendered, laid down their arms or lacked any means of defence;*
 2. *the wounded, sick, shipwrecked persons, medical personnel or clergy;*
 3. *prisoners of war;*
 4. *civilians in an occupied area, annexed or under warfare, or other persons who are protected by international law during warfare;*
- *shall be subject to the penalty of the deprivation of liberty for a minimum term of 12 years,*

the penalty of the deprivation of liberty for 25 years, or the penalty of the deprivation of liberty for life.

- b. **torture and inhuman treatment, including biological experiments** – criminalized under Article 123(2) of the Criminal Code:

Article 123 § 2. Whoever, in violation of international law, causes the persons specified in § 1 to suffer serious detriment to health, **subjects such persons to torture, cruel or inhuman treatment, makes them, even with their consent, the objects of cognitive experiments**, uses their presence to protect a certain area or facility, or to protect own armed units from warfare, or keeps such persons as hostages;

- shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.

- c. **wilfully causing great suffering or serious injury to body or health**– criminalized under Articles 123(2) and 124 of the Criminal Code:

Article 123 § 2. Whoever, in violation of international law, causes the persons specified in § 1 to suffer serious detriment to health, subjects such persons to torture, cruel or inhuman treatment, makes them, even with their consent, the objects of cognitive experiments, uses their presence to protect a certain area or facility, or to protect own armed units from warfare, or keeps such persons as hostages;

- shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.

Article 124 § 1. Whoever, in violation of international law, forces the persons specified under Article 123(1) to serve in enemy armed forces or participate in military action directed against their own country, uses corporal punishment, or uses violence, unlawful threat or deceit to force these persons to engage in sexual intercourse or submit to or perform any other sexual activity, perpetrates an attack on human dignity, including without limitation by way of degrading or humiliating treatment, deprives them of liberty or of the right to independent and impartial judicial proceedings, or restricts their right to defence in criminal proceedings, or declares the rights or claims of citizens of the opposing side to be extinguished, suspended or inadmissible for court action;

- shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.

- d. **extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and intentionally** – criminalized under Article 125 of the Criminal Code:

Article 125 § 1. Whoever, in an area occupied, taken over or under warfare, in violation of international law, destroys, damages, removes or appropriates property or items of cultural heritage;

- shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.

§ 2. If the act pertains to property of significant value or to an item of particular importance to cultural heritage, the perpetrator

- shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.

- e. **compelling a prisoner of war or a civilian person to serve in the armed forces of a hostile power**– criminalized under Article 124(1) of the Criminal Code:

Article 124 § 1. Whoever, in violation of international law, **forces the persons specified in Article 123 § 1 to serve in enemy armed forces** or participate in military action directed against their own country, uses corporal punishment, or uses violence, unlawful threat or deceit to force these persons to engage in sexual intercourse or submit to or perform any other sexual activity, perpetrates an attack on human dignity, including without limitation by way of degrading or humiliating treatment, deprives them of liberty or of the right to independent and impartial judicial proceedings, or restricts their right to defence in criminal proceedings, or declares the rights or claims of citizens of the opposing side to be extinguished suspended or inadmissible for court action;

- shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.
- f. **wilfully depriving a prisoner of war or a civilian person of the right to a fair and regular trial** – criminalized under Article 124(1) of the Criminal Code:

Article 124 § 1. Whoever, in violation of international law, forces the persons specified in Article 123 § 1 to serve in enemy armed forces or participate in military action directed against their own country, uses corporal punishment, or uses violence, unlawful threat or deceit to force these persons to engage in sexual intercourse or submit to or perform any other sexual activity, perpetrates an attack on human dignity, including without limitation by way of degrading or humiliating treatment, **deprives them of liberty or of the right to independent and impartial judicial proceedings**, or restricts their right to defence in criminal proceedings, or declares the rights or claims of citizens of the opposing side to be extinguished suspended or inadmissible for court action;

- shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.
- g. **directing attacks against the civilian population or against civilian persons** – criminalized under Article 122 of the Criminal Code;

§ 1. Whoever, in the course of warfare, attacks an undefended locality or facility, or a hospital, demilitarized or neutral zone or uses any other means of warfare prohibited by international law, shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.

§ 2. The same punishment shall be imposed on anyone, who, in the course of warfare, uses a means of warfare prohibited by international law.

- h. **directing indiscriminate attacks affecting the civilian population or civilian objects** – criminalized under Article 122 of the Criminal Code;
- i. **attacking facilities containing dangerous forces** – criminalized under Article 122 of the Criminal Code, cited above;
- j. **directing attacks against undefended localities and demilitarized zones** – criminalized under Article 122 of the Criminal Code, cited above;
- k. **directing attacks against individuals with the knowledge that such individuals are out of combat (*hors de combat*)** – criminalized under Article 122 of the Criminal Code, cited above;

Article 122(1) explicitly mentions only a few types of protected objects, otherwise referring to the means (methods) of warfare prohibited under international law. The doctrine of international

criminal law distinguishes prohibited methods and means of warfare. All acts mentioned in subparagraphs g to k are considered to be among the prohibited methods of warfare.

- l. **unjustified delay in the repatriation of prisoners of war or civilian persons** – criminalized under Article 124 of the Criminal Code:

Art. 124(2). *The same punishment shall be imposed on anyone who, in violation of international law, **delays the repatriation of prisoners of war or civilian persons**, relocates, resettles or deports civilians, inducts or recruits for service in armed forces persons under 18 years of age or makes de facto use of such persons in warfare.*

- m. **practices of apartheid or other inhuman or degrading practices based on racial discrimination**– criminalized under Articles 119(1) and 123(2) of the Criminal Code:

Article 119 § 1. *Whoever uses violence or makes an unlawful threat against a group of persons or an individual person because of their national, ethnic, racial, political or religious affiliation, or because of their lack of religious beliefs;*

- *shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.*

Article 123 § 2. *Whoever, in violation of international law, causes the persons specified in § 1 to suffer serious detriment to health, **subjects such persons to torture, cruel or inhuman treatment, makes them, even with their consent, the objects of cognitive experiments**, uses their presence to protect a certain area or facility, or to protect own armed units from warfare, or keeps such persons as hostages;*

- *shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.*

- n. **unlawful deportation or transfer of civilian persons** – criminalized under Article 124 of the Criminal Code: Art. 124(2). *The same punishment shall be imposed on anyone who, in violation of international law, delays the repatriation of prisoners of war or civilian persons, relocates, resettles or deports civilians, inducts or recruits for service in armed forces persons under 18 years of age or makes de facto use of such persons in warfare.*

- o. **taking of hostages** – criminalized under Article 123(2) of the Criminal Code:

Article 123 § 2. *Whoever, in violation of international law, causes the persons specified in § 1 to suffer serious detriment to health, subjects such persons to torture, cruel or inhuman treatment, makes them, even with their consent, the objects of cognitive experiments, uses their presence to protect a certain area or facility, or to protect its own armed units from warfare, **or keeps such persons as hostages**;*

- *shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.*

- p. **directing attacks against clearly identified historical monuments, works of art or places of worship which constitute the common cultural or spiritual heritage of nations and to which special protection has been given by special agreement** – criminalized under Article 125 of the Criminal Code:

Article 125 § 1. *Whoever, in an area occupied, taken over or under warfare, in violation of international law, destroys, damages, removes or appropriates property or items of cultural heritage;*

-
- shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.

§ 2. *If the act pertains to property of significant value or to an item of particular importance to cultural heritage, the perpetrator*

- shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.

The war crimes defined in the Criminal Code are universal crimes, which means that they any natural person can commit them. As regards the capacity of war crimes for being committed through omission, the same general rules are applied as for all other crimes. This means that Article 2 of the CC will apply. Depending on specific circumstances of the commission of relevant act, Article 18(3) may also be applicable (abetting through omission).

Article 2 Criminal liability for a consequence-based offence committed by omission shall be incurred only by one who had borne a special legal duty to prevent such consequence.

Article 18

§ 3. *Whoever, with the intent that another person should commit a prohibited act, facilitates by his conduct the commission thereof, particularly by providing the instrument or means of transport or giving counsel or information; - shall be liable for aiding or abetting; whoever, acting in breach of a special legal duty to prevent the commission of a prohibited act, facilitates through his omission the commission thereof by another, shall also be liable for aiding and abetting.*

6.3. Criminal law relating to war crimes other than grave breaches of the Geneva Conventions and of Protocol I

The Criminal Code also criminalizes other violations of international humanitarian law, not deemed 'grave breaches'. These include:

1. all methods of warfare prohibited under international law (Article 122);
2. all means of warfare prohibited under international law (Article 122);
3. use of persons protected under international humanitarian law to protect, through their presence, specific areas, objects, or one's own forces from warfare (Article 123);
4. use of corporal punishment (Article 124);
5. depriving persons of liberty in violation of international humanitarian law (Article 124);
6. committing attacks on human dignity against persons protected under international humanitarian law, including by way of degrading and humiliating treatment (Article 124);
7. forcing persons to take part in combat operations against their own country (Article 124);
8. transfers of civilian population (Article 124);
9. committing sexual crimes against persons protected under international humanitarian law (Article 124);

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10. declaring the rights or claims of citizens of the opposing side to be extinguished, suspended or inadmissible for court action (Article 124);
 11. induction or recruitment into the armed forces of persons under 18 years of age or the use of such persons in warfare (Article 124);
 12. restriction of the right to defence in criminal proceedings of persons protected under international humanitarian law (Article 124);
 13. use during warfare, in violation of international law, of the emblem of the Red Cross or the Red Crescent, of the protective emblem for cultural property or any other emblem protected under international law (Article 126);
 14. use during warfare of the state flag or military markings of the enemy, neutral state or international organization or commission (Article 126).

6.4. Criminal law relating to the crime of genocide

The crime of genocide is defined in Article 118 of the Criminal Code:

Article 118 § 1. Whoever, acting with the intent to destroy in full or in part any national, ethnic, racial, political or religious group, or group with a different perspective on life, commits homicide or causes serious detriment to the health of a person belonging to such group, shall be subject to the penalty of deprivation of liberty for a minimum term of 12 years, the penalty of deprivation of liberty for 25 years, or the penalty of deprivation of liberty for life.

§ 2. Whoever, acting with the intent specified under § 1, creates, for persons belonging to such a group, living conditions threatening them with biological destruction, applies means aimed at preventing births within this group, or forcibly removes children from persons constituting it, shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.

The provisions of Article 118(1–2) fulfil the obligations arising from the UN Convention of 9 December 1948 on the Prevention and Punishment of the Crime of Genocide (JoL of 1952, item 9). The definition of the crime of genocide in Polish law is broader than the Convention one. In addition to the groups named in the 1948 Convention, Article 118 also extends to political groups and groups with different belief.

Genocide, also known as extermination, is the gravest crime, carrying the penalty of the deprivation of liberty for a minimum term of 12 years, the penalty of the deprivation of liberty for 25 years, or the penalty of the deprivation of liberty for life. Penalization extends not only to an executive perpetrator but also to all forms of complicity – including complicity through direction or mandate – which applies, in particular, to persons issuing such orders (commands): political leaders, commanders of military, police or paramilitary units, concentration camp commanders, etc. Pursuant to Article 126(c)(1) of the CC, preparation to commit the crime of genocide in all of the forms described above is also punishable. Article 126(c) was introduced to the CC on the basis of the provisions of the Act of 10 June on Counter-Terrorist Activities (JoL of 2016, item 904). The latter provision, besides criminalizing the preparation of the crime of genocide, also criminalizes preparation to commit other crimes such as: initiating or

conducting a war of aggression (Article 117); participating in a mass attack against a population group (Article 118a), use of means of mass extermination (Article 120), conduct of warfare inconsistent with international law (Article 122), war crimes against prisoners of war or civilian population (Article 123), other violations of international law while conducting warfare (Article 124) and damaging or appropriation items of cultural values (cultural property) (Article 125).

Article 126c(1). Whoever makes preparations to commit the offences specified under Article 117, Article 118 or Article 120, shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.

§ 2. Whoever makes preparations to commit the offences specified under Article 118a(1), Article 118a(2), Article 122 or Article 123, shall be subject to the penalty of deprivation of liberty for a term of 1 to 10 years.

§ 3. Whoever makes preparations to commit the offences specified under Article 124 § 1 or Article 125, shall be subject to the penalty of deprivation of liberty for up to 3 years.

6.5. Criminal law relating to crimes against humanity

The Act of 20 May 2010⁹ introduced a new crime (Article 118a) corresponding in scope to Article 7 of the Rome Statute of the International Criminal Court, i.e. crimes against humanity.

Article 118a. § 1. Whoever, while taking part in a mass-scale attack or in at least one in a series of attacks directed against a group of population undertaken with the aim of implementing or supporting the policies of a state or organization:

- 1. commits murder;*
- 2. causes serious detriment to a person's health;*
- 3. creates conditions for persons belonging to a population group which threaten their biological existence, including without limitation deprivation of access to food and medicine, calculated to bring about the destruction of such group;*
 - shall be subject to the penalty of deprivation of liberty for a minimum term of 12 years, the penalty of deprivation of liberty for 25 years, or the penalty of deprivation of liberty for life.*

§ 2. Whoever, while taking part in a mass-scale attack or in at least one in a series of attacks directed against a group of population undertaken with the aim of implementing or supporting the policies of a state or organization:

- 1. causes a person to become or remain enslaved;*
- 2. deprives a person of liberty for a period exceeding 7 days or involving especial torment;*
- 3. applies torture or subjects a person to cruel or inhuman treatment;*
- 4. commits rape or, with the use of violence, unlawful threat or deceit otherwise violates the sexual liberty of a person;*

⁹ Act of 20 May 2010 Amending the Act – Criminal Code, the Act on the Police, the Act – Provisions Implementing the Criminal Code and the Act – Code of Criminal Procedure (JoL of 2010, No 98, item 626).

