

Ist Report
on the implementation and dissemination
of the
International Humanitarian Law
in the Republic of Poland

On 11 December 2008 the Commission on International Humanitarian Law, established by Regulation No. 51 of the Prime Minister of 20 May 2004 (Polish Monitor of 2004, No. 23, item 402), took the decision to prepare an opening report on the implementation and dissemination of international humanitarian law in Poland.

The report is intended to constitute a review of the compliance of domestic legislation and practice with the norms of international humanitarian law. Information obtained in the course of preparing the report has allowed to identify areas requiring concrete action in order to guarantee full implementation of the international humanitarian law in the Polish legal order and its dissemination in the Polish society.

The report has been compiled on the basis of a questionnaire prepared by the International Committee of the Red Cross and encompasses key aspects of the application of international humanitarian law in Poland.

The following institutions submitted input to the report: the Ministry of Justice, the Ministry of National Defense, the Ministry of Internal Affairs and Administration, the Ministry of Education, the Ministry of Culture and National Heritage, the Ministry of Foreign Affairs and the Polish Red Cross. The preparation of the report was coordinated by the Legal and Treaty Department of the Ministry of Foreign Affairs.

By undertaking work on the report, the Polish Government wished to underscore its consistent commitment to the dissemination of international humanitarian law, recognizing the exceptional importance of its provisions for the entire international community. The Government of the RP is convinced that the observance of international humanitarian law is the foundation of the functioning of contemporary democratic societies and constitutes practical fulfillment of the rule of law in international relations.

Dr Andrzej KREMER

Chairman of the Commission
of International Humanitarian Law
Under Secretary of State
in the Ministry of Foreign Affairs

May 22, 2009

1. Participation in the principal international humanitarian law treaties

- Convention on Hospital Ships (21 December 1904):
 - 31 October 1921 – submission of the ratification document by the Republic of Poland (RP),
 - 31 October 1921 - entry into force with regard to the RP;
- Convention relative to the Opening of Hostilities (18 October 1907):
 - 9 May 1925 – submission of the ratification document by the RP,
 - 8 July 1925 – entry into force with regard to the RP:
- International Convention relative to the Rights and Duties of Neutral Powers and Persons in Case of War on Land (18 October 1907):
 - 9 July 1925 – entry into force with regard to the RP;
- Convention respecting the Laws and Customs of War on Land (18 October 1907):
 - 9 May 1925 – submission of the ratification document by the RP,
 - 9 July 1925 – entry in force with regard to the RP;
- Convention concerning Bombardment by Naval Forces in Time of War (18 October 1907):
 - 31 May 1935 – submission of the ratification document by the RP,
 - 30 July 1930 – entry into force with regard to the RP;
- Convention relative to the Legal Position of Enemy Merchant Ships at the Start of Hostilities (18 October 1907):
 - 31 May 1935 – submission of the ratification document by the RP,
 - 31 July 1935 – entry into force with regard to the RP;
- Convention relative to the Conversion of Merchant Ships into War-Ships (18 October 1907):
 - 31 May 1935 – submission of the ratification document by the RP,
 - 31 July 1935 – entry into force with regard to the RP;
- Convention relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War (18 October 1907):
 - 31 May 1935 – submission of the ratification document by the RP,
 - July 31 1935 – entry into force with regard to the RP;
- Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare (17 June 1925):
 - 17 June 1925 – signing by the RP,
 - 4 February 1929 – submission of the ratification document by the RP,
 - 4 February 1929 – entry into force with regard to the RP;
- Convention for the Definition of Aggression (3 July 1933):
 - 3 July 1933 – signing by the RP,
 - 16 October 1933 – submission of the ratification document by the RP,
 - 16 October 1933 – entry into force with regard to the RP;
- Protocol concerning rules of the war action of submarines established in part IV of the London Treaty adopted on 22 April 1930 (6 November 1936):
 - 20 July 1937 – submission of the ratification document by the RP,
 - 20 July 1937 – entry into force with regard to the RP ;
- International Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis (8 August 1945):
 - 25 September 1945 – submission of the ratification document by the RP,
 - 25 September 1945 – entry into force with regard to the RP;
- Convention on the Prevention and Punishment of the Crime of Genocide (9 December 1948):
 - 14 November 1950 – submission of the ratification document by the RP,
 - 12 January 1951 – entry into force with regard to the RP;

- Geneva Conventions for the Protection of War Victims (12 August 1949):
 - 1st Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field,
 - 2nd Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea,
 - 3rd Geneva Convention relative to the Treatment of Prisoners of War,
 - 4th Geneva Convention relative to the Protection of Civilian Persons in Time of War,
- 8 December 1949 - signing by the RP,
- 26 November 1954 - submission of the ratification document by the RP,
- 26 May 1955 - entry into force with regard to the RP;
- Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention and the Protocol to Convention for the Protection of Cultural Property in the Event of Armed Conflict (14 May 1954):
 - 14 May 1954 - signing by the RP,
 - 6 August 1956 - submission of the ratification document by the RP,
 - 6 November 1956 - entry into force with regard to the RP;
- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (26 November 1968):
 - 16 December 1968 - signing by the RP,
 - 14 February 1969 - submission of the ratification document by the RP,
 - 11 November 1970 - entry into force with regard to the RP;
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (10 April 1972):
 - 10 April 1972 - signing by the RP,
 - 25 January 1973 - submission of the ratification document by the RP,
 - 26 March 1975 - entry into force with regard to the RP;
- Convention on the Prohibition of Military or Any Other Hostile Use of Environment Modification Techniques (10 December 1976):
 - 18 May 1977 - signing by the RP,
 - 8 June 1978 - submission of the ratification document by the RP,
 - 5 October 1978 - entry into force with regard to the RP;
- Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977:
 - 12 December 1977 - signing by the RP,
 - 23 October 1991 - submission of the ratification document by the RP,
 - 23 April 1992 - entry into force with regard to the RP;
- Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977:
 - 12 December 1977 - signing by the RP,
 - 23 October 1991 - submission of the ratification document by the RP,
 - 23 April 1992 - entry into force with regard to the RP;
- Additional Protocol to the Geneva Conventions of 12 August 1949 relating to the Adoption of an Additional Distinctive Emblem (Protocol III) of 8 December 2005:
 - 20 June 2006 - signing by the RP,
- 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 annexes (10 October 1980):
 - 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 - signing by the RP,
- 2 June 1983 - submission of the ratification document by the RP,
- 2 December 1983 - entry into force with regard to the RP;
- Additional Protocol 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 (Protocol IV on blinding laser weapons) of 13 October 1995:
 - 23 September 2004 - submission of the ratification document by the RP,
 - 23 March 2005 - entry into force with regard to the RP;
- Amended Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and other Devices as amended on 3 May 1996 annexed 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:
 - 14 October 2003 - submission of the ratification document by the RP,
 - 15 April 2004 - entry into force with regard to the RP;
- Convention on the Rights of the Child (20 November 1989):
 - 26 January 1990 - signing by the RP,
 - 7 June 1991 - submission of the ratification document by the RP,
 - 7 July 1991 - entry into force with regard to the RP;
- International Convention against the Recruitment, Use and Financing and Training of Mercenaries (4 December 1989):
 - 28 December 1990 - signing by the RP,
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (13 January 1993)
 - 13 January 1993 - signing by the RP,
 - 23 August 1995 - submission of the ratification document by the RP,
 - 29 April 1997 - entry into force with regard to the RP;
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (18 September 1997):
 - 4 December 1997 - signing by the RP,
- Rome Statute of the International Criminal Court (17 July 1998):
 - 9 April 1999 – signing by the RP,
 - 12 November 2001 - submission of the ratification document by the RP,
 - 1 July 2002 - entry into force with regard to the RP;
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (25 May 2000):
 - 13 February 2002 - signing by the RP,
 - 7 April 2005 - submission of the ratification document by the RP,
 - 7 May 2005 - entry into force with regard to the RP;

2. Existing procedures in the RP in order to adopt/modify , as well as governing the entry into force of:

- Constitution;
- International treaties;
- Laws, decrees, regulations, instructions etc.

Chapter III of the Polish Constitution contains provisions on the sources of law, stipulating that they include the Constitutions, ratified international agreements and regulations. (The

sources of universally binding law also include acts of local law, within the jurisdiction of the organs which enacted them). These are legal acts binding of all - both state organs and citizens, as well as legal persons and entities within the jurisdiction of the RP.

The provisions of the Constitution are applied directly, unless the Constitution provides otherwise. Every legal act in force in the RP must comply with the provisions of the Constitution. Pursuant to Article 188, the Constitutional Tribunal adjudicates on the conformity of laws with the Constitution, through procedures regulated by the law of 1 August 1977 on the Constitutional Tribunal (Journal of Laws No. 102, item 643, as amended).

Article 91 of the Constitution determines the place of international agreements within the system of the sources of law in Poland. A ratified international agreement, after its promulgation in the Journal of Laws of the RP, constitutes part of the domestic legal order and is applied directly, unless its application depends on the enactment of a statute. An international agreement ratified upon prior consent granted by statute has precedence over statutes, if such an agreement cannot be reconciled with the provisions of such statutes. Ratification is required in the case of international agreements concerning:

- a) peace, alliances, political or military treaties, since their conclusion results in specific, lasting consequences constituting a burden upon the state; for that reason the undertaking of such commitments requires the consent of the representatives of the people, that is the Sejm and Senate;
- b) freedoms, rights or obligations of citizens as specified in the Constitution, which is one of the guarantees of their observance;
- c) membership of an international organization, which has specific external and internal consequences, also for citizens,
- d) considerable financial responsibilities imposed on the State, which, in consequence, increases burdens placed on citizens;
- e) matters regulated by statute, since that could necessitate changes in binding legislation.

In the above instances, the President may ratify an agreement only upon obtaining statutory consent, i.e. the ratification of international agreements of this kind requires the consent of Parliament. The President is also the organ authorized to denounce international agreements, which is effected on the basis of statutory consent granted by Parliament.

Procedures for concluding, ratifying and denouncing international agreements are detailed in the law of 14 April 2000 on international agreements (Journal of Laws No. 39, item 443 and of 2000, No. 216, item 1824).

3. Relationship between domestic law and international law:

Article 9 of the Constitution stipulates that “The Republic of Poland shall respect international law binding upon it”. This means that in the course of its legislative activity Parliament is bound by the content of international agreements, concluded and ratified by Poland. Furthermore, Article 9 of the Constitution ascertains that all acts of domestic law need to comply with broadly understood international law and not merely international accords. The

Constitution, in specifying the competences of the Constitutional Tribunal, empowered it to control the constitutionality of agreements being concluded and the compliance of laws with ratified international accords.

4. Transformation of rules of international law into national law

Poland becomes bound by international agreements through their ratification by the President of the RP or confirmation by the Council of Ministers or the respective ministers. Unratified agreements only bind the organs of state administration which concluded them and do not constitute sources of universally binding law.

Ratification of the most important international accords can only take place on the basis of prior statutory consent (Article 89 of the Constitution). This requirement applies to agreements concerning:

- peace, alliances, political or military treaties
- freedoms, rights or obligations of citizens
- membership of the RP in international organizations
- matters regulated by statute or those in respect of which the Constitution requires the form of a statute.

A ratified international agreement, after its promulgation in the Journal of Laws of the Republic of Poland, constitutes part of the domestic legal order and is applied directly, unless its application depends on the enactment of a statute. (Article 91.1). Such 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 such an agreement cannot be reconciled with the provisions of such statutes (Article 91.2).

5. The competence of judicial authorities with regard to the implementation of international law

Judicial organs are obligated to apply international law binding upon the RP (Article 9 of the Constitution). Moreover, pursuant to Article 91.1 of the Constitution, judges may directly apply international agreements upon the fulfillment of three premises: the agreement has to be ratified, promulgated in the Journal of Laws and be suitable for direct application, i.e. it must not require the enactment of a statute. In exercising their office, judges are independent and subject only to the Constitution and statutes (Article 178.1 of the Constitution).

6. National structures of implementation

On 20 May 2004 the Prime Minister issued Regulation No. 51 (Polish Monitor of 2004, No. 23, item 402), establishing the Commission for International Humanitarian Law, tasked with the dissemination of the norms of international humanitarian law for the purpose of introducing them into the Polish legal system. The Commission meets twice a year and is chaired by an under secretary of state at the MFA.