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5. *using violence or an unlawful threat causes a woman to become pregnant with the intent of affecting the ethnic composition of any population or of carrying out other grave violations of international law;*
 6. *deprives a person of liberty and declines to provide information in respect of such person or such person's whereabouts, or provides false information as to such person or such person's whereabouts with the intention of removing them from the protection of law for a prolonged period of time;*
 - *shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.*

§ 3. *Whoever, while taking part in a mass-scale attack or in at least one in a series of attacks directed against any civilian population, pursuant to or in furtherance of policy of a state or organization:*

1. *in violation of international law, causes persons to change their lawful place of residence;*
2. *commits serious persecution against a population group for reasons considered unacceptable under international law, including without limitation for reasons of political, racial, national, ethnic, cultural, or religious affiliation, or the lack of religious beliefs, causing deprivation of fundamental rights;*
 - *shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.*

Besides Article 118a, which reflects crimes against humanity under Article 7 of the Rome Statute of the International Criminal Court, Chapter XVI of the CC dealing with crimes against peace, humanity, and war crimes defines in Article 119 the crime of using violence or an unlawful threat against a person or group of persons because of their national, ethnic, racial, political or religious affiliation, or because of their lack of religious beliefs. The protection extended by Article 119 refers to the fundamental values and human rights, including first and foremost the right to life and to the development of individual values and of group distinctiveness.

Art. 119(1). Whoever uses violence or makes an unlawful threat against a group of persons or a particular individual because of their national, ethnic, racial, political or religious affiliation, or because of their lack of religious beliefs, shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.

6.6. Jurisdiction of courts

Criminal law does not restrict the liability for offences covered under Chapter XVI of the CC, i.e. crimes against peace, humanity and war crimes to perpetration by a member of the armed forces. Crimes listed in this chapter are universal crimes, which means that any natural person can commit them. Consequently, cases involving such crimes are examined by common courts, unless they are explicitly within the jurisdiction of military courts. However, it should be noted that Polish criminal law is evolving in the direction of eliminating the differences between proceedings before military and common courts. The Act of 6 June 1997 – Polish Code of Criminal Procedure (JoL, item 555) has significantly restricted the *ratione-personae* competence of military courts. The system of military courts has been made to converge with the common judiciary, retaining

distinctions only to the extent justified by the specific needs of the military; moreover, general administrative and organizational oversight is exercised by the Minister of Justice. Criminal proceedings before military courts follow all procedural guarantees applicable before common courts and fulfil the relevant international standards.

6.7. Liability of superiors

A superior or higher-ranking soldier with the authority to issue an order, by issuing an order the fulfilment of which is tantamount to the commission of prohibited act, incurs criminal liability under Article 18(1) of the Criminal Code. When the subordinate attempts to commit a prohibited act, the issuer of the order is liable the same as for attempting such an act (Article 22(1) of the CC). Occasionally, the conduct of a superior may also fulfil the prerequisites for the accomplishment of the prohibited act defined in Article 231(1) of the Criminal Code. Superiors include not only those in active military service but also civilians to whom soldiers report hierarchically.

Article 18 § 1. Liability for perpetration shall be incurred not only by one who has committed a prohibited act alone or jointly and by arrangement with another person, but also by one who directs the commission of a prohibited act by another person, taking advantage of the subordination of another person, orders such other to commit such act.

Article 231 § 1. A public official who, exceeding his authority or not performing his duty, acts to the detriment of a public or individual interest;

- *shall be subject to the penalty of deprivation of liberty for up to 3 years.*

§ 2. If the perpetrator commits the act specified in § 1 with the purpose of obtaining a material or personal benefit; he

- *shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.*

§ 3. If the perpetrator of the act specified in § 1 acts unintentionally and causes material damage; he

- *shall be subject to a fine, the penalty of restriction of liberty, or deprivation of liberty for up to 2 years.*

In its Article 28, the Rome Statute of the International Criminal Court provides for the liability of military commanders and other superiors for crimes covered by the Statute and committed by those under their effective command and control. Such liability is limited to cases where the superior either knew or should have known that the subordinates were committing or were about to commit such crimes, yet still failed to take all the necessary measures to prevent that from happening. Although the Criminal Code provides for abetting through omission (Article 18 § 3), which essentially corresponds in scope to Article 28 of the Statute, such liability is limited to intentional crimes only, while Article 28 also provides for the liability of the commander or superior with unintentional culpability. A new specific regulation has thus been introduced (Article 126b), which deals with the commander or superior who permits the commission of a prohibited act by subordinates as a perpetrator of such crimes (and not as an abettor) and provides for liability for unintentional crimes as well.

Art. 126b. § 1. *Whoever, failing in the duty of due control, permits the commitment of acts defined under Article 117(3), Article 118; Article 118a; Article 119 § 1 or Articles 120–126a by a person under his effective authority or control, shall be subject to the penalty provided for therein.*

§ 2. *If the perpetrator acts unintentionally, he or she shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.*

6.8. Obedience to superior orders

The concept of an order is defined in Article 115(18) of the Criminal Code. It is a command to perform or refrain from performing a specific action, issued to a member of the military (literally in CC: soldier) by a superior or authorized higher-ranking member of the military. The authority to issue orders usually derives from organizational arrangements, rules and regulations or authority granted in an official manner or arising from the decision of the authorized higher-level commander. Superior is a person who, besides the right to issue orders, manages the work of the military personnel and is responsible for them. A higher-ranking member of the armed forces, on the other hand, is the one with a higher military rank, who, in a given situation, has the right to issue orders to a member of lower rank. Orders may be issued in any form, e.g. oral, written or signalled. Order must be an explicit command to perform or refrain from performing a specific action in relation to duties connected with military service. Under Article 318 of the CC, a member of the armed forces who perpetrates a prohibited act that constitutes the fulfilment of an order is not committing a crime, unless in carrying out the order the member of the military intentionally commits a criminal offence. The obligation to follow orders is waived if the recipient would have to commit a crime. The liability of a member of the armed forces is predicated on awareness of the criminality of the order, including awareness of incompatibility with the provisions of criminal law, along with their belief that complying with the order would entail the commission of a crime. Article 344(1) of the Criminal Code provides that a member of the military who refuses to follow or fails to fulfil an order to commit a crime is not guilty of the offence of insubordination. Pursuant to § 2 of the same Article, if the recipient fulfils the order inconsistently with the contents in order to materially reduce the harmfulness of the act, the court may apply extraordinary mitigation or decide not to impose the punishment altogether.

6.9. Non-applicability of statutory limitations

Poland is party to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted by the UN General Assembly on 26 November 1968.

The principle of non-applicability of statutory limitations to crimes against humanity and war crimes is also incorporated in the Constitution (Article 43) and the Criminal Code (Article 105).

Article 43 of the Polish Constitution:

There shall be no statute of limitation regarding war crimes and crimes against humanity.

Article 105 of the Criminal Code:

§ 1. *The provisions of Articles 101–103 shall not apply to crimes against peace, crimes against humanity and war crimes.*

6.10. Jurisdiction of Polish courts in criminal matters and the duty to prosecute crimes under the Geneva Conventions

In line with Articles 49 of the GC I, 50 of GC II, 129 of GC III and 146 of GC IV, the States parties assumed the obligation to: 'search for persons alleged to have committed or to have ordered to be committed any of the grave breaches,' and to each bring all such persons, 'regardless of their nationality before its own courts.'

The fulfilment of the above obligation largely hinges on the principle of territoriality laid down in Article 5 of the Criminal Code, the principle of legalism (mandatory prosecution) established in Article 10 of the Criminal Code and the provisions of Articles 109–113 of the Criminal Code defining the terms of liability for crimes committed abroad. The latter determine the scope of application of the Criminal Code, and with it of the jurisdiction of Polish courts in criminal cases, including in respect of crimes against peace, humanity, and wartime crimes.

Article 5 of the Criminal Code defines the principle of territoriality. Accordingly, Polish criminal law applies to all prohibited acts committed in the territory of the Republic of Poland, as well as on board of Polish vessels and aircraft, irrespective of the perpetrator's nationality or lack of any. A prohibited act is deemed to have been committed in the territory of the Republic of Poland or on board of a Polish vessel or aircraft if that is where the perpetrator acted or omitted to perform an action he had a duty to perform or if that is where the criminal consequence occurred or was intended by the perpetrator to occur (Article 6(2) of the CC).

The Criminal Code does not narrow down the term 'territory of the Republic of Poland.' That term is defined in the Act of 12 October 1990 on the Protection of the State Border (JoL of 2009, item 67, as amended) as the area delineated by the state borders separating the territory of the Republic of Poland from the territories of other states and from the high seas, including inland waters and maritime territorial waters, the air space above the area and the subsoil under it. The Act of 21 March 1991 on the Maritime Areas of the Republic of Poland and Maritime Administration (JoL of 2003, item 1502, as amended) provides that the territorial sea are the waters extending 12 nautical miles from the lowest water mark along the coast or the external boundary of internal sea waters (bays and harbours).

The Criminal Code extends the application of the principle of territoriality to prohibited acts committed outside the territory of the Republic of Poland. Polish criminal law applies to acts committed on board of Polish vessels and aircraft irrespective of their location when the act is committed. This also applies to military units. For example, Polish criminal law applies when the act is committed on board of a Polish vessel in a foreign port or in international waters.

Article 10 of the Polish Code of Criminal Procedure codifies the principle of legalism, placing upon the organ established for such purpose the absolute duty to prosecute crimes. The principle of legalism extends only to crimes prosecuted *ex officio*. Since all crimes under Chapter XVI of the Criminal Code are prosecuted *ex officio*, the principle of legalism applies fully to them. The

principle obligates all organs conducting proceedings to act in such a manner that no one – with the exception of cases defined by statute or in international law – should be allowed to avoid liability for a crime committed. The provision of Article 10 is addressed not only to organs involved in investigations ('preparatory proceedings') but also to courts. Every organ tasked with prosecuting crimes (prosecutors, the Police, Internal Security Agency, Military Police, agencies authorized by special provisions) are obligated – in the event of a justified suspicion that an offence has been committed – to institute and conduct an investigation. Moreover, it is the duty of a public prosecutor to press charges in the event of an act prosecuted *ex officio*.

The terms of liability for offences committed abroad are codified in Chapter XIII of the Criminal Code. Articles 109–113 establish the principles of nationality, relative protection and universal repression:

Article 109 Polish criminal law shall apply to Polish citizens who have committed an offence abroad.

Article 110 § 1. Polish criminal law shall apply to aliens who have committed abroad an offence against the interests of the Republic of Poland, a Polish citizen, a Polish legal person or a Polish organizational unit without the status of a legal person, and to aliens who have committed abroad an act of terrorism.

§ 2. Polish criminal law shall apply to aliens in case of the commission abroad of an offence other than listed in § 1, if under Polish criminal law such offence is subject to a penalty exceeding 2 years of deprivation of liberty and the perpetrator remains within the territory of the Republic of Poland and where no decision to extradite him has been taken.

Article 111 § 1. Liability for an act committed abroad is, however, subject to the condition that the liability for such act is likewise recognized as an offence by a law in force in the place of its commission.

§ 2. If there are differences between Polish criminal law and the law in force in the place of commission, the court may take such differences into account in favour of the perpetrator.

§ 3. The condition provided for in § 1 shall not apply to a Polish official who, while performing his duties abroad, has committed an offence there in connection with performing his functions, nor to a person who committed an offence in a place not under the jurisdiction of any state authority.

Article 112 Notwithstanding the provisions in force in the place of the commission of the offence, Polish criminal law shall apply to a Polish citizen or alien in the case of the commission of:

- 1. an offence against internal or external security of the Republic of Poland;*
- 2. an offence against Polish offices or public officials, or the offence of obtaining under false pretences the attestation of a falsehood from a Polish public official or other person with authority under Polish law to issue a document;*
- 3. an offence against the essential economic interests of Poland;*
- 4. an offence of false deposition made before a Polish office or submission of a false statement, opinion or translation, use of a document confirming the identity of another, certifying a falsehood or false document – before a Polish authority;*

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5. *an offence from which, even indirectly, material gain was achieved in the territory of the Republic of Poland.*

Article 113. Notwithstanding the regulations in force in the place of commission of the offence, Polish criminal law shall apply to a Polish citizen or an alien with respect to whom no decision has been taken to extradite him, in the case of the commission abroad of an offence which the Republic of Poland is obligated to prosecute under international agreements, or an offence covered by the Rome Statute of the International Criminal Court, done at Rome on 17 July 1998 (JoL of 2003, item 708).

Competence of national authorities and organizations in respect of the implementation of international humanitarian law

In Poland international humanitarian law is implemented by executive and judicial organs.

As far as the executive branch is concerned, every organ of the government administration executes the tasks related to the implementation of international humanitarian law within its respective area of competence under the specific provisions.

The Order No 51 of the President of the Council of Ministers of 20 May 2004 (Polish Official Gazette, item 402, and of 2009, item 918) established the Commission for International Humanitarian Law, whose main task is to disseminate the norms of international humanitarian law for the purpose of introducing them to the Polish legal system, including in particular by:

- a. reviewing and analysing international agreements relating to international humanitarian law and formulating opinions in this area;
- b. submitting to the President of the Council of Ministers periodic opinions on the legislative, organizational and educational measures that should be undertaken in order to transpose the norms of international humanitarian law into Poland's legal system;
- c. formulating proposals in relation to the drafting of instruments intended to implement the norms of international humanitarian law into Polish legislation;
- d. liaising and exchanging information on a current basis with other Committees and Commissions, dealing with the topics of international humanitarian law, including in particular with the Commission on Dissemination of International Humanitarian Law at the Main Board of the Polish Red Cross;
- e. analysing information about legislative bills in preparation, government programmes and other documents relating to international humanitarian law;
- f. drafting course programmes in the area of international humanitarian law;
- g. formulating, at the request of the competent minister, Poland's position for international conferences and on the implementation of obligations there assumed;

h. liaising with foreign institutions dealing with the topics of international humanitarian law.

The Commission comprises representatives of the ministries responsible for the implementation and dissemination of international humanitarian law in Poland, including representatives of the ministers competent for public administration; public finance; culture and protection of national heritage; science; education; interior; foreign affairs; higher education; health; and the Minister of National Defence, and the Minister of Justice.

The Resolution of the Council of Ministers of the Republic of Poland of 27 April 2004 on the Polish Advisory Committee (JoL, item 1066) established the Polish Advisory Committee – a supporting body to the Council of Ministers, whose tasks include in particular:

1. submitting opinions and motions to the Council of Ministers regarding legislative, technical or military measures that should be undertaken in peacetime or during armed conflict, as well as in the event of Polish Armed Forces' participation in peace-keeping and stabilization missions within the framework of international organizations with the consent of the UN in order to ensure the implementation of the Hague Convention and the associated Protocols to which Poland is party;
2. submitting motions to the Council of Ministers intended to ensure – in the event of armed conflict – the familiarity with, respect for and protection of historical monuments both within the territory of the Republic of Poland and abroad by the Armed Forces of the Republic of Poland;
3. guaranteeing, in cooperation with government-administration authorities, contacts and cooperation with Committees of similar nature in other countries and with the relevant international organizations;
4. providing explanation as to the implementation of the provisions of the Hague Convention along with the accompanying Protocols to institutions and organs of public administration, as well as to social and non-governmental organizations.

The Committee is chaired by the secretary of state at the Ministry of Culture and National Heritage who is responsible for protection of monuments. The Committee is made up of the representatives of the Ministers of National Defence; the Interior and Administration; Foreign Affairs; Justice; Education; and experts in the area of monument protection and care. The Committee commenced its operations in 2004.

In the course of their judiciary duties, the courts and tribunals are obliged to adhere to the international law binding upon the Republic of Poland (Article 9 of the Constitution of the Republic of Poland). Moreover, in line with Article 91(1) of the Constitution, judges may apply international agreements directly if three requirements have been fulfilled – the agreement has been ratified, has been promulgated in the Journal of Laws and is fit for direct application, i.e. does not require the adoption of a statute. In exercising their duties, judges are independent and are subordinate only to Constitution and statutes (Article 178(1) of the Constitution of the Republic of Poland).

PART II

Dissemination of international
humanitarian law

Activities of the state administration in respect of dissemination of international humanitarian law

1.1. The Commission for International Humanitarian Law¹⁰

Apart from the tasks described in chapter 7 of the Part I, the Commission is also responsible for dissemination of international humanitarian law. Since 2009, the Commission has taken a series of measures aimed at disseminating international humanitarian law. Among other steps, three expert teams have been established to draft the 1st, 2nd and 3rd Reports on the implementation and dissemination of the International Humanitarian Law in the Republic of Poland, to analyse the obligations in the field of assistance measures arising from international agreements on conventional disarmament, and to adopt specific proposals for further actions in this field. The purpose of preparing the reports was to accomplish a review of the compliance of domestic legislation and practice with the norms of international humanitarian law. The information gathered in the course of preparing the report has allowed the identification of areas requiring concrete action in order to guarantee the full implementation of the international humanitarian law in the Polish legal order and its dissemination in Polish society.

The 4th Report, which includes up-to-date information about the implementation and dissemination of international humanitarian law in Poland, will be circulated among the interested institutions both in Poland and abroad. The report will also be made available on the official websites of the Ministry of Foreign Affairs, Ministry of National Defence, Ministry of Justice and Ministry of the Interior and Administration.

¹⁰ Information about the Commission for International Humanitarian Law can also be found on page 51 of this Report.

1.2. Ministry of Foreign Affairs

Humanitarian assistance

In accordance with the Act of 16 September 2011 on Development Cooperation (restated text: JoL of 2016, item 1392), humanitarian assistance is that consists, in particular, in ensuring assistance, care and protection for population suffering from armed conflicts, natural disasters and other humanitarian crises caused by natural reasons or by man.

Polish humanitarian assistance is given in accordance with the European Consensus on Humanitarian Aid,¹¹ the Good Humanitarian Donorship principles defined therein, and other international guidelines established, among others, by the United Nations and the European Union. Such principles derive from the international humanitarian acquis and include inter alia independence, impartiality, neutrality and humanitarianism. They define the rules for cooperation with various entities of the humanitarian sector, safeguarding those institutions' competence areas.

Polish humanitarian assistance is implemented in close partner collaboration with international humanitarian institutions, a perfect example of which are Poland's activities within the EU and the UN. Cooperation is intended with, among others, the United Nations Bureau for the Coordination of Humanitarian Affairs, the United Nations High Commissioner for Refugees, and the International Committee of the Red Cross.

In September 2018, the Minister of Foreign Affairs, Jacek Czaputowicz, together with the President of the International Committee of the Red Cross, Peter Maurer, signed a Memorandum of Understanding on Cooperation in Humanitarian Assistance. Besides dialogue about sectoral priorities, priority countries and horizontal cooperation between the ICRC and the MFA, the main goal behind the aforementioned Memorandum of Understanding will be to promote the dissemination and implementation of international humanitarian law.

Poland recognizes the ICRC as a key partner in humanitarian affairs. As one of the world's longest-operating humanitarian organizations, the ICRC has an extensive legal and operational legacy and expertise that Poland hopes to benefit from.

1.3. Ministry of National Education

The 'Exploring Humanitarian Law' (EHL) programme created by the International Committee of the Red Cross is implemented in Poland through the collaboration between the Centre for Education Development (a subordinate unit of the MNE) with the Polish Red Cross, and with the MNE financial support. On the basis of PRC there is an on-line course available for teachers, aimed to provide them with: 1) knowledge about the international humanitarian law of armed conflict; 2) practical skills to teach classes under the EHL with the use of materials developed by the PRC and made available on an e-learning platform. Two editions of the course were completed in the scholar years 2014/2015 and 2015/2016. Completion reports (8 training cycles) show interest among teachers in such a form of continued

¹¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1431445468547&uri=CELEX%3A42008X0130%2801%29>

professional development in the field of international humanitarian law. These two editions saw 177 teachers declare participation, 85 take the final exam and 66 win the graduation certificate. Papers by all participants are available on-line (www.oph.ore.edu.pl). New editions will be available from September to December 2018 and March to July 2019.

The mandatory 'education for safety' course introduced in the scholar year 2009/2010 was implemented in such schools (gymnasium – *gimnazja*, above–primary schools – *szkoły ponadgimnazjalne*) until the school year 2017/2018. Owing to the educational reform entailing modification of the education structure, including gradual extinguishment of gimnazjum as a type of school, the 'education for safety' classes will be mandatory in the 8th year of primary school and consequently in the 1st year of above–primary schools – 1st degree vocational school, four–year general–education liceum, and five–year technikum.

The new curriculum sufficiently accounts for the principles of international humanitarian law. In primary school emphasis is put on preparing pupils for functioning in situations requiring the protection of life and health, including the provision of first aid. In above–primary schools emphasis is put on the development of individual ability to act effectively in and cope with situations involving specific dangers (detailed requirements for pupils include inter alia familiarity with basic principles of international humanitarian law and basic UN documents regulating the activities of Civil Defence worldwide). The understanding of the matters of security of the state became the subject of multi–faceted interpretation – understanding the past, having picture of the present and premises for thinking about the future. The contents of the curriculum focus on security management, policies and strategy, with the international context also taken into account.

1.4. Ministry of Culture and National Heritage

Initiatives have been launched at the Ministry of Culture and National Heritage to determine the rules for the submission of objects in the territory of the Republic of Poland intended to receive enhanced protection under Protocol II to the Hague Convention, adopted on 26 March 1999. This submissions are presented to the Committee for the Protection of Cultural Property with a request for enhanced protection in the event of armed conflict. Objects being considered for enhanced protection and inclusion on the preliminary reference list of cultural property from the territory of the Republic of Poland currently include the following categories of objects: immovable cultural property included on the World Heritage List in accordance with the UNESCO Convention Concerning the Protection of the World's Cultural and Natural Heritage; items of cultural property on the Memory of the World List in the UNESCO Memory of the World Programme; objects recognized by the President of the Republic of Poland as Historical Monuments. In our opinion the continuation and successful completion of these activities is extremely desirable.

Furthermore, the Ministry of Culture and National Heritage participates in the consideration of Poland's application for the membership from in 2019, in the Committee for the Protection of Cultural Property in the Event of Armed Conflict established under Protocol II, which grants, suspends and withdraws enhanced protection and promotes list of cultural property granted enhanced protection. Joining the Committee would not only be a significant success but also make room for future initiatives.

The Ministry of Culture and National Heritage and the Polish Blue Shield Committee operate a data bank about candidates for experts in the field of protection of cultural property who have already carried out tasks as part of international civil and military missions, also on behalf of the Minister of Culture and National Heritage (currently, the bank contains a list of 30 experts). The Ministry intends to continue such activities, including systematic training for the aforementioned experts.

Since 2003, the Ministry of Culture and National Heritage has been the co-organizer of the Polish School of Humanitarian Law at the initiative of the Main Board of the Polish Red Cross. The Ministry's participation includes assistance in delivering training at a cultural institution subordinate to the Ministry – the Creative House (*Dom Pracy Twórczej*) in Radziejowice, financing of the graduation gala, and classes for students in the area of protection of cultural property in armed conflict. The next course is scheduled for November 2018.

The last such training course took place in April 2018 at the Centre for Preparation for Foreign Missions in Kielce – a training facility belonging to the Ministry of National Defence. Ministry of Culture and National Heritage also cooperates with the Ministry of National Defence, which shows interest in training and in the inclusion of cultural-property-protection experts in the military structure, as well as compliance with the obligations in this area resulting from Poland's membership in NATO. Also in this area the Ministry of Culture and National Heritage's activities will continue.

In 2018 actions were taken by the Ministry of Culture and National Heritage and the Ministry of National Defence, whose main goal was to examine the possibility of creating in Poland a training facility on the protection of cultural property in the event of armed conflict, for members of the military and civilians. The joint Ministry of Culture and National Heritage and MND working group has been created with the task of formulating recommendations in this area. The instructors could include eminent Polish civilian experts who have participated in the implementation of cultural property protection tasks as part of Polish Armed Forces' stabilization mission in Iraq and Afghanistan and carried out a number of projects in the area of protection of cultural property in war conditions. They have also carried out tasks relating to rescuing of cultural heritage from destruction (e.g. in Syria and Lebanon). We hope that the collaborative effort will see these plans too to fruition.

In 2015 the Military Centre for Civil Education, with collaboration from the Ministry of Culture and National Heritage, published a conference paper titled 'Protection of cultural property in armed conflicts in the light of international and domestic law. 60 years of the Hague Convention and 15 years of its Protocol II.'

Moreover, in 2015 the Ministry of Culture and National Heritage published addenda to the historical journal 'Mówią Wieki' under the auspices of 'Cultural heritage and modern threats' and to the 'Civil Defence Review (Przegląd Obrony Cywilnej)' about the protection of cultural property in the event of special threats.

International Conference 'Protection of cultural property in the event of special threats – the safe use of monuments.'

In 2015 the Ministry of Culture and National Heritage organized and financed the participation of experts from 6 member states of the Eastern Partnership in the international conference titled 'Protection of cultural property in the event of special threats – the safe use of monuments,'

organized by the Fire Service College in Cracow with the participation of the Polish Committee of the Blue Shield. The conference, taking place under the aegis of the Minister of Culture and National Heritage and the Minister of the Interior and Administration, among other topics, dealt with modern techniques for protecting cultural property in a state of danger. It also provided an opportunity for exchange of experience in the area of implementation of the Hague Convention and its Protocols.

International expert conference titled: 'Cultural heritage in the face of modern threats and challenges. Action programmes and directions.'

In November 2016 in Cracow, the Ministry of Culture and National Heritage and the International Cultural Centre, with the substantive contribution of the Polish Committee of the Blue Shield, organized an international expert conference titled: 'Cultural heritage in the face of modern threats and challenges. Action programmes and directions.' Patronized by the Minister of Culture and National Heritage, the International Council of Museums and Polish National Commission for UNESCO, the gathering hosted 120 participants from 27 countries. The invited panellists included a high-ranking UNESCO representative – Head of the Treaty Section for the Protection of Cultural Heritage.

The Cracow conference was a response to appeals from the UNESCO, the United Nations and the academic community to the international community for the intensification of efforts to protect cultural heritage in endangered sites, especially those affected by armed conflicts.

The expert meeting in Cracow also marked the fruition of one of the stages of the project for the preparation, training, promotion and participation in international missions by civilian and military national experts in cultural heritage protection, implemented by the decision of the Minister of Culture and National Heritage in December 2015. The purpose of the project is the training and preparation of civilian specialists to rescue cultural heritage – conduct expert works and intervention works, also as part of missions organized under the aegis of international organizations specialized in protecting and rescuing cultural heritage, such as the UN, UNESCO, ICOM, ICOMOS, ICCROM and the Blue Shield.

International conference titled: 'The challenges of world heritage recovery.'

From 6 to 8 May 2018 the international conference titled: 'The challenges of world heritage recovery,' took place in Warsaw on the initiative of the Ministry of Culture and National Heritage and the National Heritage Institute, with the collaboration of the UNESCO World Heritage Centre, Polish Commission for UNESCO, Polish National Committee of the ICOMOS, the Royal Castle in Warsaw, the Royal Baths, Warsaw Rising Museum, the Conservator of Monuments for the Capital City of Warsaw, the History Meeting House and the Monument Interpretation Centre; the participants numbered more than 200 and represented more than 30 countries from all parts of the world.

The conference saw the adoption of the Warsaw Recommendation on Recovery and Reconstruction of Cultural Heritage, which may serve as a signpost to guide the international community's activities for the recovery of cultural heritage from the damage of war. The Warsaw Recommendation was presented to the World Heritage Committee by a representative of the

Ministry of Culture and National Heritage at the 42nd Session of UNESCO, held from 26 June to 4 July 2018 in Bahrain.

Activities of Voivodeship Monument Conservators.

The Voivodeship Monument Conservators responsible for the protection of monuments in their voivodeships' territories in the event of armed conflict have implemented numerous informative, educational and training initiatives. The most important ones include:

- development of a model plan for the protection of monuments in the event of armed conflict and of crisis situations, on CDs, distributed to all powiat executive organs (at powiat level) with the request to be copied and forwarded to all municipalities and communes and from there to the organizational units having monuments in their care;
- organization of a conference for the clergy, titled, 'The safety of movable monuments,' and initiation of a programme for the marking of movable monuments in sacral objects and execution of the marking of movable monuments at the Poznań Cathedral;
- execution of tasks belonging to 'Drwęca-14' and 'Gniewosz-15' voivodeship defence exercises, with attention paid to rules for evacuating and securing elements with monument status;
- organization of a training conference titled: 'Comprehensive protection of cultural property and monuments – practical remarks;'
- delivery of training courses for self-government authorities in the field of monument protection;
- participation in application / staff exercises simulating a fire in the Peace Church in Świdnica;
- delivery of training courses for the directors of museums, cultural units and important historical objects and for city presidents, mayors and heads of communes;
- delivery of training courses for members and employees of the military;
- holding of a council with directors of safety-and-crisis-management departments, dedicated to the protection of cultural property – Brzesko 2015;
- completion of practical exercises at the premises of Niepołomice Castle relating to the evacuation of the collections in the event of danger – 2015.