7. Legal basis of creation and activities of the National Society of the Red Cross/Red Crescent

The Polish Red Cross is the national society of the Red Cross of the Republic of Poland in the meaning of the Geneva Conventions for the protection of victims of war of 12 August 1949 (Journal of Laws of 1956, No. 38, item 171) and the Protocols Additional of 8 June 1977 to these Conventions (Journal of Laws of 1992, No. 41 item 175).

The PRC operates on the basis of the law of 16 November 1964 on the Polish Red Cross (Journal of Laws of 1964, No. 41, item 276) and the Statute issued on its basis and affirmed by Regulation of the Council of Ministers of 25 October 2004 (Journal of Laws No. 237, item 2372).

The internal principles of operation and detailed competences of the organs of the Society are determined in the Rules approved by the National Council of representatives of the PRC.

8. National laws and procedures on repression of breaches of international humanitarian law

For many years crimes against peace, humanity and war crimes were not regulated comprehensively in Polish law. Earlier Polish penal legislation criminalized war crimes to a certain extent (Military Penal Code of 21 October 1932). Penal liability for this type of crime was extended through the decree of the President of the RP of 30 March 1943 envisaging punishment for grave violations of international law to the detriment of the Polish State, a Polish legal person or Polish citizen, the decree of 31 August 1944 on punishment for Nazi criminals guilty of murders and persecution of civilians and prisoners and for traitors of the Polish Nation (so-called August Decree), and through the Penal Code of the Polish Armed Forces of 23 September 1944.

An attempt in 1969 to introduce a chapter on “Crimes against peace, humanity and international relations” into the Penal Code was unsuccessful. During parliamentary works on the draft of the Code, that chapter was removed, with the intent of regulating the subject in a separate law, which, ultimately, was not adopted. As a result of the codification of criminal law in 1997 a new Chapter XVI of the Penal Code entitled “Crimes against peace, humanity and war crimes” was introduced. This Chapter concerns several areas of protection: international peace (Article 117), basic human rights (Articles 118 and 119), principles of manufacture and handling of weapons of mass destruction and other means of warfare (Article 121), and the fundamental norms of warfare and conduct during armed conflicts (Articles 120 and 122-126).

The title of Chapter XVI refers to the Charter of the International Military Tribunal in Nurnberg, which in Article 6 defines crimes against peace, war crimes and crimes against humanity. Thus, Chapter 16 addresses the gravest crimes, which is reflected by the severity of the attendant penalties.

The method of incorporation into Polish law of the provisions relating to violations of international humanitarian law determined the shape of the new regulations. This refers, in particular, to the departure from the casuistic description in international humanitarian law of prohibited methods and means of warfare. The Penal Code regulates these issues in a synthetic way, through references to the prohibitions specified in international law.

A review of the incorporation into Polish law of the provisions of international humanitarian law, conducted before the introduction into the Penal Code of Chapter 16, did not take into account the provisions of the Rome Statute of the International Criminal Court (the Statute had not been adopted at that time). The Statute is not a typical penal law accord and does not contain provisions obligating states parties to punish the crimes it concerns; it merely formulates the scope of crimes subject to the jurisdiction of the International Criminal Court. However, it should be underlined that the definitions of crimes against humanity and war times today constitute an accepted standard in international law, to which national legislation should be adjusted. The Ministry of Justice has prepared a draft of amendments to the Penal Code aimed at implementation of the provisions of the Rome Statute. The draft is currently undergoing legislative works and intra-ministry consultations.

8.1. Repression of grave breaches of the Geneva Conventions and of Protocol I, also known as war crimes

Pursuant to Articles 49, 50, 129 and 146 of the four Geneva Conventions of 1949, the states parties undertook to “enact any legislation necessary to provide effective legal sanctions for persons committing, or ordering to be committed, any of the grave breaches” of the Geneva Conventions.

In accordance with the Guidelines, the following acts are treated as “grave breaches” of the Geneva Conventions:

1) willful killing – criminalized under Article 123 § 1 of the Penal Code:

Article 123 § 1. Whoever, in violation of international law, commits the homicide of
1) persons who surrendered, laying down their arms or lacking any means of defense,

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 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) torture and inhuman treatment, including biological experiments – criminalized under Article 123 § 2:

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.

3) willful causing of great suffering or serious injury to body or health – criminalized under Articles 123 § 2 and 123 of the Penal 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. Whoever, in violation of international law, forces the persons specified in Article 123 § 1 to serve in enemy armed forces, resettles them, uses corporal punishment, deprives them of liberty or of the right to independent and impartial judicial proceedings, or restricts their right to defense in criminal proceedings

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

4) extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly – draft amendment to the Penal Code provides for the extension of Article 125 of the Penal Code to cover not only cultural property but also any other kind of property,

5) compelling a prisoner of war or a civilian person to serve in the armed forces of a hostile power – criminalized under Article 124 of the Penal Code:

Article 124. Whoever, in violation of international law, forces the persons specified in Article 123 § 1 to serve in enemy armed forces, resettles them, uses corporal punishment, deprives them of liberty or of the right to independent and impartial judicial proceedings, or restricts their right to defense in criminal proceedings

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

6) willfully depriving a prisoner of war or a civilian person of the right of fair and regular trial - criminalized under Article 124 of the Penal Code:

Article 124. Whoever, in violation of international law, forces the persons specified in Article 123 § 1 to serve in enemy armed forces, resettles them, uses corporal punishment, deprives them of liberty or of the right to independent and impartial judicial proceedings, or restricts their right to defense in criminal proceedings

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

7) making the civilian population or individual civilians the object of attack – criminalized under Article 122 of the Penal Code,

8) launching of an indiscriminate attack affecting the civilian population or civilian objects – criminalized under Article 122 of the Penal Code,

9) launching an attack against objects containing dangerous forces – criminalized under Article 122 of the Penal Code,

10) making non-defended localities and demilitarized zones the object of attack – criminalized under Article 122 of the Penal Code,

11) making a person the object of attack in the knowledge that he is *hors de combat* – criminalized under Article 122 of the Penal Code:

Article 122 § 1. Whoever, in the course of warfare, attacks a non-defended locality or object, a hospital 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.

Article 122 § 1 explicitly mentions only certain protected objects, otherwise referring to the methods and means of warfare prohibited under international law. The doctrine of international criminal law does specify the prohibited methods and means of warfare. All the actions referred to in points 7-11 constitute prohibited methods of warfare¹.

The objects mentioned in Article 122 § 1 include non-defended localities and objects, protection of which is envisaged under the Protocol Additional to the Geneva Conventions of 12 August 1949 concerning the protection of the victims of international armed conflicts of 8 June 1977 (Protocol I), hospital zones, referred to in the Geneva Convention of 12 August 1949 for the amelioration of the condition of the wounded and sick in armed forces in the field, neutralized zones envisaged in the Geneva Convention of 12 August 1949 relative to the protection of civilian persons in time of war. However, this regulation does not mention demilitarized zones, which under Protocol I are also subject to special protection. Under the aforementioned draft amendment to the Penal Code demilitarized zones are to be added to Article 122 § 1.

12) unjustified delay in the repatriation of prisoners of war or civilians – the draft amendment to the Penal Code envisages supplementing Article 124 with the words “delays the repatriation of prisoners of war or civilians”,

13) practices of apartheid and other inhuman or degrading practices based on racial discrimination – criminalized under Articles 119 § 1 and 123 § 2 of the Penal Code:

Article 119 § 1. Whoever uses violence or makes unlawful threats against a group of persons or a particular individual because of their national, ethnic, racial, political, 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.

¹ A. Cassese, *International Criminal Law*, Oxford University Press, Oxford, New York 2003, p. 56; H-P. Gasser, *Międzynarodowe Prawo Humanitarne Wprowadzenie*, Instytut Henry Dunant, Haupt 1993, *Polski Czerwony Krzyż* 1997, pp. 60-61; M. Fleming, J. Wojciechowska, *Zbrodnie wojenne. Przestępstwa przeciwko pokojowi, państwu i obronności*, Chapters 16, 17 and 18 of the Penal Code, C.H. Beck, Warsaw 1999 p.74.

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.

14) unlawful deportation or transfer of civilian persons - criminalized under Article 124 of the Penal Code:

Article 124. Whoever, in violation of international law, forces the persons specified in Article 123 § 1 to serve in enemy armed forces, resettles them, uses corporal punishment, deprives them of liberty or of the right to independent and impartial judicial proceedings, or restricts their right to defense in criminal proceedings

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

The draft amendment to the Penal Code envisaged supplementing Article 124 with the words: “conducts transfers, resettlements or deportations of civilian population”.

15) taking of hostages – criminalized under Article 123 § 2 of the Penal 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 of 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.

16) making clearly recognized historic monuments, works of art or places of worship, which constitute the cultural or spiritual heritage of peoples and to which special protection as been given by a special agreement, the object of attack - criminalized under Article 125 Penal Code:

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

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

§ 2. If the act pertains to property of particular importance to culture, the perpetrator

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

The war crimes specified in the Penal Code are common crimes, meaning that they can be committed by any physical person.

As regards the possibility of war crimes also being committed through omission – the rules applied are the same as in the case of all other crimes, meaning that Article 2 of the Penal Code will be applicable. Depending on the specific circumstances – Article 18 § 3 may also be applicable (abetting through omission) .

Article 2. Penal liability for an offence with criminal consequences by omission shall be incurred only by a person who had borne a legal, special duty to prevent such a consequence.

Article 18. § 3. Whoever, with the intent that another person should commit a prohibited act, facilitates by his conduct the commission of the act, particularly by providing the instrument, means of transport, giving counsel or information, shall be liable for aiding or abetting ; whoever , acting in breach of a particular legal duty to prevent the prohibited act, facilitates its commission by another person through his omission, shall also be liable for aiding and abetting.

War crimes are tried under standard procedures, with all judicial guarantees referred to in point 8.1 of the Guidelines.

Pursuant to paragraph 2 of articles 49, 50, 129 and 146 of the four Geneva Conventions every state party to the Geneva Conventions is obligated “to search for persons alleged to have committed or to have ordered to be committed any of the grave breaches” and to bring all such persons “regardless of their nationality before its own courts.”

The fulfillment of the above obligation largely hinges on Articles 5, 109-113 of the Penal Code and article 10 of the Code of Penal Proceedings. Articles 5 and 109-113 of the Penal Code specify the scope of application of the Penal Code and, at the same time, the jurisdiction of Polish courts in criminal cases. Article 10 of the Code of Penal Proceedings codifies the principle of legalism, placing upon the organ established for the purpose the absolute duty of prosecuting crimes. The subjective scope of the principle of legalism encompasses crimes prosecuted ex officio. Since all crimes under Chapter 16 of the Penal Code are prosecuted ex officio, the principle of legalism is fully applicable in their case.

Article 5 of the Penal Code specifies the principle of territoriality. Pursuant to that principle, Polish criminal law applies to all prohibited acts committed in the territory of the Republic of Poland and also on board of Polish maritime and air ships, regardless of the nationality of the perpetrator or his statelessness. A prohibited act is deemed to have been committed in the territory of the Republic of Poland or on board of a Polish maritime or air ship where the perpetrator had acted or omitted to perform an action which he was under obligation to perform or where a criminal consequence has ensued or has been intended by the perpetrator to ensue (Article 6 § of the Penal Code).

The Penal Code does not precisely define the concept of “territory of the Republic of Poland”. That concept is elaborated in the law of 12 October 1990 on the protection of the state border (Journal of Laws of 2009 No. 12 item 67) as an area delineated by state borders separating the territory of the Republic of Poland from the territories of other states and the open sea, including inland waters and maritime territorial waters, the air space above that area and subsoil under it. The law of 21 March 1991 on the maritime domain of the Republic of Poland and maritime administration (Journal of Laws of 2003 No. 153, item 1502, as amended), determines that the territorial sea encompasses territorial waters extending 12

nautical miles from the low-water mark along the coast or the external boundary of internal sea waters (bays and harbors).

The Penal Code extends the application of the principle of territoriality to prohibited acts committed beyond the territory of the Republic of Poland. Polish criminal law is applied on board of Polish sea or air ships, regardless of their location when the act was committed. This also applies to military units. For example, Polish criminal law applies when the act was committed on board of a Polish vessel in a foreign port, or in the open sea.

The principle of legalism laid down in Article 10 of the Code of Penal Proceedings obligates all judicial organs to ensure that no one - with the exception of cases elaborated by statute or international law – avoids liability for a committed offence. The provisions of Article 10 are not only addressed to the organs involved in preparatory proceedings, but also to the court. Every organ tasked with law enforcement (prosecutors, the police, the Internal Security Agency, the Military Gendarmerie, organs authorized by special regulations) is obligated, in the event of justified suspicion that an offence has been committed, to initiate and conduct preparatory proceedings. Moreover, a public prosecutor has the obligation of pressing charges in the event of an act prosecuted ex officio.

Other rules relating to penal jurisdiction under Polish law are discussed in point 8.3., dealing with liability for offences committed abroad.

8.2. Crimes against humanity and genocide

The crime of genocide is defined in article 118 of the Penal 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 specific world outlook, commits homicide or causes serious detriment to the health of a person belonging to such a 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 its 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.

§ 3. Whoever makes preparations to commit the offence specified under § 1 or 2

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

The provisions of Article 118 § 1-3 fulfill the obligations stemming from the UN Convention of 9 December 1948 on the prevention and punishment of the crime of genocide (Journal of Laws of 1952 No. 2, item 9). The definition of the crime of genocide in Polish law is broader than the Convention definition. Article 118, in addition to groups named in the 1948 Convention, also includes political groups and groups with a specific world outlook.

Genocide, as the gravest crime, carries the penalty of imprisonment for a minimum term of 12 years, the penalty of 25 years or life imprisonment. Penalization applies not only to the principal perpetrator but also to all forms of complicity – including leadership and command complicity – which refers, in particular, to the persons issuing the orders: political leaders, superior officers in military, police and paramilitary units, concentration camp commanders etc. Preparation to commit the crime of genocide in all the forms described above is also punishable.

Among all the above-mentioned crimes elaborated in international law, crimes against humanity find the least reflection in Chapter XVI of the Penal Code. Alongside the crime of genocide, which in accordance with the terminology of the Nurnberg Tribunal Statute, belongs to crimes against humanity, the Penal Code introduced in Article 119 a crime consisting in the use of violence or unlawful threats against a person or group of persons because of their national, ethnic, racial, political or religious affiliation or the absence of religious beliefs.

Article 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.

§ 2. The same punishment shall be imposed on anyone who publicly incites the commission of the offence specified under § 1.

Article 119 protects the fundamental values and human rights, first and foremost, the right to life and to develop individual values and group distinctness.

Crimes against humanity basically belonged to customary international law. It was only the Rome Statute of the ICC that subjected them to comprehensive treatment.

An analysis of the provisions of the Statute and of Polish law indicates that the crimes against humanity defined in Article 7 of the Statute find only partial reflection in Chapter XVI of the Penal Code as prohibited acts. The draft amendment of the Penal Code provides for the introduction of a new provision (Article 118 a), which – to the extent possible – reflects the crimes against humanity defined in Article 7 of the Statute. However, even under present law, acts defined under international law as crimes against humanity, do not go unpunished. Acts of this type are treated as common crimes in the Penal Code and are covered by the other chapters of the Penal Code (unless they have the motivation described in Articles 118 and 119).

Crimes against humanity, whether covered by the present Penal Code or envisaged by the draft amendment, are treated as such, regardless of being committed during armed conflict.

8.3. Criminal jurisdiction

The principles of liability for offences committed abroad are codified in chapter XIII of the Penal Code. Articles 109-113 specify the principles of subjective nationality, relative

protection and universal repression. These principles also apply with regard to offences against peace, humanity and war crimes committed abroad. The application of universal repression, expressed in Article 113 of the Penal Code, does not depend on the nationality of the perpetrator of a prohibited act, the legislation in force in the place where it was committed, or other requirements elaborated in the Guidelines.

Article 109. Polish penal law shall be applied to Polish citizens who have committed an offence abroad.

Article 110 § 1. Polish penal law shall apply to an alien who has 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 an alien who has committed abroad an offence of a terrorist character.

§ 2. Polish penal law shall apply to an alien who has committed abroad a prohibited act other than listed in § 1, if under Polish penal law such an offence is subject to the penalty of deprivation of liberty exceeding 2 years, the perpetrator is in the territory of the Republic of Poland and no decision has been taken on his extradition.

Article 111 § 1. Liability for an act committed abroad depends on the recognition of the act as an offence also under the law in force in the place of its commitment.

§ 2. If differences occur between Polish law and the law in force in the place of the commitment of the act, the court, applying Polish law may take the differences into account in favor of the perpetrator.

§ 3. The condition envisaged in § 1 shall not apply to a Polish public official, who, while serving abroad, committed an offence in connection with the performance of his duties 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 penal law shall apply to a Polish citizen and an alien in the event of their commission of

- 1) an offence against internal or external security of the Republic of Poland,*
- 2) an offence against Polish offices or public officials,*
- 3) an offence against essential Polish economic interests,*
- 4) an offence of perjury before a Polish office,*
- 5) an offence resulting, even indirectly, in the obtainment of material gain in the territory of the Republic of Poland.*

Article 113. Notwithstanding the regulations in force in the place of commission of the offence, Polish penal law shall apply to a Polish citizen or an alien, with respect of whom no decision on extradition has been taken, in the event of the commission abroad of an offence which the Republic of Poland is obligated to prosecute under international agreements.

8.4. Special courts or procedures

Penal law does not restrict liability for the offences under Chapter XVI of the Penal Code, i.e. crimes against peace, humanity and war crimes, to situations in which the perpetrator is a soldier. The crimes under this chapter are common crimes, meaning that any person can be the perpetrator. Consequently, cases involving such crimes are adjudicated by common

courts, unless they are explicitly within the jurisdiction of military courts. However, it should be noted that Polish penal law is evolving in the direction of leveling the differences in proceedings before military and common courts. The Code of Penal Proceedings of 1997 significantly restricted the subjective jurisdiction of military courts. The structure of military courts has been brought closer in line with the system of common courts, with the remaining differences justified by the specificity of the military; furthermore, the Minister of Justice performs comprehensive administrative-organizational supervision over their activity.

Pursuant to Article 674 of the Code of Penal Proceedings, the following kinds of cases remain within the jurisdiction of military courts:

- 1) against soldiers in active military service, involving crimes:
 - a) defined in Chapters 39-44 of the Penal Code (military part),
 - b) committed against a military organ or another soldier,
 - c) committed during or in connection with the performance of official duties, in the territory of a military object or a designated place of deployment, to the detriment of the military or in breach of duty connected with military service,
 - d) committed abroad, during the use or stay of the Armed Forces of the Republic of Poland abroad, in the understanding of the law of 17 December 1998 on the principles of the use or stay of Armed Forces of the Republic of Poland abroad (Journal of Laws 162, item 1117 and of 2004 No. 210, item 2135),
- 2) against employees of the military, involving crimes:
 - a) defined in Articles 356-363 of the Penal Code in connection with Article 317 § 2 of the Penal Code,
 - b) committed abroad, during the use or deployment of the Armed Forces of the Republic of Poland abroad, in the understanding of the law of 17 December 1998 on the principles of the use or stay of Armed Forces of the Republic of Poland abroad,
- 3) against soldiers of the armed forces of foreign states, staying in the territory of the Republic of Poland, or members of their civilian personnel, involving crimes committed in connection with performance of official duties, unless an international agreement, to which Poland is a party, determines otherwise.

Furthermore, the jurisdiction of military courts includes cases under Article 648 of the Code of Penal Proceedings, involving:

- 1) accessory to crimes defined in Chapters 39-44 of the Penal Code,
- 2) offences defined in Articles 239, 291-293 and in Article 294 in conjunction with Article 291 § 1 of the Penal Code - if the act is connected with an offence under chapter 39-44 of the Penal Code,
- 3) other offences, if so determined by special regulations.

Proceedings before military courts are conducted in accordance with rules laid down in the Code of Penal Proceedings of 6 June 1997, while the system of military courts is regulated in the law of 21 August 1997 - law on the system of military courts.

8.5. Responsibility of superiors

A superior or higher ranking soldier authorized to issue orders, when issuing an order the fulfillment of which is tantamount to the commission of prohibited act, is subject to penal

liability under Article 18 § 1 of the Penal Code. In a situation when a subordinate attempts to commit a prohibited act, the person who has issued the relevant order is liable for the perpetration of the act (Article 22 § 1 of the Penal Code). Occasionally, the conduct of a superior may also fulfill the prerequisites of a prohibited act envisaged under Article 231 of the Penal Code. A superior is not only a person in active military service but also a civilian to whom a soldier officially subordinated.

Article 18 § 1. Liability for perpetration shall not only be borne by the person who has committed a prohibited act himself or jointly and under arrangement with another person, but also by the person who has directed the commission of a prohibited act by another person or, taking advantage of the subordination of another person to himself, orders such a person to commit such an act.

Article 231 § 1. A public official who, exceeding his authority or failing to perform his duties, acts to the detriment of public or private 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 material or personal benefit, he

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

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

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

8.6. Defense of superior orders

The concept of an order is defined in Article 115 § 18 of the Penal Code. It is a command to undertake or refrain from performing a specified action, issued by a superior or an authorized soldier of superior rank. The right to issue orders usually stems from organizational decisions, rules, official authorization or a decision by a commander of superior rank. A superior is a person who, in addition to the right of issuing orders, directs the service of soldiers and bears responsibility for them. A soldier of superior rank is a soldier of higher military rank, who, in a given situation, has the right to issue orders to a soldier of lower rank. The issued order may take any form, including oral, written or by way of a signal. An order must be an explicit command to perform a specified action or omission relating to official duties connected with military service. Under Article 318 of the Penal Code a soldier who perpetrates a prohibited act which constitutes the fulfillment of an order is not committing a crime, unless in fulfilling the order he was willfully committing a crime. The obligation to fulfill an order is annulled if its fulfillment would constitute an offence. Article 344 § 1 of the Penal Code stipulates that a soldier who refuses to fulfill or fails to fulfill an order amounting to the commission of an offence is not guilty of the offence of insubordination. Pursuant to §2 of that article, in the event of the fulfillment of an order at variance with its content for the purpose of substantially reducing its harmfulness, a court may apply extraordinary mitigation of punishment, or forego punishment altogether.

8.7. Statute of limitations

Poland is a 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 Penal Code (Article 105).

Article 43 of the Constitution:

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

Article 105 of the Penal Code:

§ 1. The provisions of Article 101-103 shall not be applied to crimes against peace, crimes against humanity and war crimes.

9. The protection of the Red Cross/Red Crescent emblem and sanctions for its abuse and misuse

The regulations in force concerning the Red Cross emblem may be divided into three categories: international and national common law, military regulations, internal regulations in the International Red Cross and Red Crescent Movement and internal regulations of the Polish Red Cross.

Common law

1. 1949 Geneva Conventions, with particular reference to articles 38, 44 and 53 of Convention I.
2. Protocols Additional of 1977 to the Geneva Conventions, Article 8 (c), 85 (2f), and Articles 3 and 4 of the Annex 1 to Protocol Additional I.
3. Law on the Polish Red Cross of 16 November 1964, particularly Articles 12 through 15.
4. Rome Statute of the International Criminal Court Article 8.2.b.vii (Journal of Laws of 2003 No. 78, item 708).
5. Penal Code, Article 126 § 1 (Journal of Laws of 1997, No. 88, item 553).

Military regulations

6. Set of military emblems and abbreviations introduced on 2 January 1966, No. 1462/96, MOD, Warsaw 1996.
7. Defensive norm NO-02-A032:2000. Geneva emblem. Camouflaging of land-based medical objects. Decision No. 308/MON of the Minister of National Defense of 23 June 2008 concerning the approval and introduction of normalization documents on state defense and security (Official MND Journal No. 13, item 166).

Internal regulations of the Movement and the Polish Red Cross

8. Regulations on the use of the emblem adopted by the Council of Delegates of the International Red Cross/Red Crescent Movement in Budapest in November 1991 (Resolution No. 5).
9. Statute of the Polish Red Cross of 19 June 2004, approved by the Regulation of the Council of Ministers of 25 October 2004 (Journal of Laws of 2004 No. 237 item 2372).

10. Resolution of the National Delegates' Council of the Polish Red Cross No. 22/2000 on the protection of the emblem of the red cross and red crescent.
11. Resolution of the Central Board of the PRC No. 288/2004 concerning procedures for granting consent for the use of the emblem of the red cross.
12. Resolution of the Central Board of the PRC No. 289/2004 concerning procedures for granting consent for the use of the emblem of the red cross to companies participating in the program "Network of PRC Partners".
13. Resolution of the Central Board of the PRC No. 248/2004 concerning the establishment of the Commission for the Protection of the Red Cross Emblem.