1.5. Ministry of Science and Higher Education

In years 2015–2018 the matter of international humanitarian law along with its role in domestic law and international law was subject of instruction at public (civilian and military) and non-public universities. On the basis of the information provided by the public universities, topics of international humanitarian law¹² were covered in the curriculum of the following 1st- and 2nd-cycle

¹² As both an elective and a mandatory course, whether as a monographic lecture or integral part of a different academic subject, such as international public international law.

fields of study: law,¹³ administration,¹⁴ national security (internal),¹⁵ education (pedagogy).¹⁶ Starting from 2015, the University of Warsaw offers a separate 2nd-cycle programme in Humanitarian Action, within the international university Network of Humanitarian Action (NOHA). Topics from the range of international humanitarian law are taught under such subjects in the programme as: Legal Dimensions of Humanitarian Action; Protection of Civilians in Armed Conflicts; Prevention of Human Rights Atrocities; Reconciliation in a Post-Conflict Society; Transformation of War; Contemporary Peace and Stability Operations. Non-public universities dealt with the matter of international humanitarian law in such study programmes as law,¹⁷ administration,¹⁸ or national security.¹⁹ The College of Europe in Natolin, in collaboration with the International Committee of the Red Cross, conducted an annual Introduction to International Humanitarian Law seminar under its Master of Arts programme in European Interdisciplinary Studies.

It must be noted that a larger number of public universities offer post-diploma study programmes relating directly or indirectly to international humanitarian law. For example the Faculty of Law and Administration of the University of Warsaw offers the following post-diploma programmes: Post-Diploma Studies in International Law and Foreign Service, and Post-Diploma Studies in Humanitarian Action. The Jagiellonian University, too, offers post-diploma studies thematically linked to international humanitarian law. These include: Immigrants in Poland; Intercultural Education in a Teacher's Work; Intercultural Competences in Business – all at the Faculty of International and Political Studies. Independently of curriculum studies, universities held conferences on international humanitarian law. The Faculty of Command and Naval Operations of Polish Naval Academy, in collaboration with the Faculty of Law and Administration of the University of Gdańsk, hosted conferences relating to the implementation of international humanitarian law (2015), the armed conflict in Ukraine (2016) and challenges facing international humanitarian law (2017 and 2018). Similarly, NOHA at the University of Warsaw held an annual Intensive Programme putting great emphasis on international law, and, in March 2016, workshops in preparation for the World

¹³ For example at the University of Szczecin, Economic University in Cracow, Pedagogical University of Cracow, University of Warsaw, Adam Mickiewicz University in Poznań, Maria Curie-Skłodowska University in Lublin, Jagiellonian University, University of Gdańsk, Mikołaj Kopernik University in Toruń, Cardinal Stefan Wyszyński University in Warsaw, Jan Długosz University in Częstochowa, Łódź State University of Applied Sciences, Kazimierz Pułaski University of Technology and Humanities in Radom, and Witelon State University of Applied Sciences in Legnica.

¹⁴ For example at the Pedagogical University of Cracow, Adam Mickiewicz University in Poznań, University of Warmia and Mazury in Olsztyn, Maria Skłodowska-Curie University in Lublin, and Jan Długosz University in Częstochowa.

¹⁵ For example at the University of Szczecin, Pedagogical University in Cracow, Adam Mickiewicz University in Poznań, University of Warmia and Mazury in Olsztyn, Maria Skłodowska-Curie University in Lublin, Jagiellonian University, University of Gdańsk, University of Opole, Mikołaj Kopernik University in Toruń, and Witelon State University of Applied Sciences in Legnica

¹⁶ For example at the University of Opole and the Pedagogical University in Cracow.

¹⁷ For example at SWPS University, Andrzej Frycz Modrzewski Kraków University, Humanitas University in Sosnowiec, and Mieszko I School of Education and Administration in Poznań.

¹⁸ For example at Humanitas University in Sosnowiec, and Mieszko I School of Education and Administration in Poznań.

¹⁹ For example at Humanitas University in Sosnowiec, and Mieszko I School of Education and Administration in Poznań.

Humanitarian Summit, with the participation of the representatives of numerous states and international organizations from Central and Eastern Europe. In November 2017 NOHA and Polish Humanitarian Action held, on the occasion of their coinciding 25th anniversaries, an international conference about challenges in the humanitarian sector, the agenda of which included such topics within international humanitarian law as access to humanitarian aid or protection for humanitarian workers. In December 2018 NOHA organized the international conference titled 'Legal Architecture of Humanitarian Action' with the participation of numerous panellists from abroad. Some of the papers dealt directly with international humanitarian law.

It is worth noting that in 2015–2018 topics of international humanitarian law were included in lectures held at the Faculty of Internal Security of the Police Academy in Szczytno, as part of 2nd-cycle studies in Internal Security. The curriculum includes 'Protection of the population and civil defence.' This subject familiarizes the students with international humanitarian law, the law of armed conflict, and international collaboration in population protection.

Starting from October 2018, on the other hand, the Faculty of Police Applied Sciences of the same Academy offers 2nd-cycle studies in Criminology.

Furthermore, in 2015–2018 the Academy completed a number of initiatives in the area of protection of human rights:

- in 2015 an open lecture about the activities of the Helsinki Foundation of Human Rights was delivered by dr Adam Bodnar – the Civil Rights Ombudsman of the Republic of Poland;
- in September 2015, local professional-development training included an anti-discrimination course for the employees and police officers of the Academy;
- in December 2015 an open lecture belonging to International Human Rights Day celebrations was delivered by Professors Iwona NDiaye and Bara NDiaye;
- in December 2016 local professional-development training included a course for the Academy's employees in the prevention of hate crimes;
- in April 2017 the e-learning course titled 'The legal situation of a crime victim' was held for participants including, without limitation, the police officers and employees of the Academy (Command Section, Internal Audit Function, Office of the Commandant-Rector) dealing with complaints, requests and petitions, and Duty Officers of the Academy;
- in December 2017 a training course was delivered in torture prevention, intended for the Academy's teaching staff and leadership.

Topics of international humanitarian law are also dealt with in the Internal Security programme of the Faculty of Civil Safety Engineering of the Main School of the Fire Service (SGSP). Furthermore, starting from 2005, the aforementioned Faculty, acting in a consortium with entities from Germany, Austria, the Netherlands and Romania under contracts concluded with the European Commission, has for 13 years now without interruption delivered strategic-level courses under the EU Civil Protection Mechanism intended for experts in population protection and humanitarian action from the participating countries, as well as other states

and international organizations. Among the courses' students are also Polish experts from such organizations as the State Fire Service and the Polish Red Cross.

At the Military University of Technology, the topics of international humanitarian law are reflected in the contents of the programmes, being included in all study programmes for candidates for professional military services, in military training for officer candidates (including the reserves), and as part of qualification-related professional development for professional members of Polish Armed Forces.²⁰

1.6. Ministry of National Defence

1.6.1. Seminars and international courses

The Armed Forces of the Republic of Poland conduct operations contributing to the dissemination of international humanitarian law. These activities have raised the profile of the law of war in practical training of the military personnel and resulted in a greater intensity of training for military commands and staffs and formation of law of war instructors. Commissioned officers in Polish Armed Forces participate regularly in international seminars and courses dedicated to this area of law, such as those organized by the International Committee of the Red Cross, the International Institute of Humanitarian Law and the International Society of Military Law and the Law of War.

Topics of international humanitarian law were included in teaching programmes for candidates for professional military service and courses delivered within the professional development system for professional members of Polish Armed Forces in line with the Decision No 184/MON of the Minister of National Defence of 13 June 2012 on the Organization of an Education and Training System in 'International Humanitarian Law in Armed Conflict' Within the MND (Official Journal of the Ministry of National Defence, item 221).

1.6.2. Formation of candidates for professional military personnel

As part of the intramural cycle of studies in the officer school programmes held by military academies for officer candidates, the Decision No 289/MON of the Minister of National Defence of 8 July 2014 on the Military Education Standard for Officer Candidates – Minimum Curriculum Requirements (Official Journal of the Ministry of National Defence, item 240) introduced the 'International humanitarian law in armed conflict' as a separate subject comprising 20 hours of instruction. Moreover, topics belonging to this range are included in such course subjects as military education, pedagogy basics, command leadership, peace-keeping and stabilization activities, selected national and international security issues, civilian-military cooperation and environmental protection, or medical backup.

²⁰ The basis for the implementation of the above-described teaching process is the 'Decision No 184/MON of the Minister of National Defence of 13 June 2012 on the Organization of an Education and Training System in 'International Humanitarian Law in Armed Conflict' Within the Ministry of National Defence and Decision No 289/MON of the Minister of National Defence of 8 July 2014 on the Military Education Standard for Officer Candidates – Minimum Curriculum Requirements'.

1.6.3. Lifelong education in the professional development of professional members of Polish Armed Forces

Decision No 420/MON of the Minister of National Defence of 12 September 2008 on the Implementation of a Professional Development System for Professional Members of the Polish Armed Forces (Official Journal of the Ministry of National Defence, item 241, as amended) provides for the teaching of topics covering the international law of armed conflicts on all course levels and training levels as part of post-diploma studies and qualifying courses at the following military academies:

- the War Studies University (pl ASzWoj) in Warsaw;
- Naval Academy (pl AMW) in Gdynia;
- Military University of the Land Forces (pl AWL) in Wrocław;
- Polish Air Force University (pl WSOSP) in Dęblin;
- Land Forces NCO School (pl SPWL) in Poznań;
- Air Force NCO School (pl SPSP) in Dęblin;
- Navy NCO School (pl SPMW) in Ustka.

Additionally, the 'Professional development system for professional members of the Polish Armed Forces' has been expanded to include organizational and curriculum foundations for post-diploma studies and continued-education courses delivered annually on a systematic basis:

- Extramural Post-Diploma Studies, 'International Humanitarian Law of Armed Conflicts,' comprising 200 hours of lectures and practical workshops at the War Studies University in cooperation with the Military Centre for Civic Education;
- course in international humanitarian law of armed conflicts for battalion/squadron (equivalent) commanders – 68 hours, delivered at the ASzWoj;
- course in international humanitarian law of armed conflicts for Air Force COs and NCOs – 60 hours, delivered by the WSOSP;
- course in international humanitarian law of armed conflicts for Land Forces COs and NCOs – 60 hours, delivered at the Land Forces Training Centre (pl CSWL);
- course in international humanitarian law of armed conflicts for Navy COs and NCOs – 40 hours, delivered by the AMW;
- course in international humanitarian law of armed conflicts for the NCOs of: Special Forces; Warsaw Garrison Command; Armed Forces Support Inspectorate; Operational Command; Military Policy – 35 hours, delivered at the Military Centre for Civic Education (pl WCEO);
- course in international humanitarian law of armed conflicts – protection of cultural property in armed conflicts and crisis situations – 35 hours, delivered at the WCEO;
- course in international humanitarian law of armed conflicts for legal advisors – 35 hours, delivered at the WCEO;

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- course in international humanitarian law of armed conflicts for Navy COs and NCOs – 35 hours, delivered at the Naval Training Centre (pl CSMW).

Additionally, topics belonging to humanitarian law are covered by other forms of professional development for professional military personnel, such as:

- post-diploma studies and qualifying courses for candidates for various positions carrying a specific military rank, delivered at military academies and NCO schools;
- NATO course in English – 3 editions so far – with WCEO support and with the participation of American lecturers – JAG Corps and legal staff from SHAPE, IMS NATO, armed forces of the Czech Republic, Hungary, Latvia, Turkey and Norway;
- delivery and coordination of training for legal advisors in IHLAC home and broad – e.g. at the International Institute of Humanitarian Law in Italy, Partnership for Peace Training Centre Ankara, NATO School Oberammergau, ICRC Geneva, or JAG Schools in the USA (IHLAC training, humanitarian-law summer schools, targeting courses, operational law, Rules of Engagement);
- courses and preparatory trainings for members of the Military Police leaving for missions abroad, organized by the Military Police Training Centre in Mińsk Mazowiecki and including topics relating to the use of force and permissible methods of warfare, as well as protected entities during armed conflict.
- educational (formative) activities at the unit – delivered at the ASzWoj;
- ecological safety – delivered at the ASzWoj;
- law of naval operations – delivered at the AMW;
- pedagogical course for academic teachers – delivered at the AMW;
- methodological course for didactics and educational-formative activities for NCOs – delivered at the AMW;
- basic rules of medical first aid – delivered at the AMW;
- medical first aid – delivered at the AMW;
- own safety and shared responsibility – delivered at the AMW;
- assertiveness and self-presentation – delivered at the AMW;
- direction, management and leadership – delivered at the AMW;
- methodological preparation for team leaders, platoon commanders and training instructions – delivered at the AWL;
- educational (formative) activities in the military – delivered at the AWL;
- methodological preparation for platoon (company) commanders – delivered at the AWL;
- military leadership and social competences – delivered at the WCEO;
- programming and conduct of educational/formative prophylaxis and combating social

pathologies in the military for subunit commanders and educational COs and NCOS – delivered at the WCEO;

- educational (formative) activities at the unit – delivered at the WCEO;
- shaping of military discipline at the MND – delivered at the WCEO.

In accordance with the 'Methodology of civic education for active military personnel,' introduced by the Decision No 351/MON of the Minister of National Defence of 5 November 2012 on the Methodology for Educating Service Personnel in 'Civic Education' and 'Military Prophylaxis and Discipline' subjects (Official Journal of the MND, item 421, as amended), the matter of international humanitarian law of armed conflicts is covered in every personnel corps of the Armed Forces under civic education.

During such training, particular emphasis is placed on the significance of such fundamental principles of international humanitarian law as: military necessity, differentiation, proportionality, due caution during military operations, prohibition of the use of specified means and methods of warfare, as well as the principles of protection of civilian persons and objects (including humanitarian personnel), and the principles of treatment of prisoners of war and detainees. The training is conducted not only in the form of lectures but also with the use of interactive sessions, which require the participants to be directly involved, to do their own analysis and to solve appropriate study cases.

Large significance is attached to the implementation of the international humanitarian law of armed conflicts in the teaching praxis, inclusion of such topics in exercises, and completion of tasks relating to peace-keeping and stabilization missions. The main objective is to shape such attitudes and habits in the professional cadre and in service personnel that will preclude conduct incompatible with the norms of international law in extreme battle conditions. Furthermore, all members of the military who will participate in peace-keeping and stabilization missions undergo mandatory training in international humanitarian law as well as cultural and legal conditions of the relevant country.

Additionally, other measures are undertaken in order to acquaint the members and employees of Polish Armed Forces with the principles and obligations contained in international humanitarian law and with the issues related to individual responsibility for one's actions; these include: trainings cycles for professional army cadre and employees of the MND within the system of supplementary training, conferences, meetings within the framework of cooperation with international organizations, as well as dissemination of training materials and information materials.