10. Repression of non-grave breaches of the Geneva Conventions

The Penal Code also criminalizes non-grave breaches of international humanitarian law. These include.

1. all methods of warfare prohibited under international law (Article 122 § 1),
2. all means of warfare prohibited under international law (Article 122 § 2),
3. using persons protected under international humanitarian law to protect, through their presence, specific areas, objects, or own forces from warfare (Article 123 § 2),
4. application of corporal punishment (Article 124),
5. deprivation of liberty in breach of international humanitarian law (Article 124),
6. restriction of the right of persons protected under international humanitarian law to defense in criminal proceedings (Article 124),
7. using during warfare, in breach of international law, of the emblem of the Red Cross/Red Crescent, the protective emblem for cultural property and any other emblem protected under international law (Article 126),
8. using during warfare of the state flag or military markings of the enemy, a neutral state or an international organization or commission (Article 126).

The draft amendment to the Penal Code further supplements Article 124 with the following provisions:

- compelling persons to take part in combat operations against their own country,
- transferring of civilian population,
- commission of sexual crimes against persons protected under international humanitarian law,
- declaring the rights or claims of citizens of the opposing side to be null and void, suspended or inadmissible for court action,
- induction or recruitment for service in armed forces of persons under 18 or the use of such persons in warfare.

11. Other conventions relative to the laws of armed conflict

The Hague Conventions of 1899 and 1907 define the laws and customs of warfare on land and sea, of opening hostilities, and lay down restrictions on the conduct of military operations. The provisions of the Hague Conventions concern issues subject to penal law only to an insignificant extent.

The 1907 Hague Regulations (annex to the Convention respecting the laws and customs of war on land) stipulate in Article 22 that "the right of belligerents to adopt means of injuring the enemy is not unlimited", and in subsequent articles details the prohibited methods of

warfare. The application of these methods is criminalized in Article 122 of the Penal Code through a reference to “means of warfare prohibited by international law”.

In article 124 the Penal Code extends particular protection to several categories of persons mentioned in points 1 through 4. They include “persons who surrendered, laying down their arms or lacking any means of defense” (point 1). This is a category of persons protected under Article 23 c of the Hague Regulations. The Hague Convention respecting the rights and duties of neutral powers and persons in case of war on land of 18 October 1907 protects other persons participating in warfare, i.e. equating a combatant volunteer, who is a citizen of a neutral state, with a soldier of that state. The Penal Code, under Articles 123 and 124, also grants protection to “other persons who are protected by international law during warfare”.

The Convention on the prohibition of the development, production, stockpiling of bacteriological (biological) weapons and toxin weapons and on their destruction (BTWC) – signed in 1972, entered into force in 1975. Poland has been a party since 1972. The Convention signatories number 169, of which 155 states have ratified it. The BTWC has not developed practical mechanisms of controlling the prohibition on the manufacture of biological weapons. The works of an Ad Hoc Group, established in 1995 with the aim of negotiating a verification protocol, ended in failure. However, moves were taken to strengthen national mechanisms for the implementation of the BTWC, including penal sanctions for activity contravening the provisions of the BTWC, development of international capacities of surveillance, detection, diagnosis, response to and mitigation of the effects of alleged use of biological or toxin weapons, and instances of suspect outbreaks of epidemics of infectious diseases, and the elaboration of a code of ethics for scientists working in the fields of biological and medical sciences.

The provisions of the BTWC are subject to an ongoing review process in the form of review conferences of the states-parties to the BTWC, convened every five years. The 6th Review Conference of the BTWC took place in Geneva on 20 November- 8 December 2006. The participants adopted a plan of works for the inter-session period (2007-2010), covering the following issues:

- ways and means of enhancing national implementation of the Convention (2007);
- regional and sub-regional cooperation on the implementation of the BTWC (2007);
- means to improve bio-safety and bio-security, including laboratory safety and security of pathogens and toxins (2008);
- means of preventing the misuse of advances in bio-science and bio-technology for purposes prohibited by the Convention (2008);
- strengthening of national capacities of surveillance, detection, diagnosis and containment of infectious diseases (2009);
- strengthening of assistance mechanisms in the case of alleged use of biological and toxin weapons against states-parties to the BTWC (2010).

Poland supports the establishment of a verification mechanism of the BTWC, but is aware of the difficulties in reaching international consensus on the matter. In view of the absence of

multilateral verification instruments, we support measures for strengthening BTWC implementation at national level, through tighter control of the transfers of biological agents, intensified international cooperation to prevent proliferation, upgrading of the system of security and protection against the effects of intentional or accidental release of pathogens or toxins and of methods of combating bioterrorism.

The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention - CWC) was opened for signature in Paris on 13 January 1993. Poland signed it on 13 January 1993 and ratified it on 23 August 1995. The Convention entered into force on 29 April 1997, 180 days after the submission of ratification documents by the 65th state (Hungary). The Organization for the Prohibition of Chemical Weapons (OPCW), with headquarters in The Hague, was established following the Convention's entry into force. Today, the OPCW affiliates 188 member states. Two signatory states (Israel, Myanmar) have remained outside the Convention, while five other states (Angola, Egypt, the DPRK, Somalia, Syria) have not signed the CWC.

The CWC is the first ever instrument of international law dedicated to the complete eradication of one of the three categories of weapons of mass destruction. A Technical Secretariat of the OPCW has been established in The Hague to ensure effective international oversight of the implementation of the CWC.

The Convention defines chemical weapons as toxic chemicals and their precursors, except where intended for purposes not prohibited under the CWC (industrial, agricultural, research, medical, pharmaceutical, protective and law enforcement). The destruction of C weapons is conducted in accordance with detailed annual plans, submitted to the Technical Secretariat of the OPCW. The process of destruction is subject to constant verification by OPCW inspectors. States possessing C weapons are obligated to submit annual reports on the progress of their destruction.

OPCW inspections are the basic instrument for verifying the submitted declarations.

Poland fulfills all its commitments under the CWC. The following actions have been taken as part of CWC implementation:

Poland is the leading country with regard to CWC universalization. In 2008, during the session of UN Committee I (15 October 2008), we organized a number of individual meetings with states which were not parties to the Convention. The aim was to encourage them to join the CWC (one of those states, Iraq, joined the Convention in 2009). Poland is the sole author of draft General Assembly resolutions on the universalization of CWC implementation.

On 12 May 2009 Poland became a member of the OPCW Executive Council for the 2009-2011 term. The Executive Council, composed of 41 members, is the OPCW's political organ, which monitors and supervises the implementation of CWC provisions. The Council meets 4 times a year to assess OPCW operations and make decisions.

The delegation of the RP intends to focus on efforts to adapt the OPCW to current challenges and thus boost its effectiveness in enforcing the ban on chemical weapons. Poland's

participation in the works of the Executive Council is an element of preparations for the Polish Presidency of the EU.

Poland will put particular emphasis on the following tasks:

- strengthening of the OPWC as a global agency for the nonproliferation of chemical weapons and building synergies with other accords in the sphere of prohibition of weapons of mass destruction, as a model of multilateral cooperation and an example of effective multilateralism, promotion of EU policy in the field of multilateralism and nonproliferation;
- stimulation and fusion of the efforts of donors of OPWC assistance for the implementation of the CWC and cooperation with other international entities in this area;
- inclusion of the issue of chemical weapons on the seabed into OPCW activity;
- promotion of active support by the OPCW of efforts by states to counter chemical terrorism through the development of a program of exercises devoted to protecting chemical plants from terrorist attacks;
- we will strive to retain managerial-level posts in the Technical Secretariat and to promote the employment there of Polish nationals and to obtain for Polish representatives membership in the Scientific Advisory Board and the Advisory Body on Administrative and Financial Matters.

12. Non-international conflicts

The provisions of Chapter XVI of the Penal Code on war crimes do not distinguish between international and domestic armed conflicts, which implies that they apply to both kinds of conflicts. Moreover, through the use of the broad term of “warfare” they make it possible to avoid qualifying a situation as armed conflict in the formal sense, which allows their application to events the assessment of which could be debatable.

13. Dissemination of international humanitarian law

a) Ministry of National Defense

The reorganization of the Polish Armed Forces in recent years has resulted in much greater practical emphasis on international humanitarian law of armed conflict. The significance of law of war has been elevated in the practical training of soldiers, intensified training of commanding officers and the preparation of instructors in law of war. Polish officers regularly participate in international seminars and courses devoted to this field of law, including those organized by the International Committee of the Red Cross, the International Institute of Humanitarian Law in San Remo and the International Society of Military Law and Law of War.

New publications and didactical aids have been issued (brochures, leaflets, instruction films on DVD/CD and VHS, other training materials). Manuals have been prepared for members of the Polish Military Contingents, containing information on international humanitarian law of armed conflict. The manuals published to date have been devoted to Iraq, Afghanistan, Pakistan, Chad, Syria, Lebanon, Congo and Kosovo. Two editions of the study *International humanitarian law of armed conflict –rules of engagement* (Afghanistan and Chad) have also

been issued. Specialist publications on international humanitarian law of armed conflict are systematically supplied to all libraries in the armed forces and to the educational departments of military units and institutions.

Pursuant to the Methodology of the civic education of soldiers in active military service, introduced by decision No. 2 /MON of the Minister of National Defense of 8 January 2008, (Official MND Journal No. 1, item 4, annex), instruction in international humanitarian law of armed conflict is provided to forces personnel in the framework of civic education. International humanitarian law of armed conflict is also taught as a separate course subject (60 hours), or in the framework of such subjects as national security and crisis management, during lectures at the National Defense University, the Naval Academy, the Air Force Academy and the Land Forces Training Center. During training particular emphasis is placed on the significance of such fundamental principles of law of war 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 and detainees. The training is conducted in the form of lectures and interactive sessions, requiring direct involvement of the participants and their analysis and resolution of specific cases.

Practical training focuses on the implementation of international humanitarian law of armed conflict, with due reference to these issues during exercises and realization of tasks connected with peace and stabilization missions. The main goal here consists in instilling attitudes and habits among professional soldiers and conscripts that will exclude breach of the norms of international law in extreme combat conditions.

The following training projects were implemented in the years 1997-2008:

- 36 specialist courses for battalion and company commanders;
- 6 courses on the protection of cultural property in the event of conflict,
- 23 specialist courses for the successive contingents of the NATO Response Force (training of two contingents each year).

Cooperation with the International Committee of the Red Cross plays an important role in the dissemination of international law of armed conflict. Under an agreement between the Minister of National Defense and the International Committee of the Red Cross (signed on 31 May 1999), the Department of Education and Defense Promotion of the Ministry of National Defense organized in Warsaw, in 1999 and 2001, in cooperation with the Regional Delegation Budapest of the ICRC, two regional seminars for countries of Central and Eastern Europe, devoted to the inclusion of law of armed conflict in military training. The first seminar was attended by deputy chiefs of staff and directors of military training departments from nine countries. The second seminar, devoted to the role of legal advisers in the armed forces, attracted participants from nineteen countries.

The Ministry of National Defense participates each year in the Polish School of International Humanitarian Law of Armed Conflict in Radziejowice, organized by the Main Board of the Polish Red Cross (the School is supported financially by the MND, some lectures are conducted by military specialists, and 8 to 10 representatives of the Polish Armed Forces take part in the course).

Representatives of the Ministry of National Defense take part in the cyclic works of commissions and panels tasked with the dissemination of knowledge about international humanitarian law of armed conflict:

- the Inter-ministry Commission on International Humanitarian Law;
- the Commission for the Dissemination of International Humanitarian Law attached to the Main Board of the Polish Red Cross,
- the Program Council for the Protection of Cultural Property in the Event of Special Threats, attached to the Chief Commander of the State Fire Service.

b) Ministry of Interior and Administration

Elements of humanitarian law are incorporated in training of Polish police officers, in preparation for service with foreign UN and EU police missions.

In the years 2004-2008 eight training courses were conducted at the Police Training Center in Legionowo for police officers serving with the special police unit in Kosovo.

The Training Center for the Protection of the Population and Cultural Property, attached to the Officer Training School of the State Fire Service in Krakow has conducted, since 2005, annual courses in international humanitarian law (the lecturers include academics from the Jagiellonian University; the training lasts 32 hours over 4 days).

International humanitarian law was also taken up in the “3rd edition of the online training course in the protection of population, civil defense and crisis management addressed to workers of public administration”. The course was launched in September 2008 and ended with a written exam. It included “Selected issues of international humanitarian law”, prepared by Dr Marcin Marcinko of the Jagiellonian University. 1146 persons took the final course exam.