1.6.4. Publications

As part of the efforts in the area of implementation and dissemination of international humanitarian law at the Doctrine and Training Centre of Polish Armed Forces, in 2015, the Decision No 134/Szkol./P3/7 of the Minister of National Defence introduced the doctrinal document titled: 'Advice for training in international humanitarian law and law of armed Conflict' – DU-7.0.1.1. The latter's electronic version is made available to members of the military in the MILNET-Z system on the DTCPAF e-library website. In accordance with the Plan for the development and updating

of doctrines, doctrinal documents and supplementary documents on the politico–military level for 2018–2021, the document's next amendment will commence in 2019. It will correspond to change proposals to the second edition of the allied publication 'ATrainP– 2 TRAINING IN THE LAW OF ARMED CONFLICT', of which the final draft was published and submitted for national approval by the Joint Standardization Board (JSB).

1.7. Ministry of the Interior and Administration

The MI&A carries out the task of disseminating the norms and principles of international humanitarian law primarily through the following subordinate services:

– State Fire Service

The Chief Command of the State Fire Service, through the National Rescue and Population Protection Coordination Centre, performs tasks connected with information sharing with the international centres coordinating rescue and humanitarian assistance, including in particular: the Euro–Atlantic Disaster Response Coordination Centre (EADRCC), NATO, Emergency Response Coordination Centre (ERCC) – EU, United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA). As an active member of the international community, Poland participates with increasing frequency in assistance activities for the benefit of states affected by various types of crisis situations, such as rescue and humanitarian assistance provided under the EU Civil Protection Mechanism (which is an international rescue assistance system supervised and organized by the Directorate–General for European Civil Protection and Humanitarian Aid Operations (DG ECHO) of the European Commission). The system supports states suffering from disasters that require international rescue interventions (floods, earthquakes, technical emergencies). The assistance provided under the Mechanism consists in particular of delegating suitably equipped specialized rescue teams (so–called modules) and providing material assistance and expertise. The Mechanism includes all of the European Union's member states and associated states acceding thereto on the basis of individual agreements. Currently, besides the member states, these include Iceland, Norway, Serbia, North Macedonia, Montenegro and Turkey. The Decision of the European Parliament and of the Council of 17 December 2013 No 1313/2013/EU on a Union Civil Protection Mechanism, in force since 1 January 2014 enables assistance calls also from third countries, the UN and its agencies and the relevant international organizations: the International Maritime Organization (IMO), International Committee of the Red Cross, International Federation of Red Cross and Red Crescent Societies (IFCR), Organization for the Prohibition of Chemical Weapons (OPCW), and the International Atomic Energy Agency (IAEA).

Additionally, topics of international humanitarian law are included in the programme for 'Basic training courses for new population protection and civil defence employees in voivodeships, powiats or communes,' held at central and local levels and the programme for 'Training courses for civil–defence instructors.' The aforementioned programmes contain topics relating to international humanitarian law and humanitarian operations.

In years 2014–2018 employees of the Bureau for Population Protection and Civil Defence

of the Chief Command of the State Fire Service participated in the following editions of Polish School of International Humanitarian Law of Armed Conflict in Radziejowice:

- 18th edition, 19–23 May 2014;
- 19th edition, 17–21 May 2015;
- 20th edition, 21–25 November 2016;
- 21st edition, 20–24 November 2017;
- 22nd edition, 19–23 November 2018.

The subject matter of these training courses concerned the International Movement of the Red Cross and the Red Crescent and its role in the dissemination of international humanitarian law, the status of combatant and of prisoner of war, international humanitarian law in light of the global problem of excessively injurious weapons, the operation of military medical services in armed conflicts, non-international armed conflicts, asymmetrical armed conflicts, individual responsibility for crimes, protection of human rights in the event of armed conflicts, protection of the civilian population in armed conflicts, methods and means of warfare, protection of cultural property, and the Protocol additional and the implementation of international humanitarian law.

The Bureau for Population Protection and Civil Defence of the Chief Command of the State Fire Service organized a training course in the area of international humanitarian law for the employees of central authorities on 23 September 2015 at the University of Information Technologies, Management and Administration in Warsaw. The purpose of the course was to familiarize the participants with the topics of implementation of international humanitarian law, protection of civilian population in armed conflicts, legal situation of public-administration employees during military operations and under occupation in light of international humanitarian law, protection of cultural heritage (cultural property) in armed conflicts in light of the law and the practice, and tasks arising for the public administration from obligations incurred in relation to the UN, the EU and the UNESCO; there were 46 participants.

A training course titled, 'Modern challenges in international humanitarian law – the role and place of public administration,' was held on 13 December 2016 at the International Cultural Centre in Cracow. The purpose of the course was to look closely at the process of implementation of international humanitarian law, and to present the situation of public administration employees during military operations and under occupation in light of international humanitarian law, legal conditions for counteracting terrorist threats, legal modalities relating to combatant and to prisoner of war, and the protection of the civilian population in armed conflict; there were 110 participants.

On 17 March 2017 a training course in international humanitarian law was held at the European Solidarity Centre in Gdańsk for public-administration personnel, titled: 'Modern challenges in international humanitarian law – the role and place of public administration.' The purpose of the course was to look closely at the process of implementation of international humanitarian law and protection of civilian population in armed conflicts, application of human rights in the area of responsibility of the law of armed conflicts, and to present the situation of public administration employees during military operations and under occupation in light of international humanitarian

law, legal conditions for counteracting terrorist threats, and implementation of military rescue operations to combat the consequences of terrorist threats, and the terrorist threat to public-administration facilities; there were 134 participants. Furthermore, it should be noted that topics of international humanitarian law are included in the course curriculum for:

- employees dealing with population protection and civil defence problems, held twice a year at the Fire Service College in Cracow;
- for Civil Defence instructors, (twice a year), also at the Fire Service College in Cracow.

Additionally, the representative of the Bureau for Population Protection and Civil Defence of the Chief Command of the State Fire Service is a permanent member of the Commission for the Dissemination of International Humanitarian Law of the International Committee at the Main Board of the Polish Red Cross

It must be noted that under the mandate of civil defence regulation in Article 61 of PA I the competent entity for the coordination of humanitarian affairs appears to be the one responsible for civil defence, viz., in Poland's case, the Chief of the National Civil Defence, which is a function performed by the Chief Commandant of the State Fire Service.

The planned activities of the State Fire Service and of the Chief of the National Civil Defence in the area of international humanitarian law will be implemented through continuation of training courses in the area of international humanitarian law and through the participation of representative of the Bureau for Population Protection and Civil Defence of the Chief Command of the State Fire Service in the works of the Commission on Dissemination of International Humanitarian Law at the Main Board of the Polish Red Cross.

Furthermore, the appropriate team was created by the Decision No 10 of the Chief Commandant of the State Fire Service of 4 February 2016 to prepare draft bill on population protection and civil defence. The team prepared the relevant draft bill currently being consulted at the Inter-Ministry Team for the Evaluation of the Rescue and Crisis-Management System.

The years 2015-2018 saw the implementation of the 'Rescue and Population-Protection Programme for 2014-2020,' adopted on 29 April 2014 by the Council of Ministers by Resolution Adopting 'Rescue and Population-Protection Programme for 2014-2020,' requested by the then-Minister of the Interior.

The programme is joint endeavour of the Ministers of the Interior and Administration; Digitization; Health; and National Defence. It governs the interactions between the national rescue and fire-fighting system, the State Medical Emergency Service and the emergency notification system.

Moreover, considering that Poland, being an active member of international structures, engages according to her potential and means, as part of the EU Civil Protection Mechanism, in rescue and humanitarian assistance activities for the benefit of states affected by various types of crisis situations, it is worth mentioning the following EU legislation relating to humanitarian assistance:

- Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163 of 2 July 1996);

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- Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism.

Currently in the EU, work is underway to amend the Decision No. 1313/2013/EU on a Union Civil Protection Mechanism. The proposed changes relate to increasing the level of prevention of and preparedness for natural disasters and man caused emergencies and achieving a greater level of cohesion with the related EU policies. Detailed plans include strengthening the role of the European Commission by vesting it with the exclusive power to manage a specific reserve of rescue resources and increasing the reporting obligations incumbent on the member states in the area of planning and threat prevention.

The humanitarian assistance coordination practice to date shows that a key place in the system for providing such aid belongs to structures associated with the minister competent for internal affairs and with the population protection and civil defence systems.

Here, it must be noted that the State Fire Service, being a service subordinate to the minister competent for internal affairs, performs its tasks on the basis of the Act of 24 August 1991 on the State Fire Service. The SFS is a professional formation that has its own specialist equipment and is tasked with dealing with fires, natural disasters and other local threats. This service is also tasked with auxiliary specialist activities during natural disasters or during the elimination of local threats by other rescue services, and it cooperates with the fire and rescue services of other states and international organizations, on the basis of Poland's binding international agreements and separate provisions. Furthermore, the State Fire Service carries out such other tasks as may arise from international agreements to which Poland is a party, in accordance with terms and within the scope provided for in such agreements.

In April 2015 a heavy search and rescue group of the SFS (USAR Poland), by decision of the then-Minister of the Interior, participated in rescue and humanitarian activities following the earthquake in Nepal. Participating in that action were 81 rescuers and 12 rescue dogs. In addition to rescue operations in Kathmandu and its surroundings, humanitarian assistance was delivered to Poles residing in Nepal, and a first-assistance point was established in Bahrabise.

Another rescue operation conducted also in 2015 by SFS personnel outside the borders of the Republic of Poland was occasioned by the need to provide humanitarian assistance to those suffering from the hostilities in East Ukraine. The State Fire Service, pursuant to the Decision of the Minister of the Interior No 88 of 11 June 2015 Establishing a Rescue Group to Transport Humanitarian Aid Into the Territory of Ukraine and Order No 22 of the Chief Commandant of the State Fire Service of 11 June 2015 Creating Special Food Reserves (Official Journal of the Chief Command of the State Fire Service, item 10), carried out the logistics and transport of humanitarian aid for the Zaporizhia Oblast. The latest international rescue operation with the participation of Polish fire-fighters took place in the summer of 2018. In connection with the forest fires caused by the heat wave in central Sweden, the Swedish authorities requested support via Civil Protection Mechanism. The Minister for the Interior and Administration decided on 21 July 2018 to send a Polish rescue group comprising 139 persons and 44 fire trucks. During the 14-day mission, Polish fire fighters assisted the Swedish services to put out fires on an area spanning 6.5 thousand hectares. During that time the Polish fire fighters were self-sufficient logistically (own tents and food) and medically (the group included medical rescuers).

In the legislative area, the Act of 10 June 2016 on Counter-Terrorist Activities amended the Criminal Code by criminalizing preparation for the commission of crimes against peace, against humanity and wartime crimes as defined in Articles 117 (initiating or conducting a war of aggression), 118 (genocide), 118a(1) or 118(2) (participating in a mass-scale attack against a population group), 120 (using means of mass extermination), 122 (conducting warfare inconsistently with international law), 123 (war crimes against prisoners of war or civilian population) 124(1) (other violations of international law while conducting military operations) and 125 (damaging or appropriating cultural values) of the Criminal Code. The intention behind this was to increase the efficiency of combating terrorist organizations; the scope of application, however, is broader, providing the necessary legal framework to counteract violations of international humanitarian law.

– **Police**

Polish police officers have experience gained in foreign missions in such countries as:

1. Kosovo (Special Unit of Polish Police);
2. Liberia (UN mission) (police experts);
3. Georgia (police experts);
4. Afghanistan (police experts).

The participation of Polish police officers in civilian crisis-management operations is based on the implementation of a mandate for a specific mission. Before being dispatched on a mission, every officer undergoes suitable training, which includes information about human rights, humanitarian rights and the protection of victims of war operations. Moreover, upon arrival in the mission zone, every mission holds an induction course, during which the procedures and standards of a given mission are explained in detail.

Activities of the Polish Red Cross in relation to dissemination of international humanitarian law

The Polish Red Cross is the Republic of Poland's national society of the Red Cross in the understanding of the Geneva Conventions on the Protection of Victims of War of 12 August 1949 (JoL, item 171) and Protocols additional to the Conventions, of 8 June 1977 (JoL 1992, item 175). The PRC operates on the basis of the Act of 16 November 1964 on the Polish Red Cross (JoL, item 276) and the Statute enacted thereunder and approved by the Regulation of the Council of Ministers of 20 September 2011 (JoL, item 1284). Albeit an independent organization, it fulfils an auxiliary role to the State and lends support to it in pursuit of humanitarian objectives. The building of a constructive dialogue between the Government of the Republic of Poland and the PRC is an important step toward strengthening the society's organizational potential and ensuring its efficient and comprehensive operations for the benefit of those in need. What appears to be of significance in this aspect is the adoption, during the International Conference of the Red Cross and the Red Crescent, of joint humanitarian pledges, which demonstrates consensus on socially important issues and readiness to cooperate in their regard.

PRC is actively involved in disseminating and promoting the principles of the Red Cross Movement and of the norms of humanitarian law. Among many, the following types of projects can be distinguished:

2.1. Organizing and running the Polish School of International Humanitarian Law

The School is a five-day course in international humanitarian law held annually and intended for three groups of recipients – law, international relations and political science students; students of uniformed academies, professional commissioned officers and representatives of the State Fire Service and the Police, and members and volunteers of the Polish Red Cross and other non-governmental organizations. An average of 30–35 participants are enrolled in each edition. Knowledge of international humanitarian law is passed on to the participants in the form of lectures and presentations, and in practical classes – by working on case studies. The School's lecturers include eminent scholars and practitioners in the field from military and civilian schools across the country. In 2018 the School was held on 19–23 November (22nd edition). The course

traditionally takes place in the Creative House (pl. *Dom Pracy Twórczej*) of the Ministry of Culture and National Heritage in Radziejowice. To reflect current challenges in the humanitarian area, starting from 2017, the School's curriculum has been enhanced to include issues relating to migration and refugees.

2.2. Organizing the meetings and coordinating the works of the Commission for the Dissemination of Humanitarian Law

A Program Council of the Centre for the Dissemination of International Human Law has operated since 1979 at the Main Board of the Polish Red Cross, later to be transformed into the Commission for the Dissemination of International Humanitarian Law. Since 2012 dr M. Marcinko of the Jagiellonian University has been the Commission's serving Chairman. The Commission is composed of:

- high-grade specialists – lawyers researching and teaching public international law;
- permanent representatives of the Ministries of the National Defence; Foreign Affairs; the Interior and Administration; Health; Culture and National Education; and State Fire Service and State Border Guard;
- Polish Red Cross employees and volunteers.