In 2009 the Training Center for the Protection of the Population and Cultural Property, attached to the Officer Training School of the State Fire Service in Krakow intends to organize another course in dissemination of international humanitarian law.

c) Ministry of National Education

The Ministry of National Education participates, together with the Polish Red Cross, in the implementation of the program “Exploring Humanitarian Law” (description of the program – point 13 d).

The 2009 curriculum of the Central Center for the Perfection of Teachers includes the promotion and information concerning the program “Exploring Humanitarian Law” among the employees of the Center and teachers. The Center also intends to collect information concerning the current state of implementation of the program “Exploring Humanitarian Law” in the Polish schools.

In accordance with the amendment to Article 166 of the law on the universal duty to defend the RP (works on the amendment have been concluded in parliament), the subject “Education for security” is being introduced in middle and secondary schools in the school year 2009/2010. It will replace the subject “Defense preparedness” taught until now in secondary schools.

In line with the new core curriculum of pre-school and general education in the respective types of schools, elaborated in the Regulation of the Minister of National Education of 23 December 2008 (Journal of Laws No. 4 item 17), issues relating to international humanitarian law are highlighted during “Education for security” classes in both middle and secondary schools.

Pupils will not only learn about the basics of population protection and civil defense as well as the political and military factors ensuring state security, but first and foremost, about the genesis of international humanitarian law and its major instruments. Classes in “Education for security” will deal with the main IHL legal acts, i.e. conventions, protocols and other international documents comprising humanitarian law, as well as the goals and tasks of the Red Cross and Red Crescent Movement.

d) Polish Red Cross

The Center for the Dissemination of International Humanitarian Law, attached to the Main Board of the Polish Red Cross, has operated since 2 September 1977. It is tasked with the dissemination of information about IHL as well as the principles and mission of the International Red Cross and Red Crescent Movement. The Center was established at the initiative of professors of international law cooperating with the Polish Red Cross: Remigiusz Bierzanek, Stanisław Nahlik, Roman Jasica and Marian Flemming. Significant contributions to the work of the Center have been made by the Program Council, the 25-member Commission for the Dissemination of International Humanitarian Law, local branches of the PRC and other interested institutions. The present implementation of the Center’s broad-ranging activities is also possible thanks to the work of a large group of volunteers.

International undertakings

The Center for the Dissemination of IHL, in close collaboration with the International Committee of the Red Cross, is responsible for the organization of diverse undertakings, primarily addressed to students and NGO workers. The most important projects include:

- the Warsaw Summer School in International Humanitarian Law: a ten-day course in English, in international humanitarian law for law students from Europe, South America and the Middle East. The lecturers include top academics from European universities and international institutions. Twenty-six editions of the school have been held so far, with an average of 40 participants each year;
- the International Friedrich Born Competition, held at Warsaw University in November 2007 (4th edition of the competition), a kind of a moot court, with the participation of student teams from universities in Central-Eastern Europe. The competition jury consisted of outstanding law professors from Polish and foreign universities. The Competition was accompanied by a special lecture given by Professor Władysław Bartoszewski and the Friedrich Born Conference dedicated to the 30th anniversary of the Protocols Additional to the Geneva Conventions on the protection of the victims of armed conflicts;
- an international conference on international humanitarian law of armed conflict in the light of recent military operations, organized jointly by national Red Cross societies from Poland, Holland and Germany (The Hague, 3 December 2004);

- a regional seminar on national implementation of the 1954 Hague Convention for the protection of cultural property in the event of armed conflict and its protocols (Warsaw, October 2005);

- meetings of representatives of European national societies in the framework of the International Red Cross and Red Crescent Movement, prominently including 3-day workshops on the dissemination of IHL for persons responsible for this area of activity from 7 national societies (Poland, Slovakia, the Czech Republic, Latvia, Lithuania, Germany, Sweden), held in Warsaw, in April 2002, and a meeting of the European Legal Support Group (ELSG) – Warsaw, March 2004.

National measures

The activity of the Center for the Dissemination of IHL is primarily addressed to a domestic audience. The main target groups include academics, NGO workers, representatives of the armed forces, Red Cross volunteers and workers, representatives of state institutions, the media and public opinion in general.

The following types of projects can be distinguished in the Center's work:

- organization of IHL schools: the Polish School in International Humanitarian Law of Armed Conflict – an annual 4-day course for law and international relations students of civilian and military higher schools, representatives of the Police, the Border Guard and Red Cross workers and volunteers (total of 30). The School lecturers include leading specialists in IHL from civilian and military academic schools. Thirteen editions of the School have been held so far;

- organization of seminars – e.g. for legal advisers of the armed forces from Central-Eastern Europe, organized in collaboration with the MND and the ICRC (October 2001), for military judges and prosecutors, organized jointly with the ICRD and the Law Department of Warsaw University (December 2008);

- organization of scientific conferences (with international participation), including “Methods of IHL dissemination in Poland” (Police Training Center in Legionowo, November 2000, with the cooperation of the MIA, MND and MNE), “Contemporary IHL challenges” (Warsaw University, December 2004, with the participation of representatives of the ICRC), “Custom in international humanitarian law of armed conflict” (23 March 2006, the PRC, the Law Department of Warsaw University, the ICRC, with the support of the MFA);

- initiation and conducting of lectures at Polish academic centers, e.g. monographic series of lectures on “Armed conflicts and the media”, organized three times at the Institute of Journalism of Warsaw University (October 2000, February 2001, February-June 2002, February-June 2003);

- delivery of lectures and conducting of classes and specialist training in the framework of undertakings organized by:

- the Ministry of National Defense – main courses and training for officers and non-commissioned officers of the Polish Army, dealing with IHL and the International Red Cross

and Red Crescent Movement. Note is due here to annual cooperation in the framework of CIMIC (civilian-military cooperation), which began in 2000;

- the Ministry of Culture and National Heritage, e.g. workshops concerning the dissemination of IHL in the armed forces (Krakow, November 2002), international conference on the 50th anniversary of the 1954 Hague Convention (May 2004);

- other institutions, e.g. the Institute of Public Affairs - international conference on “small weapons” (2000), the OSCE – conference on the participation of children in armed conflicts (2000), human rights and humanitarian law (2001), and the International Criminal Court (2002 and 2003), the National Defense University (lectures in the framework of post-graduate courses), the Land Forces Training Center in Poznan (co-organization of training for officers) – January 2008:

- preparation of the educational program “Exploring Humanitarian Law” (approved by the Ministry of National Education on 27 February 2004) and cascade training for future program trainers. The program, developed by the ICRC in 1999, has been officially implemented in Europe since 2001. The Polish Red Cross has trained some 100 trainers from different institutions (school boards, medical centers, teacher training centers, PRC workers and volunteers). 3500 training kits (consisting of the program, a methodological manual and cassette) have been produced for the needs of the program. Representative of the MNE and the PRC each year take part in meetings organized by the IRC to review the implementation of the program. In 2008 the Minister of National Education signed Regulation No. 32 (of 25 November 2008) establishing a coordinating team for the implementation and monitoring of the “Exploring Humanitarian Law” program in schools and educational institutions;

- preparation and coordination of campaigns; the most prominent example was the campaign under the theme “ End the era of mines and cluster munitions”, launched in 1997 to persuade Polish authorities to ratify the Ottawa Convention and the latest convention prohibiting cluster munitions. The campaign has includes the following undertakings:

- opening of two exhibitions devoted to the problem of anti-personnel mines (ICRC exhibition “Mines – a deadly legacy”, opened in March 2003, and the exhibition “Miss Landmine”, opened in March 2008);

- meetings of guests of honor (including victims and landmines and cluster munitions) and PRC workers with representatives of ministries, the Sejm , press luncheons;

- press conferences, among others, in connection with the Ban Bus visit to Poland (November 2008);

- publication of information and lobbying materials, e.g. brochures title “End the era of landmines” and “Cluster weapons”, leaflets (e.g. “10 years of the Ottawa Convention”, bookmarkers and bomb-leaflets “Pick me up”;

- administration of a website (www.stop-minom.pck.org.pl);

- happenings during public events (landmine tent at the NGO picnic organized by the EU ECHO in June 2006 and at the Przystanek Woodstock Festival in August 2007);

- cooperation with international organizations (International Campaign to Ban Landmines, Cluster Munitions Coalition) and organizations in other countries (e.g. Landmine.de from Germany and Mines Action Canada);
 - participation in international conferences (annual meetings of the states-parties to the Ottawa Convention and conferences in the framework of the Oslo process);
- organization of the annual Professor Remigiusz Bierzanek Competition for the best Ph. D., MA and BA thesis in humanitarian law and human rights and knowledge about the International Red Cross and Red Crescent Movement; eleven editions of the competition have been held to date;
- running of the Marian Flemming Library (5 thousand volumes), used by students and post-graduates in law, political sciences, and international relations, as well as secondary school students and PRC workers and volunteers from across the country;
- coordination of and support for the activities of the Commission for the Dissemination of Humanitarian Law. The Commission meets at least three times a year and between sessions Commission members are in contact with the Main Board of the PRC. Experts and other persons interested in the dissemination of international humanitarian law are invited to the meetings. Most of the Commission members regularly participate in both national and international projects of the Center;
- coordination of the activities of the Commission for the Protection of the Emblem and related actions, including :
- organization of training for PRC workers and volunteers and for representatives of state institutions (MND, Patent Office of the RP, the National Prosecutor's Office, the Central Police Headquarters);
- assessment of applications for use of the emblem;
- interventions in the event of misuse on a national scale;
- publication and promotion of books, most prominently including:
- “Collection of documents in international humanitarian law” (2003) – in collaboration with the National Defense University;
 - “Manual on the protection of the emblem” (2004);
 - “Study on customary humanitarian law” (2006) by Jean –Marie Henckaerts;
 - translation and publication of materials prepared by the ICRC, including “International Humanitarian Law: an Introduction” by Hans-Peter Gasser, “Basic principles of the Geneva Conventions and their Protocols Additional” (ICRC, 1993); brochures “International humanitarian law – we answer your questions” (1998), “Let’s get to know the IRC” (2004); leaflets “The ICRC in action”, “IHL” (2007), “Emblems of humanitarianism” (2008); internal documents of the International Red Cross and Red Crescent Movement (e.g. Regulations on

the use of the emblem of the red cross or the red crescent, adopted by the Council of Delegates, Budapest 1991);

- preparation and publication of own information materials (e.g. leaflet “140 years of the International Red Cross and Red Crescent Movement”) and promotional materials (e.g. leaflets about the Warsaw IHL Summer School and the Polish International Humanitarian Law of Armed Conflict School, posters about the Professor R. Bierzanek Competition and the Polish IHLAC School),
- translation and production of ICRC films (e.g. Panorama 2001 and Panorama 2004, Where are they now?, Ottawa Treaty: towards a world without landmines)

- organization of training for PRC workers and volunteers;

- preparation of visits by representatives of the ICRC (including the Regional Delegation of the ICRC in Budapest) and the International Federation of Red Cross and Red Crescent Societies, including visits by two presidents of the ICRC – Cornelio Sommaruga (1998) and Jakob Kellengerger (2008);

- cooperation with other institutions and organizations in Poland for the purpose of conducting joint campaigns or educational programs, e.g. program of legal education (with the Polish Pathfinders’ Union), programs “Coalition for the Adoption of the Optional Protocol to the Convention on the Rights of the Child” and “Coalition for the Ratification of the Statute of the International Criminal Court” (Amnesty International Poland) and the program “Moot International Court” (Krzyżowa Foundation).

14. Communication of the implementation measures through the depository

Articles 48/49/128/145 of the four Geneva Conventions stipulate that the states parties to them should exchange the official translations of these documents, as well as the texts of all laws and regulations enacted with a view to ensure their application, through the Swiss Federal Council.

The provisions of the above Conventions are respected in practice by the Republic of Poland. Poland transferred the official translations of the Geneva Conventions to Switzerland in 1957 and has systematically received from Switzerland translations from other states parties to the Conventions.

15. The International Fact-Finding Commission

The International Fact-Finding Commission was created in accordance with Article 90 of Additional Protocol I and began its work on 25 June 1991. As of 1 December 1995 forty seven states have agreed to accept its competence. The Commission consists of fifteen members “of high moral standing and acknowledged impartiality”, who serve in their personal capacity, and is competent to enquire into any facts alleged to be a grave breach of IHL and to “facilitate through its good offices the restoration of an attitude of respect” for the Geneva Conventions and Protocols. The Commission launches an enquiry on alleged violations of IHL at the request of a party to a conflict, but with the consent of the other party/parties to the conflict, if these parties did not accept the competence of the Commission. On the result of each enquiry, the Commission prepares a report with such recommendations as it finds appropriate.

On 2 October 1992 Poland recognized the competence of the International Fact-Finding Commission established on the basis of article 90 of Protocol I to the Geneva Conventions relative to the protection of the victims of international armed conflicts.

To date, two Poles have served as Commission members: Professor Roman Jasica in 1996-1999 and Dr Elżbieta Mikos-Skuza, who has been a member and vice president since 2001.

16. The establishment of hospital zones and localities

No hospital zones or localities have been created in the territory of the Republic of Poland to protect wounded and sick soldiers, as well as the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled, pursuant to Article 23 of the Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field, signed in Geneva on 12 August 1949. The same situation applies to hospital zones and localities created in own territory or occupied areas to protect from the effects of war wounded, sick, and aged persons, children under fifteen, expectant mothers and mothers of children under seven, pursuant to Article 14 of the Geneva Convention relative to the protection of civilian persons in time of war, signed in Geneva on 12 August 1949.

There are no domestic legal acts regulating these questions or the mutual recognition of such zones and localities. In practice, for the purpose of future mutual recognition of hospital zones and localities, it would be possible to utilize the draft agreements constituting annexes to Geneva Conventions I and IV.

It should be noted here that pursuant to Article 122 § 1 of the Penal Code a person who in the course of warfare attacks a hospital zone is subject to the penalty of deprivation of liberty for a minimum term of five years or the penalty of deprivation of liberty for 25 years.

17. Neutralized zone

No provisions in Polish law regulate the creation of neutralized zones established to protect from the effects of war wounded and sick combatants and noncombatants and civilians who take no part in hostilities and who, while they reside in the zones, perform no work of a military character, pursuant to the provisions of Article 15 of Geneva Convention IV.

Under Article 122 § 1 of the Penal Code, an attack against a neutralized zone is subject to the penalty of deprivation of liberty for a minimum term of five years or the penalty of deprivation of liberty of 25 years.

18. Non-defended localities and demilitarized zones

No non-defended localities and demilitarized zones have been established in the territory of the Republic of Poland, pursuant to Articles 59 and 60 of the Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international armed conflicts, done at Geneva on 8 June 1977. There are no legal norms governing the establishment of such zones, their characteristics or the issue of their mutual recognition. Considering the provisions of Article 91 of the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of 1997 No. 78, item 483, as amended) as well as the content of

Articles 59 and 60 of Protocol Additional I, stipulating the necessary conditions which must be fulfilled for zones to be recognized as non-defended localities and demilitarized zones, and also the rights and obligations of the parties to a conflict, the above provisions may be considered as norms suitable for direct implementation.

As in the above cases, an attack against a non-defended locality or a demilitarized zone is subject to criminal liability under article 122 § 1 of the Penal Code of 1997.

19. Graves registration service

The issue of organization of cemeteries and the burial of deceased persons is regulated by the law of 31 January 1959 on cemeteries and the burial of deceased persons (Journal of Laws of 2000, No. 23, item 295, as amended). Article 10 of the law stipulates that the right of burial of military personnel deceased during active service rests with the military authorities, pursuant to the provisions of military law.

The supervision over and care for war graves and cemeteries is regulated by the law of 28 March 1933 on war graves and cemeteries (Journal of Laws No. 39, item 311, as amended), which obligates authorities of the Republic of Poland to ensure care and due respect for war graves, regardless of the nationality and religion of the buried persons or the formations in which they served.

Matters connected with the transfer of remains to other graves (including graves abroad) are regulated by the provisions of Article 4 of the 1933 law on war graves and cemeteries and Article 14 of the law on cemeteries and the burial of deceased persons of 1959, as well as the connected regulation of the Minister of Health of 27 December 2007 concerning the issuance of permits and certificates for the transport of human bodies and remains (Journal of Laws No. 249, item 1866).

The procedures of burial during armed conflict are laid down in Defensive Norm NO-02-A053:2004 War operations - Procedures for the burial of killed and deceased persons, introduced by decision No. 308/MON of the Minister of National Defense of 23 June 2008 concerning the adoption and introduction of normalization documents pertaining to defense and national security (Official MND Journal No. 13, item 166). The norm stipulates procedures for the burial of own soldiers, members of allied forces and soldiers of the adversary, killed² and deceased on land. It also contains the principles of treatment of persons killed or deceased at sea and of deceased civilians belonging to the armed forces, but not taking part in hostilities. The document determines the general principles of burial (maintenance of hygiene and counter-epidemic measures, securing of bodies against carrion-eating animals and birds, protection of bodies against desecration and robbery, provisions for 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 of burial, marking of graves, treatment of bodies (with special reference to the treatment of persons 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 norm also contains a listing of the relevant provisions of the 1949 Geneva Conventions and their Additional Protocols concerning persons killed and deceased during hostilities.

² Pursuant to point 1.3.6 of the Norm a killed person is a person injured in combat, who died in consequence of sustained injuries before receiving medical aid.

20. Identification of medical aircraft

Issues relating to the identification of medical aircraft (including fixed-wing craft and helicopters) are regulated by Defensive Norm NO-02-A032:2000 The Geneva emblem. Camouflage of land-based medical objects, introduced by decision No. 308/MON of the Minister of National Defense of 23 June 2008, which stipulates that the emblem envisaged in Article 38 of Geneva Convention I should be displayed clearly on lower, upper and lateral surfaces of aircraft – beside national markings.

No regulations exist concerning the use of aircraft for the evacuation of injured, sick and shipwrecked persons during hostilities.

21. Special characteristic of military hospital ships. Marking of hospital ships

There are no hospital ships in the Polish Navy at present. In the event of conflict it would be possible to convert a Navy vessel into a hospital ship (during the Persian Gulf war the RPS “Wodnik” – converted for the purpose – served as a hospital ship).

22. Protection of civilian hospitals

Article 18 of Geneva Convention IV formulates the general principle of protection of civilian ships. But in order to receive such protection they must be officially recognized as protected civilian hospitals by competent state authorities, which have to issue special certificates confirming their civilian nature. Such hospitals should be clearly marked with the distinctive Red Cross/Red Crescent emblem and, if possible, be located at a distance from military objects.

Information provided by the Ministry of Health indicates that no civilian hospitals in Poland have special protection. There are no lists of officially recognized civilian hospitals with special certificates and the distinctive emblem of the Red Cross.

23. Burial at sea

Article 16 of the 1959 law on cemeteries and the burial of deceased persons provides for the burial at sea of people deceased at sea, in accordance with maritime custom. In cases when a ship can reach a port on its itinerary within 24 hours, the body should be taken ashore and buried on land. Ship captains may make exceptions from the above rule for sanitary or military reasons (in the case of naval vessels or others used for military purposes). The relevant provisions are incorporated in point 2.4.4 of Defensive Norm NO-02-A053:2004 Combat operations – Procedures for the burial of killed and deceased persons.

Death is confirmed by the doctor last treating the sick person or another authorized person, pursuant to the provisions of the Regulation of Minister of Health and Social Care of 3 August 1961 concerning the ascertainment of death and its causes (Journal of Laws of 1961 No. 39, item 202). For that purpose he fills out a death certificate, the content of which is stipulated in the Regulation of the Minister of Health of 7 December 2001 on the certificate of death and its content (Journal of Laws No. 153, item 1782, as amended).

24. Identity cards for religious and medical personnel attached to the armed forces

The legal basis for the issuance of identity cards is provided by Article 54 of the law of 21 November 1967 on the universal duty to defend the Republic of Poland (Journal of Laws of 2004, No. 241, item 2416, as amended), pursuant to which military authorities provide soldiers in active military service and persons serving in militarized units attached to the Armed Forces of the RP, civilian medical-sanitary personnel of the Armed Forces of the RP, civilian persons accompanying the Armed Forces of the RP, personnel of the Polish Red Cross and other voluntary aid organizations, civilian members of the clergy and other persons stipulated in international law with identity cards and badges. The Regulation of the Minister of National Defense of 10 April 2008 concerning identity cards and badges (Journal of Laws No. 79, item 472, as amended) specifies the types and specimens of identity cards and badges issued to the respective categories of persons, the military authorities empowered to issue them and keep the appropriate records, procedures for keeping the records, delivering the cards and badges and procedures in the event of their destruction or loss.

Provisions for the issuance of identity cards and badges to professional soldiers are detailed in Article 49 of the law of 11 September 2003 on the military service of professional soldiers (Journal of Laws of 2008 No. 141, item 892) and the Regulation of the Minister of National Defense of 16 April 2008 concerning identity cards and badges of professional soldiers and candidate professional soldiers (Journal of Laws No. 79, 473).

Three types of cards are issued on the basis of the above provisions:

- 1) green cards for professional soldiers, candidate professional soldiers and non-professional soldiers - with the exception of medical-sanitary personnel and persons performing pastoral duties;
- 2) yellow card for soldiers and persons serving in militarized units attached to the Armed Forces of the RP performing medical-sanitary duties, civilian medical-sanitary personnel of the Armed Forces, soldiers and civilians performing pastoral duties in the Armed Forces, and also personnel of the Polish Red Cross and other voluntary aid organizations;
- 3) blue card for civilians serving in militarized units attached to the Armed Forces of the Armed Forces of the RP and persons accompanying the Armed Forces of the RP.

The cards meet the requirements laid down in Article 40 of Geneva Convention I, Article 42 of Geneva Convention II and Article 17 of Geneva Convention III. The identity card is a polycarbon card, with print on both sides, dimensions 86 by 54 millimeters, 0.76 mm thick (i.e. pocket sized). The materials used for its production ensure that it is resistant to accidental or intentional damage and highly fire-resistant. Since identity cards often play the role of passports, they incorporate security features preventing forgery and allowing authentication.

The identity card contains all the data required under the 1949 Geneva Conventions, i.e. surname, given names, date of birth, military rank, ID number. The document also includes the bearer's photo and signature and the seal of the military issuing authority. The card also contains other data that facilitate the identification of the bearer, such as the PESEL (personal statistical) number, service status, blood group, number of the ID badge, name of the issuing country and card serial number. The identity cards are issued by the Head of the Organization and Replenishment Directorate of the General Staff of the Armed Forces.

25. Protection of the staff of national Red Cross/Red Crescent Societies and of other recognized voluntary aid societies

The objective of Article 26 of Geneva Convention I is to put aid societies authorized to support regular medical services of the armed forces of a given country on equal footing with armed forces medical personnel, both with regard to the protection they enjoy and treatment, if they fall into the hands of the enemy.

J. Pictet's commentary to the Geneva Conventions stipulates the following conditions for granting protection to the staff of authorized societies designated to assist regular medical services of the armed forces:

1) The given organization must be duly recognized by the government of its home country: the role and tasks of the Polish Red Cross are elaborated in the law of 16 November 1964 on the Polish Red Cross and the PRC Statute introduced on the basis of the Regulation of the Council of Ministers of 25 October 2004 on the adoption of the Statute of the Polish Red Cross.

2) The given organization must be authorized to lend its assistance to the medical service of the armed forces: under Polish law that condition is fulfilled through Article 2 of the law on the PRC, which stipulates that the Polish Red Cross is an organization providing voluntary assistance to the medical service and the medical service of the Armed Forces. Furthermore, § 9.1 of the PRC Statute asserts that the Polish Red Cross provides assistance to the military and civilian medical service during armed conflict, pursuant to the provisions of the 1949 Geneva Conventions and the 1977 Protocols Additional, and conducts humanitarian activity for the benefits of the victims of armed conflicts.

3) Appropriate notification must be given: a government which has authorized one or more society to assist the medical service of its armed forces must, at the latest before actually employing their personnel, notify all other signatory states of the fact in peacetime or its adversaries in time of war. This requirement is in the interest of the personnel concerned since otherwise, the other party to the conflict, if not notified of the fact, could refuse to grant due protection to the personnel. The commentary suggests that in order to avoid any misunderstandings this requirement should also be fulfilled with respect of the personnel of the national society of the Red Cross or Red Crescent, even though the existence of such an organization in the given country 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 Movement bodies, in International Conferences of the Red Cross and Red Crescent. The Ministry of Foreign Affairs should play a leading role in the implementation of this requirement.