The Commission's long term programme provides for contributing to the popularization of humanitarian law in Poland through, among others, publishing and educational activities. In terms of the programme and organization, the Commission's activities are closely tied to the activities of the Main Board of the PRC.

The Commission meets twice a year and holds remote meetings between the regular sessions. Experts and other persons interested in the dissemination of international humanitarian law may be invited to the meetings.

The tasks of the Commission for the Dissemination of International Humanitarian Law include:

- co-operation in preparation of the activity programme of the Bureau of the Main Board of the PRC in respect of dissemination, initiating activities and participation in implementation of the programme;
- participation by the Commission members as lecturers in all types of educational activities, e.g. at the Polish School of International Humanitarian Law, courses and lectures for law students, PRC instructors, military instructors, etc.;
- conducting annual Professor Remigiusz Bierzanek Competition for the best thesis in international humanitarian law and Red Cross topics;
- supporting international operations of the Bureau of the Main Board of the PRC, including in particular by preparing and editing the documents for the sessions of the International Movement of the Red Cross and the Red Crescent and participating in international academic conferences and seminars;

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- cooperating with the Republic of Poland's state institutions, with structures of the International Movement of the Red Cross and the Red Crescent and especially with the International Committee of the Red Cross, the UNHCR, the Institute of Humanitarian Law in San Remo, Amnesty International, and other organizations.

2.3. Organization of meetings and coordination of works of the Commission for the Protection of the Red Cross Emblem and its protection against misuse

The Commission for the Protection of the Red Cross Emblem was established in 1995 at the Main Board of the PRC. Since 2013, the Commission has been chaired by dr Magdalena Stefańska. The purpose of the Commission consists of intervening in the event of violations, both inside and outside the organization, of the rules protecting the Red Cross emblem. The Commission:

- disseminates information through the media about the role of the Red Cross emblem and the need to protect the emblem, for the purpose of ingraining that information in public awareness – there are currently an average of 20 communications annually, based on specific examples from inside Poland and from abroad (since 2013, this has often been on the basis of the case of the armed conflicts in Syria, Yemen and Somalia);
- coordinates the works of those responsible for protecting the emblem nationwide (provides information, instructions in the event of abuse, draft intervention letters and training materials) and plans and coordinates training courses for both PRC employees and volunteers to further refine their work – there are currently approximately 50 consultations and 15 courses/lectures per year, including through the Polish School of International Humanitarian Law, the Exploring Humanitarian Law Programme, and courses at the Military Centre for Civic Education;
- edits documents and prepares publications relating to the protection of the emblem – in 2016 the PRC released an information brochure titled 'The emblems of humanitarianism,' which is the translation of a publication released by the International Committee of the Red Cross, distributed free of charge among participants in the PRC's training courses, lectures and events;
- issues opinions on requests from institutions, companies and individuals for permission to use the sign – this is approximately 20 requests annually per average and includes consulting on graphical designs for marks and logos;
- intervenes in the event of abuse or improper use of the emblem by institutions, companies, the media and individuals operating within the country in order to eliminate such abuse – this is currently approximately 40 cases per year, mostly in pharmaceutical environment (marks on pharmacies, graphical representations on the packaging of medical drugs), cosmetics (graphical representations on the packaging), apparel (prints on clothing items) and the entertainment industry (artistic activities linked to the concept of 'first aid'). In case of abuse, the Commission issues a letter requesting cessation of the use of a legally protected emblem. If there is no reaction or the reaction is negative, the case is brought to the Police (and here the Commission's powers end, since it is not a law-enforcement

agency). Out of 40 cases an average of 28 meet a positive conclusion and the abuser desists from further using the relevant mark, modifies it or withdraws it from circulation.

The Commission meets twice a year and may hold its contacts in a remote mode.

2.4. Participation in consultations of the European Group of Legal Advisors to National Societies

PRC employees responsible for the dissemination of international humanitarian law nationwide provide support in the formulation of positions in the area of current activities of the ICRC in international fora and provide their advice to Polish Ministry of Foreign Affairs and Ministry of National Defence.

2.5. Classes in the scope of dissemination of international humanitarian law, inter alia at the Military Centre for Civic Education and the National Defence University of Warsaw

Lectures related to Red Cross topics and to the protection of the emblem and the basics of international humanitarian law for military personnel and for students, intended to familiarize the audience – mainly consisting of military personnel – with what the International Movement of the Red Cross and the Red Crescent is and what the scopes of activities are of the Movement's various components, as well as to discuss the difference between the informative and the protective functions of the Red Cross and the Red Crescent emblems and the types of violations are conducted regularly at the Military Centre for Civic Education, the War Studies University, the Centre for Preparation for Foreign Missions and the University of Warsaw's post-diploma studies in humanitarian affairs. PRC employees and members of the Commission for the Dissemination of International Humanitarian Law and of the Commission for the Protection of the Red-Cross Emblem serve as co-organizers and lecturers. They also provide support for the NATO CIMIC course on a regular basis. The latter is a course for the international representatives of various armed forces and the NGO sector, intended to raise awareness of what the International Movement of the Red Cross and the Red Crescent is and the manner in which NGOs cooperate with the military during armed conflicts and natural disasters.

2.6. Classes for the 'NATO CIMIC Functional Specialist course'

This is a course for the international representatives of various armed forces and the NGO sector, intended to raise awareness of what the International Movement of the Red Cross and the Red Crescent is and the manner in which NGOs cooperate with the military during armed conflicts and natural disasters.

2.7. E-learning course titled 'Exploring Humanitarian Law'

'Exploring Humanitarian Law' (EHL) is an educational programme familiarizing youths at 13 to 18 years of age with the basic provisions and principles of international humanitarian law. To this end, it supplies teachers with activity ideas and class scenarios that can be easily incorporated into the

curricula of either civic education or history, enriching the contents of the educational message. This easily adaptable method enables teachers to apply easily accessible strategies, draw upon high-quality sources and materials, including reports on current events, photographs, letters, video recordings, case studies and interactive projects that allow students to apply theoretical rules to live people and real events. The objective is to introduce the range of topics of international humanitarian law and refer the conclusions drawn from the past to the events of today. Since 2002 this international educational package has been introduced to school curricula at the middle school (*gimnazjum*) level and above in more than forty countries. Poland launched its implementation in 2003.

In 2012 the Centre for Education Development and the PRC signed an agreement for cooperation and support in the promotion and refinement of the continued professional development of teachers. The first joint task was the organization of a cycle of e-learning courses. The courses were implemented from 2012 to 2015, and another edition was launched in 2018 after resuming the initiative.

2.8. Professor Bierzanek Competition

The competition is held by the Commission for the Dissemination of International Humanitarian Law in cooperation with the MFA. It can already boast of a long tradition (the 2018 edition will be the 21st). Every year a new edition gives the students and graduates of law, international relations and similar disciplines the opportunity to present their BA, MA and PhD papers to a wider community of specialists to win their appreciation and compete for the main prize. A new category was introduced in 2016 for post-diploma papers, meeting with significant interest from the post-diploma students of the Military Centre for Civic Education.

2.9. International Humanitarian Law Library

The Bureau of the Main Board of the PRC is the house of Professor Marian Flemming International Humanitarian Law Library. The library's collections include approximately 5000 titles – books and articles, brochures, reports, journals and conference reports, in a number of languages – mostly in English or French – as well as a video library of approximately 200 VHS tapes in three languages – Polish, English and French. The CD and DVD collections are also growing quickly and currently include more than 100 exhibits. The collections also include numerous photographs and slides documenting the activities of the PRC and the International Red-Cross Movement, as well as educational slides. Current activities consist in the acquisition of new volumes and registration and keeping records of inbound publications.

2.10. ICRC's Customary IHL Database

The PRC, represented by the Chairman of the Commission for the Dissemination of International Humanitarian Law, keeps up-to-date information about the development of customary law in Poland in this regard in the ICRC's database available at <https://ihl-databases.icrc.org/customary-ihl/eng/docs/home>.

2.11. Training for journalists

In 2017 the PRC organized and conducted a once-off training course for journalists to be dispatched for missions or writing about armed conflicts. The course was delivered by the Chairman of the Commission for the Dissemination of International Humanitarian Law, dr Marcin Marcinko. There were 20 participants from nationwide media. Issues discussed included the legal status of journalists in the light of humanitarian law; the rights and obligations of journalists exercising their profession during armed conflict (including situations of their detention and arrest) and the most important definitions used in humanitarian law.

2.12. Other activities

The strengthening of the PRC's operational potential cannot do without reviews and analyses of domestic provisions regulating its existence and functioning. Meeting the expectations arising from modern humanitarian crises and mechanisms for their prevention and mitigation, the Society is currently working on a draft amendment to the Act of 1964 on the Polish Red Cross and with it the PRC's Statute of 2011. New, transparent and functional provisions will streamline the planning and organization process for humanitarian aid for those suffering from natural disasters and armed conflicts and for the mobilization of resources intended to respond to needs diagnosed in that process. In a broader, international perspective, this is also an attempt to standardize the Red Cross services around the world, given how a number of national societies of the Red Cross and the Red Crescent are currently carrying out similar reviews and update of their documents.

The execution of joint humanitarian obligations carries with it the need for constant, constructive and substantive communication between the Government of the Republic of Poland and the PRC. Existing fora and commissions currently serve the exchange of information about initiatives in progress and, somewhat less often, lead to partner-level mutual bi- or multilateral cooperation agreements (also with other government institutions) leading to specific humanitarian endeavours. Such partnerships would be especially valuable in difficult, complex cases, exceeding the Society's mandate and competence. An example could be the need to strengthen the legal mechanisms and to take promotional and educational activities in the area of the protection of the Red Cross emblem. Existing domestic provisions on the matter and the awareness level in Polish society are insufficient given the scale of abuse of the emblem in Poland (especially in trademarks, industrial marks and advertising).

In the face of more and more frequent so-called complex emergencies, where an armed conflict is conducted with a natural disaster in the background, special importance belongs to activities directed towards the improvement of the aid supply chain. To this end, all efforts must be taken to simplify the procedures for receiving and dispatching aid transports or transferring funds for the operations of international organizations, such as the International Committee of the Red Cross, and to guarantee the safety of humanitarian workers in their mission zones.

Poland's activities in the forum of the UN Security Council in relation to the promotion and strengthening of international humanitarian law, as part of Poland's non-permanent membership in the UN SC in 2018–2019, including presidency in May 2018

One of the priorities of Poland's non-permanent membership in the UN Security Council in 2018–2019 is to promote the principles of international law, which includes emphasizing the importance and necessity of compliance with international humanitarian law. This priority was given effect *inter alia* during Poland's presidency in the UN SC in May 2018, through the following initiatives:

3.1. UN Security Council open debate about the protection of civilians

During its UN SC presidency in May 2018, Poland organized an open debate of the UN SC on the protection of the civilian population in armed conflict; the debate took place on 22 May 2018. The basis for the discussion was the Secretary General's report on the protection of the civilian population in armed conflicts summarizing the year 2017. Participants included the UN Secretary General – António Guterres; Director General of the International Committee of the Red Cross – Yves Daccord, and Hanaa Edwar, a civil society representative from Iraq. The meeting was chaired by Polish Minister of Foreign Affairs, Mr Jacek Czaputowicz, who delivered a special address.

3.2. Side event on the health-care in armed conflict

In the margins of the open debate nine meetings coordinated by Poland were held. They were devoted to the topics of civilian protection (under the joint hashtag of #United4Civilians). The purpose was to continue the discussion of the topics raised during the debate, this time with

the participation of the civil society in the discussion, including numerous non-governmental organizations dealing with the protection of civilians, and academic communities. Together with Poland the events were co-organized by Switzerland, Austria, the United Kingdom, the Netherlands, Sweden, Canada, Mexico, Peru, Germany, France, Spain, Ireland, Uruguay, Australia and Afghanistan, as well as the UN Secretariat, the World Health Organization, the MCK, and numerous non-governmental organizations.

On Poland's initiative, an event was held on 23 May 2018 under the title 'Protecting and caring for the wounded and sick in armed conflict', which referred to the UN SC Resolution No 2286 (2016), dealing with health-care provided during armed conflicts.

3.3. Informal Arria meeting of the UN SC on the protection of children during armed conflicts

On 7 May 2018, on Poland's initiative and as part of Poland's presidency in the UN Security Council, an informal UN SC Arria meeting was held to discuss the topic of the protection of children in armed conflicts. Three members of the SC were invited to participate: France, Sweden and Côte d'Ivoire. The discussion covered the experience of the four African states: Chad, Democratic Republic of the Congo, Sudan and Côte d'Ivoire from the implementation of activity programmes intended to end and prevent serious violations of the standards of protection of children in armed conflicts.

3.4. Publication following the UN SC open debate on the protection of civilians in armed conflicts

Poland's MFA prepared and released a publication following the UN SC open debate on the protection of civilians in armed conflicts on 22 May 2018 during Poland's presidency in the UN SC. The publication included a foreword from the Minister, Mr Jacek Czaputowicz, from the UN Deputy Secretary General for Humanitarian Affairs, Mr Mark Lowcock, summary of the debate along with the side events, the declarations of states in the debate, and the UN Secretary General's report on the protection of civilians in 2017. The objective of that publication was to support Poland's activities in the area of promotion and dissemination of international humanitarian law.

3.5. Event dealing with the topics of protection of children in armed conflicts

On 6 June 2018 Poland organized another event dealing with the issue of children in armed conflicts. The meeting was a side event relating to the reintegration of children previously associated with armed groups. Poland organized the meeting in cooperation with the Office of the Special Representative for Children and Armed Conflict (SR SG CACC). The following sponsored the event: Belgium, France, Liberia, Germany, Nepal, Sierra Leone, Sweden, Switzerland and UNICEF. The panellists emphasized the necessity of reintegration programmes so that children could deal with enormous trauma and also so that they could become valuable members of their communities. Successful reintegration should account for a variety of aspects: education,

psychological support and medical support. It should also be conducted in cooperation with the representatives of local communities and with religious leaders.

3.6. Informal Arria meeting of the UN SC about children born as a result of sexual violence in armed conflicts

On 26 October 2018, on Poland's initiative, an informal Arria meeting of the UN SC about children born as a result of sexual violence in armed conflicts took place. Bolivia, France and Germany co-sponsored it. During the meeting the tragic situation of children born as a result of sexual violence and the problems encountered by such children was discussed, and attention was given to the serious implications of this phenomenon for peace and security. Emphasis was also placed on the need to intensify the efforts in the international arena to protect the rights of such children, including more focus on these topics in the UN SC's works. It must be emphasized that this was the first time the issue was discussed in the UN SC.