4) The staff of voluntary societies must, in time of war, be subject to military laws and regulations, while acting of behalf of a given state – this requirement stems from the international law principle of the state's responsibility for the actions of its representatives or organs. In practice, this means that the persons in question are under the command of military superiors and that military authorities are obligated to issue the staff of these organizations with appropriate identity badges and cards. The latter obligation is implemented in accordance with Article 54a of the law of 21 November 1967 on the universal duty to defend the Republic of Poland (Journal of Laws of 2004, No. 241, item 2416, as amended) and the related

Regulation of the Minister of National Defense of 10 April 2008 concerning identity cards and badges. The subordination of the staff of aid societies to military authorities does not mean that these organizations lose their identity and status, so according them equal protection does not mean that the staff of these organizations has been incorporated into the armed forces.

The rules of such subordination should be specified in national law (e.g. in the form of a regulation connected with the law of the PRC). It is noteworthy that the Regulation of the President of the Republic of Poland of 1 September 1927 (Journal of Laws of the RP No. 79, item 688 – annulled by the 1964 law on the PRC), envisaged in Article 5 “upon the outbreak of hostilities, proclamation of general or partial mobilization, and also in instances when the interest of State so requires, affirmed by resolution of the Council of Ministers, the Polish Red Cross Society shall be fully subordinated to the Minister of War Affairs”. Today, that sort of solution would be impossible – if only because of the Fundamental Principles of the Movement.

5) The staff of aid societies should perform the same tasks as the personnel of the military medical service : this principle means that special protection is only accorded to those staff members of a given society who actually perform the duties of military medical personnel (and not all staff members of a society authorized to play an auxiliary role in relation to the medical service of the armed forces). These tasks are specified in Article 24 of Geneva Convention I and consist in the search for , or the collection, transport or treatment of the wounded or sick, or in the prevention of disease and administration of medical units of establishments.

26. Release on parole

Polish law does not contain provisions permitting or prohibiting citizens of the Republic of Poland from accepting release on parole or promise. It should be noted that in the inter-war period there existed the institution of rehabilitation proceedings applied to every officer returning from captivity, to determine if the circumstances of his falling into enemy hands were justified. Furthermore, the Penal Code of the Polish Army of 23 September 1944 penalized the signing by a soldier in captivity of an undertaking to refrain from further combat against the enemy; it carried the minimum term of 5 years' imprisonment.

27. Legal advisers in the armed forces

The issue of accessibility of legal advisers in the Armed Forces of the Republic of Poland is regulated by decision No. 419/MON of the Minister of National Defense of 20 October 2006 on the organization of the legal service in organizational units of the Ministry of National Defense and organizational units subordinated to the Minister of National Defense and certain organizational units under his supervision (Official MND Journal No. 19, item 255, as amended). The decision established the Military Legal Service composed of legal advisers, who are persons serving or employed in legal units or independent posts providing legal assistance. The Military Legal Service has the basic tasks of ensuring legal protection of the interests of the Armed Forces of the RP and supporting commanders in the performance of official tasks, in accordance with the law in force. The legal advisers achieve that by providing professional legal advice in the understanding of Article 82 of Additional Protocol I to the 1949 Geneva Conventions, with particular reference to operational law (including the rules of engagement) and international humanitarian law of armed conflict. The legal advisers

are obligated to inform commanders about violations of the law and the consequences of such violations. They are not empowered to prosecute breaches of the law of armed conflict; the responsibility for this rests with military prosecutors, the Military Gendarmeries and the Police.

Military prosecutors are also active in the sphere of dissemination of legal norms (including international humanitarian law of armed conflict). Prosecutors take part in training for soldiers in units stationing in Poland and those attached to Polish Military Contingents abroad. In performing their duties, prosecutors remain in direct contact with the commanders of military units within their territorial jurisdiction, responding to their requests for training assistance and providing them with legal advice.

28. Special protection of certain categories of persons

a) Ministry of National Defense

The question of conscription for service in the armed forces and possible exemptions from service is regulated by the 1967 law on the universal duty to defend the Republic of Poland. Article 58.1 of the law stipulates that the following categories of Polish citizens are subject to conscription:

- 1) males, from 1 January of the calendar year in which they attain the age of 18, till the end of the calendar year in which they attain the age of fifty, and in the case of persons with the rank of officer – sixty;
- 2) women possessing qualifications useful in the service, from 1 January of the calendar year in which they attain the age of 18 till the end of the calendar year in which they attain the age of forty, and in the case of persons with the rank of officer – fifty.

The following categories of persons are not subject to mandatory military service:

- 1) persons determined permanently unfit for service for medical reasons;
- 2) women:
 - a) during pregnancy or within six months of giving birth;
 - b) with children under eight;
- 3) women providing care for:
 - a) children aged eight to sixteen,
 - b) bedridden persons,
- c) persons determined to be permanently unfit for work on a farm, on the basis of the law of 20 December 1990 on social security for farmers (Journal of Laws of 2008, No. 50, item 291, as amended),

d) persons found to be totally unfit for work or independent existence on the basis of the law of 17 December 1998 on pensions from the Social Security Fund (Journal of Laws of 2004, No. 39, item 353, as amended),

e) persons with a high degree of disability in the understanding of the law of 27 August 1997 on vocational and social rehabilitation and employment of the disabled (Journal of Laws of 2008, No. 14, item 92, as amended), if the persons in question reside together with them and cannot be put in the care of other persons.

It should be noted, however, that the Armed Forces of the RP are currently undergoing the process of professionalization, aimed at the replacement of mandatory service with voluntary professional service.

The provisions of penal law currently in force envisage penal liability for prohibited acts, committed after the perpetrator attained the age of 17. In exceptional cases a juvenile may be subject to penal liability upon the simultaneous fulfillment of the prerequisites of Article 10 § 2 of the Penal Code, that is that the perpetrator committed one of the specified offences after attaining the age of 15 and the circumstance of the case, the degree of development of the perpetrator and his personal situation so warrant, (particularly, if educational or corrective measures have proved ineffective).

If a penalty is adjudicated, it may not exceed two-thirds of the statutory maximum penalty for the offence imputed to the perpetrator. Furthermore, the court is empowered to apply extraordinary mitigation of the punishment (Article 10 § 3 of the Penal Code). The catalog of penalties specified in article 32 of the Penal Code does not envisage capital punishment. Furthermore, persons who have not attained the age of 18 are explicitly exempted from life imprisonment (Article 54 § 2 of the Penal Code). The possible educational or corrective measures in the form of placement in a correctional institution are elaborated in the law of 26 October 1982 on proceedings in cases involving juveniles (Journal of Laws of 2002, No. 11, item 109, as amended).

b) Polish Red Cross

The ratified 1949 Geneva Conventions and the 1977 Additional Protocols obligate Poland to establish and operate a bureau for the purpose of collecting information on the victims of wars and armed conflicts and conveying it to their families. Accordingly, pursuant to the law on the Polish Red Cross of 16 November 1964, the Polish Red Cross, runs - on behalf of the state – a national information bureau called the Information and Tracing Bureau of the PRC.

In performing its tasks, the Information and Tracing Bureau of the PRC collaborates with the Central Tracing Agency of the International Committee of the Red Cross in Geneva and ICRC Delegations in conflict zones, the International Tracing Service in Bad Arolsen (Germany) and several dozen national societies of the Red Cross and Red Crescent. In Poland, the Bureau cooperates with numerous institutions which have information on victims of World War II and contemporary armed conflicts (e.g. Institute of National Remembrance, Museum of the Warsaw Uprising, Jewish Historical Institute, Council for the Protection of the Memory of Struggle and Martyrdom, Office for Aliens, State Archives).

The Polish Red Cross is a member of the International Red Cross and Red Crescent Movement. Relations between the tracing bureaus of the national societies of the Red

Cross/Red Crescent, the central Tracing Agency in Geneva and the International Tracing Service in Bad Arolsen take place in the framework of ongoing, operational contacts.

29. Specially trained personnel

Polish law does not contain provisions on the establishment of lists of qualified personnel for the purpose of facilitating the application of the 1949 Geneva Conventions and 1977 Additional Protocols and on the transmission of such lists to the ICRC. The institution of specially trained personnel is connected with the activity of the Protecting Powers, and has been used only on five occasions since the end of World War II (the last time during the 1982 conflict between Great Britain and Argentina). In practice, the functions envisaged for the Protecting Powers are usually performed by the ICRC.

31. National regulations relating to the treatment of prisoners of war under the Third Geneva Convention

Issues connected with the treatment of prisoners of war, pursuant to the provisions of Geneva Convention III of 1949, have been regulated in the following Defensive Norms, introduced by decision Nr. 308/MON of the Minister of National Defense of 23 June 2008:

- 1) NO-02-A020:2000 *Procedures for the treatment of prisoners of war* – defines the rules of the treatment of prisoners of war and their possessions and specimens of documents needed to keep records of prisoners, their personal and military possessions;
- 2) NO-02-A0036:2001 *Interrogation of prisoners of war* - lays down procedures for the interrogation of prisoners of war, the division of prisoners of war into categories depending on the information in their possession and the division of the interrogating units, specimens of interrogation reports;
- 3) NO-02-A037:2001 *Treatment of captured equipment and documents of the adversary* – elaborates procedures for checking the equipment and documents of the adversary, ways of marking and handling them, the content of reconnaissance reports and their transfer to the competent intelligence authorities and the types of equipment that should be collected and examined by specialist reconnaissance teams.

Section III of chapter 2 of the law on the universal duty to defend the Republic of Poland specifies the types of military ranks (with division into privates, non-commissioned officers and officers). Article 43 of Geneva Convention III does not elaborate the methods for communicating to the adversary 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 obligates combatant states to convey the relevant information upon the opening of hostilities. In practice, the fulfillment of this obligation could be take any form ensuring that the provision is duly implemented.

Polish law does not contain regulations for the fulfillment of the provisions of Geneva Convention III concerning relations of prisoners with the outside world.

31. National regulations relating to the treatment of internees under Geneva Convention IV

Polish law does not contain provisions concerning the treatment of internees under Geneva Convention IV.

32. National regulations relating to repatriation under Geneva Conventions III and IV

The provisions of Polish law do not regulate issues relating to direct repatriation and accommodation in neutral countries of prisoners of war who are seriously wounded or ill, including the implementation of model repatriation agreements and regulations on Mixed Medical Commissions contained in the annexes to Geneva Convention III. The elaboration of the rules of repatriation is up to the parties to the conflict. In practice, it would be difficult to conclude a relevant agreement before the opening of hostilities. Article 110 explicitly stipulates that in the absence of such agreements, application will be made of the rules laid down in the model agreement on the direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war and in the regulations on Mixed Medical Commissions annexed to the Convention.

33. The establishment of the National Information Bureau

In accordance with the provisions of the first paragraph of Article 122 of Geneva Convention III and the first paragraph of Article 136 of Geneva Convention IV, upon the outbreak of a conflict and in all cases of occupation each of the parties to the conflict should institute an official information bureau and ensure the essential conditions for its efficient operation. The same obligation has been placed on neutral countries, or countries not involved in the conflict who can receive persons entitled to protection in their territories.

The National Information Bureau operates on the basis of the law of 16 November 1964 on the Polish Red Cross, the Regulation of the Prime Minister of 12 May 1999 concerning the delegation of the competences of the Prime Minister elaborated in the law on the Polish Red Cross (Journal of Laws No. 42, item 425) and the Regulation of the Council of Ministers of 25 October 2004 concerning adoption of the Statute of the Polish Red Cross.

Pursuant to the provisions of the above legal acts and Article 131 of the law of 30 June 2005 on public finances (Journal of Laws No. 249, item 2104, as amended), the Minister of Interior and Administration assigns to the Polish Red Cross, in accordance with the provisions of the law of 24 April 2003 on public benefit and volunteer activity (Journal of Laws No. 96, item 873, as amended), the implementation of the public task *“Management of the National Information and Tracing Bureau, envisaged in international conventions on the treatment of prisoners of war and protection of civilians during wartime”*. The relevant agreement is signed during each budget year.

On 19 February 2009 the Ministry of Interior and Administration and the Main Board of the Polish Red Cross signed an agreement on the implementation of the public task *“Management of the National Information and Tracing Bureau, envisaged in international conventions on the treatment of prisoners of war and protection of civilians during wartime”*, with simultaneous transfer of 1.6 million PLN in state budget subsidy for the purpose.