3.7. Informal Arria meeting of the UN SC about the situation of people with disabilities in armed conflicts

On 3 December 2018, as part of the celebrations of the International Day of People with Disabilities, a Poland-initiated informal Arria meeting of the UN SC was held about the situation of people with disabilities in armed conflicts. The meeting was prepared in cooperation with the UN Office for Coordination of Humanitarian Affairs (OCHA), Office of the High Commissioner for Human Rights (OHCHR), International Committee of the Red Cross (ICRC), the United Nations International Children's Emergency Fund (UNICEF) and the NGO, International Disability Alliance. The meeting broached topics of the impact of armed conflict on persons with disabilities, the methods for providing for a more open and participative human-rights-based approach to people with disabilities during conflicts. The discussion also included reflection on the role of the Security Council and of the entire United Nations system in this field.

3.8 Informal Arria meeting of the UN SC on increasing the efficiency of prevention of the most serious crimes under international law

On 10 December 2018 the Security Council gathered in an informal Arria meeting initiated by Poland about increasing the efficiency of prevention of the most serious crimes under international law. The goal was to discuss the challenges, good practices, and role of the Security Council in the field of prevention of crime of genocide, crimes against humanity, and war crimes. The meeting provided a summary of Poland's efforts and activities in the field of promotion of the prevention of the aforementioned crimes. The event convened by Poland took place on the 70th anniversary of the adoption by the UN General Assembly of the Universal Declaration of Human Rights and one day after the 70th anniversary of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide.

Summary

In years 2015–2018 not only did Poland fully comply with its obligation to abide by international humanitarian law but also took a number of initiatives to strengthen it. Particularly notable among these were Poland's activities in the UN Security Council promoting compliance with international humanitarian law; ratification of the Arms Trade Treaty; supporting the operations of the International Humanitarian Fact-Finding Commission, and disseminating the knowledge of international humanitarian law through activities implemented by public administrative authorities, state institutions and social organizations. In 2015, during the 32nd International Conference of the Red Cross and the Red Crescent, Poland reported on ten pledges arising from international humanitarian law,²¹ having complied with the vast majority of them (as at the date of the report).

Topics of international humanitarian law are disseminated through the curricula of the majority of civilian and military universities in the country. Additionally, in years 2015–2018, a number of academic conferences were held and several dozen publications were released in the field.

As part of her non-permanent membership in the UN Security Council in 2018–2019²², Poland has taken a number of initiatives to promote compliance with international law, including the assurance of compliance with international humanitarian law. In May 2018, during the presidency in the Council, Poland organized a number of debates and events relating to the topics of international humanitarian law, including a UN SC open debate on the protection of civilians in armed conflicts, which took place on 22 May 2018, or the informal Arria meeting of the UN SC about children in armed conflicts.

Poland has consistently supported the activities of the International Humanitarian Fact-Finding Commission, which was created in 1991. Professor Elżbieta Mikos-Skuza is a member of the Commission and serves as its Vice-President, as this was the case during the previous term. Poland encourages broader use of the Commission by parties to conflicts in investigating circumstances of violations of international humanitarian law.

²¹ *Vide*: Chapter 2 of the Report.

²² R. Tarnogórski, 'Polska niestałym członkiem Rady Bezpieczeństwa ONZ', Komentarz PISM, No 21/2017, 2 June 2017, www.pism.pl; B. Sierzputowski, 'Polska jako niestały członek Rady Bezpieczeństwa ONZ' – wyzwania i cele, [in:] *Sprawy Międzynarodowe* 2017, No 4/2017, at 148 et seq.

Numerous activities are pursued on a regular basis in the field of dissemination of international humanitarian law by various public administrative authorities, including the Ministry of National Defence, Ministry of National Education, Ministry of the Interior and Administration, Ministry of Science and Higher Education, Ministry of Culture and National Heritage, and the Ministry of Foreign Affairs. Similar activities are also undertaken by the Polish Red Cross, which is celebrating this year the first centenary of its activities in Poland. A great role in this process also belongs to the Commission for International Humanitarian Law. The Commission's tasks include dissemination of the norms of international humanitarian law for the purpose of introducing them to Poland's legal system, in particular by reviewing and analysing international agreements relating to international humanitarian law and formulating opinions in this area, as well as liaising with foreign institutions dealing with the topics of international humanitarian law.

In years 2015–2018 the Government of the Republic of Poland engaged in a number of activities with a view to disseminating and implementing international humanitarian law. The results are reflected in this Report, which provides a compendium of knowledge on this subject. The release of a new edition of the Report affirms Poland's support for voluntary reporting. Poland is of the opinion that the activity of a larger number of states popularizing their own good practices in the area of implementation and dissemination of humanitarian law could translate into better mutual understanding, closer cooperation and harmonization of the practices and of the interpretation of the core instruments of international humanitarian law. We hope that the 4th Report on the implementation and dissemination of international humanitarian law in the Republic of Poland will make a significant contribution to the dissemination of knowledge on this important branch of international law and to its further development and will also provide inspiration for other countries and legal academia.

ATTACHMENTS

Annex I List of multilateral international agreements in the field of international humanitarian law to which Poland is party

No	Title	Date of signature by the Republic of Poland	Date of ratification by the Republic of Poland	Place of publication
1.	Convention on Hospital Ships, signed at The Hague on 21 December 1904		10 April 1936	(JoL of 1936, item 439)
2.	Convention respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, signed at The Hague on 18 October 1907	9 July 1925	20 January 1927	(JoL of 1927, item 163)
3.	Convention respecting the Laws and Customs of War on Land with Regulations concerning the Laws and Customs of War on Land, signed at The Hague on 18 October 1907	9 July 1925	20 January 1927	(JoL of 1927, item 161)
4.	Convention relating to the Status of Enemy Merchant Ships at the Outbreak of Hostilities, signed at The Hague on 18 October 1907	31 May 1935	28 November 1935	(JoL of 1936, item 64)
5.	Convention relating to the Conversion of Merchant Ships into War-ships, signed at The Hague on 18 October 1907	31 May 1935	28 November 1935	(JoL of 1936, item 65)
6.	Convention concerning Bombardment by Naval Forces in Time of War, signed at The Hague on 18 October 1907	31 May 1935	28 November 1935	(JoL of 1936, item 66)
7.	Convention concerning the Rights and Duties of Neutral Powers in Naval War, signed at The Hague on 18 October 1907	31 May 1935	28 November 1935	(JoL of 1936, item 67)
8.	Convention relative to Certain Restrictions with regard to the Exercise of the Right of Capture in Naval War, signed at The Hague on 18 October 1907	31 May 1935	28 November 1935	(JoL of 1936, item 68)
9.	Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925	17 June 1925	18 October 1928	(JoL of 1929, item 278)

10.	Convention and Statute establishing an International Relief Union, signed at Geneva on 12 July 1927	12 July 1927	13 June 1930	(JoL of 1933, item 35)
11.	Procès-verbal relating to the Rules of Submarine Warfare Set Forth in Part IV of the Treaty of London of 22 April 1930, signed in London on 6 November 1936		25 May 1937	(JoL of 1937, item 425)
12.	Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and Charter of the International Military Tribunal, signed in London on 8 August 1945		25 June 1947	(JoL of 1947, item 367)
13.	Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948		22 September 1950	(JoL of 1952, item 9, as amended)
14.	Conventions for the Protection of Victims of Armed Conflicts, signed at Geneva on 12 August 1949: <ul style="list-style-type: none"> • Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; • Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; • Convention relative to the Treatment of Prisoners of War; and • Convention relative to the Protection of Civilian Persons in Time of War. 	8 December 1949	18 September 1954	(JoL of 1956, item 171, attachment)
15.	Final act of the Intergovernmental Conference on the Protection of Cultural Property in the Event of Armed Conflict, signed The Hague on 14 May 1954	14 May 1954	16 July 1956	(JoL of 1957, item 212, attachment)
16.	Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted by the General Assembly of the United Nations, 26 November 1968	16 December 1968	29 January 1969	(JoL of 1970, item 208, as amended)

17.	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, opened for signature at London, Moscow and Washington on 10 April 1972	10 April 1972	11 December 1972	(JoL of 1976, item 1, attachment)
18.	Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, signed at Geneva on 18 May 1977	18 May 1977	4 May 1978	(JoL of 1978, item 132, attachment)
19.	Protocols additional to the Geneva Conventions of 12 August 1949, done at Geneva on 8 June 1977: <ul style="list-style-type: none"> • Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); • Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) 	12 December 1977	19 September 1991	(JoL of 1992, item 175, attachment)
20.	Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, done at Geneva on 10 October 1980: <ul style="list-style-type: none"> • Protocol on Non-detectable Fragments (Protocol I); • Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II); • Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III); 	10 April 1981	24 February 1983	(JoL of 1984, item 104)
21.	Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989	26 January 1990	30 April 1991	(JoL of 1991, item 526)
22.	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, done in Paris on 13 January 1993	13 January 1993	27 July 1995	(JoL of 1999, item 703, attachment)

23.	Additional Protocol of 13 October 1995: Protocol IV on Blinding Laser Weapons to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or to have Indiscriminate Effects, done at Geneva on 10 October 1980		31 July 2004	(JoL of 2007, item 1583)
24.	Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II to the 1980 CCW Convention as amended on 3 May 1996) to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or to have Indiscriminate Effects, done at Geneva on 10 October 1980		23 July 2003	(JoL of 2005, item 1048)
25.	Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, done at Oslo on 18 September 1997	4 December 1997	14 December 2012	(JoL of 2013, item 323)
26.	Rome Statute of the International Criminal Court, done in Rome on 17 July 1998	9 April 1999	9 October 2001	(JoL of 2003, item 708)
27.	Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on 26 March 1999	9 June 2006	17 November 2011	(JoL of 2012, item 248)
28.	Food Aid Convention, adopted by the United Nations General Assembly on 13 April 1999		9 June 2006	(JoL of 2007, item 813)
29.	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, adopted in New York on 25 May 2000	13 February 2002	14 February 2005	(JoL of 2007, item 608)

30.	Amended Article 1 of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, done at Geneva, 10 October 1980 (CCW Convention); amendment adopted by States Parties at the second CCW review conference in Geneva on 21 December 2001		28 August 2006	(JoL of 2007, item 566)
31.	Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Protocol V), done at Geneva on 28 November 2003		1 July 2011	(JoL of 2011, item 1577)
32.	Protocol additional to the Geneva Conventions of 12 August 1949, relating to the Adoption of an Additional Distinctive Emblem (Protocol III), adopted at Geneva on 8 December 2005	20 June 2006	30 September 2009	(JoL of 2010, item 447)
33.	Amendments to Rome Statute of the International Criminal Court done in Rome on 17 July 1998 and adopted during a revisionist conference in Kampala (resolutions 5 and 6) on 10 and 11 June 2010	10 June 2010	31 July 2014	(JoL of 2014, item 500)
34.	Agreement on the International Tracing Service, done in Berlin on 9 December 2011	9 December 2011	30 July 2012	(JoL of 2016, item 797)
35.	The Arms Trade Treaty, made in New York on 2 April 2013	1 July 2013	17 December 2014	(JoL of 2015, item 40)

INTRODUCTION

On 22 May 2018, the Security Council held an open debate at the ministerial level on the protection of civilians in armed conflict, during Poland's presidency of the Security Council. The debate was held to discuss the annual report of the Secretary-General on the protection of civilians in armed conflict (S/2018/462) and to promote practical measures to enhance the protection of civilians and minimize the ongoing harm inflicted upon civilians in many armed conflicts around the world. The present summary reflects the main themes and ideas for action that emerged from the debate, as captured by the presidency. While it does not represent an endorsement of those ideas, the summary provides a basis for further action in advance of the twentieth anniversary of the first resolution ever adopted by the Security Council on the protection of civilians, in September 1999. A full record of the open debate is available on the website of the Council (S/PV.8264).

SUMMARY

Overall, 85 speakers, Member States (including at the ministerial level) and regional organizations spoke at the event. Briefings were given by the Secretary-General, the Director General of the International Committee of the Red Cross (ICRC), Yves Daccord, and a civil society representative, Hanaa Edwar, co-founder of the Iraqi Al-Amal Association. Recurring themes highlighted by numerous Member States included national policies as examples of practical measures to protect civilians, accountability for violations of international humanitarian law and international human rights law, enhancing protection of medical care in conflict, the protection of civilians through United Nations peacekeeping operations and unhindered humanitarian access in areas of armed conflict. The debate was opened by the Secretary-General, who underlined that the most effective way to protect civilians was to prevent conflicts and to end them. While describing the situation as bleak, the Secretary-General acknowledged that there was growing recognition that respect for international humanitarian law and human rights law contributed to reducing conflict and countering terrorism. He recommended that:

- All Governments develop national policy frameworks to protect civilians in conflict and set out proactive measures that mitigate and respond to civilian harm.
- Member States support the United Nations and others in engaging with non-State armed groups to develop policies, codes of conduct and action plans to protect civilians.
- Member States support heightened advocacy relating to the protection of civilians and make concerted efforts to ensure accountability for serious violations to end the climate of impunity.

²³ This chapter forms part of the following publication by the Ministry of Foreign Affairs of the Republic of Poland: *#United4Civilians. The Security Council's open debate on the protection of civilians in armed conflict 22 May 2018*, Ministry of Foreign Affairs of the Republic of Poland, Warsaw 2018, at 5–19.

The ICRC Director General underlined that there was a need to match the normative and policy fronts with actions on the ground and that the most effective way to reduce and prevent suffering was to uphold the fundamental principle of humanity, including in places of detention. He emphasized that States must not only respect international humanitarian law but also influence those that they that partnered with or supported to ensure the latter's compliance with the principles of such law. He also stressed the importance of addressing the problem of missing persons, as failing to do so could have a long-term impact on reconciliation, stability and peace. The project on international humanitarian law in action was referred to as a way to promote evidence-based examples of respect for the law by parties to armed conflict around the world, which were underreported, in order to reaffirm the positive impact of the law. Drawing on her personal experience, Ms. Edwar underlined the imperative of providing access to justice to victims of armed conflict and of ensuring accountability. She underlined that those efforts must be clearly linked to reconciliation processes, emphasized the importance of inclusive policy-making at the community level and called for a gender-sensitive approach to facilitate social cohesion. Any efforts should address the long-standing, structural drivers of conflict in order to build communities' capacity for early warning. Participants discussed practical measures taken by parties to armed conflict, Member States, the United Nations and other partners to improve respect for international law, including international humanitarian law and human rights law. Those measures serve to enhance the protection of civilians, including persons in vulnerable situations or in need of special protection, namely women, children, persons with disabilities, missing persons and their families and detainees.