34. The organization of civil defense

Issues relating to civil defense in Poland are regulated by the following legal acts:

- 1) 1977 Additional Protocol I of to the 1949 Geneva Conventions relating to the protection of victims of international armed conflicts;
- 2) Law of 21 November 1967 on the universal duty to defend the Republic of Poland, with particular reference to article 17 and Section IV: Civil Defense;
- 3) executive acts to the law, particularly:
 - Regulation of the Council of Ministers of 25 June 2002 concerning the terms of reference of the Head of National Civil Defense and the heads of national defense of voivodships, counties and communes,
 - Regulation of the Minister of Interior and Administration of 26 September 2002 concerning service in civil defense.

The structure of national defense in the Republic of Poland is based on the administrative division of the country, with civil defense in each territorial unit led by the head of its administration. At national level, the Head of National Civil Defense is subordinated to the Minister of Interior and Administration. Civil defense formations are the basic organizational unit designated for the implementation of civil defense tasks. Certain difficulty with ensuring protection for civil defense subjects may be noted at voivodship level, since under the provisions of domestic law the voivode is obligated to implement tasks relating to national defense. In the light of article 65 of Additional Protocol I this could cause cessation of the protection of the voivode and of the voivodship office. In an extreme situation, it is possible to imagine the destruction of centers coordinating civil defense at voivodship level.

Issues relating to the protection of the emblem of civil defense are only regulated in the 1977 Additional Protocol I. There are no domestic law regulations concerning the emblem of civil defense in peacetime, as is the case with the emblem of the Red Cross, protected pursuant to the law of 16 November 1964 on the Polish Red Cross.

35. Protection of cultural property

a) Ministry of National Defense

The Ministry of National Defense has long been actively involved in efforts to ensure the protection of cultural property. The topic is taken up in educational programs in all military units. Commanders have the duty of acquainting soldiers in their units with the history of the region where the unit is stationed, with special note to local monuments.

Rules concerning the implementation of the provisions of the Convention for the protection of cultural property in the event of armed conflict, along with the Regulations for its execution, the Protocol for the protection of cultural property, signed in The Hague on 14 May 1954 (Journal of Laws of 1957, No. 46, item 212) and the law of 23 July 2003 on the protection of monuments and care for monuments (Journal of Laws No. 162, item 1568, and of 2004, No. 96, item 959) were introduced on the basis of decision No. 250/MON of 4 August 2005

concerning the observance of the rules of protection of cultural property in the activity of the Armed Forces of the Republic of Poland (Official MND Journal No. 15, item 135). The decision specifies the tasks and competences of top officials in the Ministry of National Defense, directors of the relevant organizational units of the MND (the Department of Infrastructure and the Department of Education and Defense Promotion), commander-rectors of Military Academies and higher schools for officers, commanders of training centers and commanders of the Armed Forces. The decision introduces the Instructions on the protection of cultural property in the activity of the Armed Forces of the Republic of Poland, which specify the procedures for the protection of cultural property in the course of military operations during armed conflict and protection tasks during peace or allied missions, as well as preparatory works relating to the protection of cultural property for the event of armed conflict and threats during peacetime, concerning cultural property under administration of the Ministry of National Defense. The Instructions are annexed with a listing of subjects mandatory during training for professional soldiers, conscripts and Ministry employees and a protocol of cultural heritage monitoring, which provides for computer processing and storage of information on the cultural heritage.

The dissemination of knowledge about the protection of cultural property during armed conflicts is served by various publications, training sessions and conferences organized and co-organized by the Ministry of National Defense (jointly with the Ministry of Culture and National Heritage and numerous NGOs concerned with the subject). Particular note, as concerns these issues, is due the following projects:

1) CD (in Polish and English language versions) titled *Base of Protected Objects in the Republic of Poland*, presenting monuments in Poland subject to special protection due to their historical, scientific or social character. The base is meant to help the Armed Forces identify the most valuable objects in the event of conflict and vulnerable to peacetime threats. The CD also contains the texts of legal acts, both international and domestic, dealing with the protection of cultural property, teaching aids for training sessions and tactical markings, introduced by the Chief of General Staff for mapmaking. The system permits the printing of selected information;

2) website of the Central Club of Polish Soldiers (www.dzp.wojsko.pl) devoted to the revitalization of monuments of military architecture, which contains information on conferences, meetings, seminars and other initiatives relating to the promotion of military monuments, a selection of normative acts, a listing of MND publications and addresses of institutions, foundations and associations concerned with the revitalization of military objects.

b) Ministry of Culture and National Heritage

The principles of protection of cultural property in the event of armed conflict are defined in the Regulation of the Minister of Culture of 25 August 2004 on the organization and methods of protection of monuments in the event of armed conflict and crisis situations (Journal of Laws No. 212, item 2153). Its most important provisions include an obligation by the owner or user of cultural property to prepare a plan for the protection of the most valuable cultural property, including its evacuation in the event of threat. The Regulation also elaborates the symbolic markings used in plans of protection of cultural property, the rules for marking objects, the principles of training personnel assigned to the protection of cultural property and specimens of identity cards issued to the personnel assigned to the protection of cultural property.

Cultural property subject to protection in the Republic of Poland can be marked with distinctive emblems, defined in the Hague Convention of 14 May 1954. The principles of applying such markings are defined in the Regulation of the Minister of Culture of 9 February 2004 concerning the information emblem on immovable monuments entered in the register of monuments (Journal of Laws No. 30, item 259).

In order to acquaint soldiers of the Polish Army with the provisions concerning protection of cultural property in the event of armed conflict, seven week-long courses were organized in the years 2003-2009 for officers at the Center for the Protection of the Population and Cultural Property, attached to the Officer Training School of the State Fire Service in Krakow, in collaboration with the Ministry of Cultural and National Heritage. Specialist training in the protection of cultural heritage was also organized for units preparing for missions in Iraq and Afghanistan.

Since 2003 the Ministry of Culture and National Heritage has also organized training for civil-military cooperation experts in the field of protection of the cultural heritage, for needs of stabilization missions. The latest such training course took place in Radziejowice on 19-21 May 2009.

In Iraq, in the years 2003-2008, the Polish Military Contingent included 12 civilian specialists, trained and supervised by the Ministry of Culture and National Heritage, who fulfilled tasks in the protection of cultural heritage, in accordance with international law. Their work was the subject of the following publications: "The Polish Army protects Iraqi heritage" and "Mission in the ruins of Babylon. Facts and documents", authored by Kazimierz Niciński and Krzysztof Sałaciński.

In 2004 the Ministry of Culture and National Heritage organized an international conference on "The protection of cultural property in the event of threats in war and peacetime". The conference was one of the projects held around the world to mark the 50th anniversary of the 1954 Convention. The Director General of UNESCO assumed patronage of the Conference, which was attended by representatives of 22 countries.

In October 2005 the Ministry of Culture and National Heritage was the organizer of a regional seminar on the implementation in national law of the principles of protection of cultural property in compliance with the 1954 Hague Convention. The seminar, co-organized by the Regional Delegation of the International Red Cross, was attended by 6 countries.

According to Polish law, persons who commit breaches of the Hague Convention during warfare are subject to sanctions under Chapter XVI of the Penal Code: crimes against peace, humanity and war crimes.

The introduction of these provisions into the Penal Code fulfilled the requirements of Article 28 of the Convention, which obligates the states parties to introduce into their penal law sanctions for breaches of the Convention. The Penal Code envisages the prosecution of perpetrators regardless of nationality, if the offence was committed in the territory of the Republic of Poland.

Pursuant to Resolution II to the 1954 Hague Convention, the Republic of Poland has an appropriate advisory body. It was established by Regulation of the Council of Ministers of 27

April 2004 on the Polish Advisory Committee (Journal of Laws No. 102, item 1066). The Polish Advisory Committee is an auxiliary organ of the Council of Ministers, chaired by the Minister of Culture and National Heritage or an under secretary of state responsible for the protection of monuments. The Committee is composed of representatives of the Ministry of Culture and National Heritage, the Ministry of Interior and Administration, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Education and specialists in the field of monument protection.

36. Protection of the natural environment

The Republic of Poland is a party to the Nuclear Test Ban Treaty of 5 August 1963, the Convention on the prohibition of military or any hostile use of environment modification techniques of 10 December 1976, and the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal of 22 March 1989.

The protection of the natural environment is comprehensively regulated by the Law on the protection of the natural environment of 27 April 2001 (Journal of Laws of 2008, No. 25, item 150, as amended).

In its policy on environment protection, the Ministry of National Defense seeks to minimize damage to the environment caused by the functioning of armed forces. Environment protection, due to its complex and interdisciplinary nature, is treated by the Armed Forces of the RP as a separate sub-system in the structures of the Ministry of National Defense. The development of functioning of the sub-system is based on the following premises:

- protection of the environment and its resources is the task of every soldier and every employee of the Ministry,
- the organization of environment protection is the task of commanders at all levels of the Armed Forces of the RP and managers of other organizational units of the Minister,
- the principle of minimizing damage to the environment is the guiding rule in training and fulfillment of other tasks,
- rational use must be made of the natural resources,
- ecological education is an integral part of every form of training and education in the Armed Forces of the RP,
- the Armed Forces of the RP serve as a positive example as regards protection of the natural environment.

The implementation of the goals and strategy of environment protection in the defense sector is based on the following elements:

- minimizing damage to the natural environment caused by current activity,
- prevention of future damage, also through legislation,
- eradication of past environmental damage,

- providing the defense sector with adequate financial resources in order to fulfill its ecological goals,
- supervision of environment-oriented undertakings.

A number of legal acts has been adopted with the above in mind, including the Regulation of the Minister of National Defense of 16 October 2008 concerning designation of the organs responsible for supervision of environment protection in the organizational units of the Ministry of National Defense and organizational units subordinated to the Minister of National Defense or supervised by him (Journal of Laws No. 195, item 1203) and the Regulation of the Minister of National Defense of 9 August 2002 concerning training instructions on the protection of plants and animals in the course of field training of the Armed Forces of the RP (Journal of Laws No. 137, item 1157). Annual reports are prepared on the state of the environment in areas at the disposal of the Minister of National Defense and on fulfillment by organizational units of the Armed Forces of the RP of environment protection requirements, including:

- compilation of the quantities of gas and dust emissions, quantities of water used and sewage discharged,
- collection of information about infrastructural objects having substantial impact on the environment as the basis for establishing a central data base on such objects used by the Ministry of National Defense,
- collection of information about harmful and other waste materials.

Article 120 of the Penal Code penalizes the use of means of mass extermination. The catalog 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.

37. Protection of works and installations containing dangerous forces

The protection of works and installations containing dangerous forces in the understanding of Article 56 of Additional Protocol I (dams, dikes, nuclear power plants) is regulated by the following legal acts:

- 1) law of 22 August 1997 on the protection of persons and property (Journal of Laws of 2005 No. 145, item 1221, as amended) which defines the areas, objects and installations subject to special protection, and supervision over the functioning of persons and property;
- 2) law of 23 August 2001 on the organization of tasks for the defense of the state implemented by entrepreneurs (Journal of Laws No. 122, item 1320), which lays down rules for the organization of tasks for the defense of the state, implemented by entrepreneurs conducting business activity in the territory of the Republic of Poland (with reference to entrepreneurs of special economic-defensive significance), and specifies the organs competent for the supervision of these tasks and the principles of their financing;

3) Regulation of the Council of Ministers of 24 June 2003 concerning objects of special importance for state security and defense and their special protection (Journal of Laws No. 116, item 1090), which specifies the categories of objects of special importance to state security and defense, the tasks involved in their special protection and the competencies of state authorities in these matters.

The above-mentioned normative acts do not contain provisions concerning the application of model agreements, which upon the opening of hostilities would make it possible to exclude certain categories of objects and installations containing dangerous forces in the understanding of Article 56 of Additional Protocol I and the use of the protective emblem of three bright orange circles on the same axis, specified in Article 16 of annex I to the Protocol.

38. New weapons

The tactical-technical assumptions of weapons and military equipment, which constitute the basis for initiating the relevant development works, take into account safety and environmental considerations. However, there are no separate procedures for the examination of new weapons and equipment under development as to their compliance with norms of international humanitarian law of armed conflict, and there is no separate body tasked with conducting such examinations. New weapons and military equipment are subject to appraisal for compliance with technical specifications elaborated on the basis of the law of 17 November 2006 on the system of compliance of products manufactured for state security and defense needs (Journal of Laws No. 235, item 1700) and the connected executive acts.