Speakers re-emphasized the need to uphold international humanitarian and human rights law. They stressed the responsibility of parties to armed conflict to respect and ensure respect for the law, and to protect and meet the basic needs of civilian populations under their effective control. They further called upon parties to armed conflict to take all feasible precautions to minimize harm to civilians, in particular in urban environments. Reference to accountability for violations of international humanitarian and human rights law, including through international mechanisms, was repeatedly made. Member States called for unhindered humanitarian access and noted that violations of international law led to large-scale displacements and to the global protection crisis. Many delegations strongly condemned attacks against humanitarian personnel and facilities, as well as other obstruction to humanitarian access, and called for the facilitation of such access and for accountability for impediments that amounted to international law violations. The majority of speakers emphasized the need to implement the provisions of resolution 2286 (2016) relating to the protection of medical care in situations of conflict and condemned ongoing attacks on medical personnel and facilities and other forms of obstruction to impartial medical care in zones of armed conflict. The use of explosive weapons in populated areas, in particular in the context of hostilities in urban environments, featured in a significant number of statements. Many speakers deplored the destruction of essential civilian objects in zones of hostilities and the long-term humanitarian impact on entire communities. Attacks against education facilities were notably highlighted and condemned by many delegations, and reference was made to the importance of the Safe Schools Declaration as a needed political commitment to protecting education in conflict. In addition, attacks on media personnel were noted as extremely worrying. The protection of civilians through United Nations peacekeeping operations was also a central theme of the

debate. Numerous countries, including major troop and police-contributing countries to United Nations peacekeeping operations, made reference to the need to ensure that such operations were equipped with adequate resources and capabilities to implement their mandates. Speakers called for clear, realistic and achievable mandates for peacekeeping operations from the Security Council. The importance of gender-responsive protection was highlighted by many delegations, including in the context of United Nations peacekeeping operations, in particular in responding to sexual and gender-based violence in conflict, as well as to the diverse protection needs of women, girls, men and boys.

IDEAS FOR ACTION

A large number of ideas and reference points were put forward during the debate. A compilation of recurring ideas is presented below in an effort to stimulate future deliberations on how to enhance the protection of civilians and civilian harm mitigation at all levels:

INTERNATIONAL LEVEL

- Prioritizing the protection of civilians, including in the mandates of United Nations peacekeeping missions. Member States were encouraged to further strengthen the normative architecture for civilian protection and take concrete action to advance the agenda in lead up to the twentieth anniversary of resolution 1265 (1999).
- Prioritizing conflict prevention and addressing the root causes of conflict, which will help to build social cohesion and promote and protect human rights, also through the implementation of the 2030 Agenda for Sustainable Development. Preventive diplomacy, mediation and the peaceful settlement of conflict by political means should be further encouraged.
- Developing intergovernmental initiatives to strengthen respect for international humanitarian and human rights law should be encouraged as a means of sharing best practices and overcoming challenges to the practical implementation of relevant legal instruments, as well as those advocating respect for international humanitarian and human rights law, including unimpeded access to humanitarian aid.
- Improving data collection, monitoring and the reporting of compliance with international humanitarian and human rights law.
- Building partnerships among States, practitioners, civil society and humanitarian organizations. Creating an inclusive environment to increase trust among partners. Supporting organizations that work towards increasing the protection of civilians, including the Office for the Coordination of Humanitarian Affairs, the World Health Organization, the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund, ICRC, Médecins sans frontières and Center for Civilians in Conflict.
- Engaging in a dialogue with parties to conflict, including with armed forces and non-State

armed groups, to make them understand their obligations and act accordingly by changing their practices.

- Creating strong, clear and achievable mandates to protect civilians for United Nations peacekeeping operations, and equipping those missions with adequate resources and capacity to implement their mandates effectively. Supporting the Action for Peacekeeping reform initiative of the Secretary-General will be crucial to improve the protection of civilians by United Nations peacekeeping operations. Protection mandates should be linked to comprehensive political strategies.
- Strengthening the civilian components of peacekeeping operations and ensuring that all components of United Nations missions cooperate and act in an integrated manner, including in threat assessments, operational planning and decision-making. Posts and programmatic activities important to the protection of civilians, including for human rights monitoring and reporting and gender mainstreaming, should be better funded.
- Developing and implementing a comprehensive performance policy for United Nations peacekeeping operations that identifies transparent standards for performance. Ensuring the implementation of the policy of the Department of Peacekeeping Operations and the Department of Field Support on accountability for the implementation of the protection of civilians mandates. Organizing pre-deployment, in-theatre and post-deployment training for military and civilian personnel of United Nations peacekeeping missions.
- Enhancing safe and responsible community engagement by United Nations peacekeeping operations, including with women, youth and civil society, to improve the protection of civilians.
- Integrating gender perspectives across the operations of United Nations missions, including in the composition of peacekeeping operations.
- Enabling preventive tactical deployments by United Nations peacekeeping operations in areas where there is a high potential of violence against civilians.
- Enhancing cooperation with regional and subregional organizations that can support United Nations peacekeeping operations through, for example, information sharing.
- Integrating peacebuilding objectives into peacekeeping and recognizing the role of peacekeepers as early peacebuilders.
- Focusing on enforcing accountability for crimes that have been committed. Conducting independent and impartial investigations into specific incidents. Making use in this regard of existing instruments and bodies, such as the International Humanitarian Fact-Finding Commission. Encouraging the Secretary-General to use his powers under Article 99 of the Charter of the United Nations to bring imminent or unfolding large-scale attacks on civilians to the attention of the Security Council.
- The Security Council is encouraged to use all the tools at its disposal to protect civilians, including sanctions; arms embargos; fact-finding missions; independent mechanisms to gather, collect and store evidence; commissions of inquiry; and justice mechanisms, to bring the perpetrators of crime to justice, including international and hybrid tribunals. The

Council is also asked to strengthen its support for national judicial proceedings and hybrid mechanisms. The Council heard the call to condemn starvation, sexual and gender-based violence as methods of war.

- The Security Council is asked to refer the most serious crimes to the International Criminal Court with greater frequency, when national jurisdiction fails.
- Member States are encouraged to develop further initiatives to limit the use of a veto in the Security Council in cases related to war crimes, crimes against humanity and genocide.
- Considering engaging and supporting non-military protection tools, including unarmed civilian protection.
- Providing the financial and technical support necessary for Member States to implement their national frameworks and facilitate transitional justice efforts.

NATIONAL LEVEL

- Developing national policy frameworks on the protection of civilians, consistent with the report of the Secretary-General on the protection of civilians in armed conflict, including the recommendations contained in its annex. Integrating international humanitarian and human rights law into national policies and programmes and amending penalty codes and other laws.
- Setting out proactive measures regarding the mitigation of and response to harm done to civilians by national military forces, partner forces and international coalitions. Prioritizing capacity building and awareness raising among national security institutions and national armed forces. Gathering good-quality data to develop better tools to prevent harm from occurring, and mitigating its consequences when it does. Providing post-harm compensatory measures or assistance to civilians. Training military personnel throughout their careers. Improving their ability to protect civilians in urban warfare, including through finding alternatives to the use of explosive weapons.
- Making arms transfers and exports conditional on the respect for international humanitarian and human rights law, in line with the Arms Trade Treaty, and, more generally, using all means of leverage consistent with international law to influence the behaviour of parties to a conflict.
- Providing unhindered access to humanitarian assistance.
- Integrating gender-perspective into the implementation of international humanitarian and human rights law.
- Following the Nelson Mandela Rules in planning prison infrastructure. Providing detention staff with training, capacity and independent oversight to manage places of detention, as well as enabling the rapid enforcement of judicial and procedural safeguards. Listing the names of detainees to prevent them from going missing and facilitating communication between them and their families.
- Engaging in early action to prevent people from going missing, including by collecting and

centralizing information on the dead and missing persons and effectively searching for those reported missing; mapping, marking and protecting all gravesites; ensuring a dignified and adequate management of the dead so that human remains can be properly identified, and families can be informed of their loss and retrieve the remains of their loved ones; and ensuring that appropriate national legal frameworks are in place to enable those actions.

- Making concerted efforts to ensure accountability for serious violations and abuses of international law to end the climate of impunity and provide for credible national investigations into serious violations and full support for the work of the International Criminal Court. Developing more effective military justice systems.
- Supporting the United Nations and others in engaging with non-State armed groups to develop policies, codes of conduct and action plans to protect civilians.
- Ensuring that national legislation enables health-care professionals to carry out their work impartially and safely, in line with international humanitarian law and medical ethics.
- Supporting behavioural change initiatives and other means of awareness raising aimed at increasing respect for health-care workers in general, so that they may work in safe conditions, even under the most difficult circumstances.
- Reviewing military doctrine, procedures, planning and practice to protect medical care in the conduct of military operations. Ensuring conflict-specific training and support for health-care professionals, providing capacity building and ensuring the preparedness of health-care systems. Ensuring that national legislation enables health-care professionals to carry out their work impartially and safely, in line with international humanitarian law and medical ethics.
- Introducing programmes that support the disarmament, demobilization and reintegration of ex combatants. Strengthening institutions to provide support and assistance to victims. Introducing psychological rehabilitation programmes to facilitate reconciliation.
- Conducting comprehensive security sector reforms that will help to maintain good governance.
- Supporting transitional justice, promoting and protecting the rule of law and human rights.
- Securing and destroying stockpiles of weapons.
- Consistently advocating the protection of civilians and respect for international humanitarian and human rights law. Making voluntary commitments and setting new goals in this regard.

DETAILED IDEAS FOR ACTION TO BE INTRODUCED BY ALL PARTIES TO A CONFLICT

- Protecting civilians, including those in high-risk professions, health and media workers, translators and interpreters.
- Establishing units that coordinate the protection of civilians under their command, and cooperate with the United Nations on the provision of training and technical assistance.

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- Reassessing and adapting the choice of weapons in urban warfare.
 - Avoiding the use of explosive weapons that have an impact over a wide area in densely populated areas. Investigating and evaluating the impact of any strike.
 - Assuming that any site or object is a protected civilian object unless proven otherwise. Mapping and updating maps of civilian sites, including medical facilities, educational institutions and places of worship.
 - Opposing delays and bureaucratic impediments, including delays in issuing permits or visas, that hinder effective humanitarian action.
 - Combating sexual violence, including as a tactic of war. Counteracting the practice of starving civilian populations as a method of war, as it constitutes a violation of international humanitarian law.
 - Opposing the criminalization of principled humanitarian aid under the pretext of countering terrorism and measures that pose obstacles to humanitarian activities.

ANNEX 1

Best practices presented during the open debate held by the Security Council on 22 May 2018 on the protection of civilians in armed conflict

- Numerous Member States referred to their national institutions that operate to strengthen respect for international humanitarian and human rights law, including interagency institutions (commissions) monitoring the incorporation of international humanitarian and human rights law into national legislation and commissions established to compensate victims affected by military operations and terrorist attacks. In addition, Member States presented national centres established to coordinate work related to crisis management and to guarantee the delivery of humanitarian assistance.
- Policies and practices in civilian harm mitigation and response, such as civilian casualty tracking by the African Union Mission in Somalia and the International Security Assistance Force in Afghanistan, as well as the national policy on civilian casualty prevention and mitigation of the Government of Afghanistan, were highlighted by a number of delegations as important developments in enhancing the protection of civilians.
- A number of delegations mentioned the positive effects of the development of a legal framework, including declarations, joint deeds of commitments, guiding principles and codes of conducts, such as the Safe Schools Declaration, the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers, the Call to Action on Protection from Gender-based Violence in Emergencies, and the declaration on the protection of medical and humanitarian personnel in conflict led by France.
- Long-term national strategies and plans of actions dealing with the protection of civilians were promoted. The development of internal regulations that facilitated humanitarian assistance was considered effective.
- The real-time surveillance system for attacks on health care of the World Health Organization, as an example of improved data collection, and the Healthcare in Danger initiative of the International Committee of the Red Cross, which addresses the issue of medical personnel protection, were cited as examples of best practices and initiatives to be further built upon.
- The Security Council heard about the humanitarian aid programmes designed to link security and development, including reintegration programmes for children and young people.
- Member States elaborated on international conferences that they organized to raise awareness and encouraged the holding of retreats and brainstorming sessions to develop innovative solutions.
- Integrated training sessions and courses for peacekeeping personnel from several countries were repetitively described as effective. Some delegations praised the sharing and translation into multiple languages of training materials.
- Pilot projects to develop and implement innovative approaches, such as the Elsie Initiative on Women in Peace Operations, were encouraged.

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- Partnerships between Member States and civil society to elaborate ways forward to enhance the abilities of armed forces to meet their obligation to protect and respect health care in armed conflict while performing duties were encouraged.
 - As examples of community-level engagement that increases the protection of civilians, community alert networks and community liaison assistants were mentioned.
 - The Charter on Inclusion of Persons with Disabilities in Humanitarian Action was referred to as an example of an approach to include persons in vulnerable situations.
 - The establishment of commissions working on gathering evidence to ensure accountability and support the prosecution of war crimes or other violations of international law was mentioned.

ANNEX 2

International legal framework recommended for endorsement and implementation during the open debate held by the Security Council on 22 May 2018 on the protection of civilians in armed conflict

1. Hague conventions of 1899 and 1907; Geneva Conventions of 1949 and their additional protocols of 1977 and 2005; Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction; Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and its protocols; Convention on the Prevention and Punishment of the Crime of Genocide; Convention on Cluster Munitions; Arms Trade Treaty; Rome Statute of the International Criminal Court and Amendments to the Rome Statute of the International Criminal Court on the crime of aggression; and International Convention for the Protection of All Persons from Enforced Disappearance.
2. Security Council resolutions: 1265 (1999); 1786 (2007); 1894 (2009); 2222 (2015) and 2286 (2016).
3. General Assembly Resolution 46/182.
4. Code of Conduct regarding Security Council action against genocide, crimes against humanity and war crimes, as elaborated by the Accountability, Coherence, Transparency Group; Nelson Mandela Rules; Kigali Principles on the Protection of Civilians; Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers; Safe Schools Declaration; declaration on the protection of medical and humanitarian personnel in conflict; and Guiding Principles on Internal Displacement.

Annex III Contact details of Polish national organs and organizations competent in the area of implementation and dissemination of international humanitarian law in the Republic of Poland

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