

Second Report on the Implementation and Dissemination of International Humanitarian Law in the Republic of Poland

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I. Implementation of international humanitarian law in Poland – principles and structures

1. International law in the Polish legal system

Article 9 of the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws No 78, item 483, as amended) stipulates that “The Republic of Poland shall respect international law binding upon it,” and thus also customary international law. This means that in the course of its legislative activity Parliament is bound by the provisions of international agreements concluded and ratified by Poland. The same applies to the executive branch. Furthermore, Article 9 of the Constitution provides that all acts of domestic law have to comply with widely understood international law and not merely international agreements. The Constitution, in laying down the powers of the Constitutional Tribunal, authorised it to check the constitutionality of agreements being concluded and the compliance of laws with ratified international agreements.

Poland becomes bound by international agreements once they are ratified by the President of the Republic of Poland (RP) or accepted by the Council of Ministers. Non-ratified agreements are only binding upon the organs of state administration which have concluded the said agreements and do not constitute sources of universally binding law (Article 87.1 of the Constitution), although they are binding upon the State in international relations in the same way as ratified agreements.

Ratification of the most important international accords may take place only on the basis of prior statutory consent granted by Parliament (Article 89). 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,
- placing a significant financial burden on the state,
- 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 (“JoL”), constitutes part of the domestic legal order and is applied directly, unless its application depends on the enactment of a statute (Article 91.1 of the Constitution).

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

Moreover, it should be emphasized that pursuant to Article 241.1 of the Constitution, international agreements ratified in the past by the Republic of Poland on the basis of constitutional provisions applicable during the time of ratification and published in the Journal of Laws are deemed ratified agreements with earlier consent expresses in law. Article 91 of the Constitution applies to such agreements, if the provisions of the international agreement provide for their application to the categories of issues specified in Article 89.1 of the Constitution.

2. Multilateral international agreements in the field of international humanitarian law ratified by the Republic of Poland:

- 1) Convention on Hospital Ships, signed at The Hague on 21 December 1904 (JoL of 1936, No 60, item 439).
- 2) Convention relative to the Rights and Duties of Neutral Powers and Persons in Case of War on Land, signed at The Hague on 18 October 1907 (JoL of 1927, No 21, item 163).
- 3) Convention relative to the Rights and Duties of Neutral Powers and Persons in Case of War on Land, signed at The Hague on 18 October 1907 together with the relevant Regulation (JoL of 1927, No 21, item 161).
- 4) Convention concerning Bombardment by Naval Forces in Time of War, signed at The Hague on 18 October 1907 (JoL of 1936, No 6, item 66);
- 5) Convention relative to the Legal Position of Enemy Merchant Ships at the Start of Hostilities, signed at The Hague on 18 October 1907 (JoL of 1936, No 6, item 64).
- 6) Convention relative to the Conversion of Merchant Ships into War-Ships, signed at The Hague on 18 October 1907 (JoL of 1936, No 6, item 65).
- 7) Convention concerning Bombardment by Naval Forces in Time of War, signed at The Hague on 18 October 1907 (JoL of 1936, No 6, item 66);
- 8) Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention, signed at The Hague on 18 October 1907 (JoL of 1936, No 6, item 67);
- 9) Convention relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War, signed at The Hague on 18 October 1907 (JoL of 1936, No 6, item 68);
- 10) Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925 (JoL of 1929, No 28, item 278);
- 11) Procès-verbal relating to the Rules of Submarine Warfare set forth in part IV of the London Treaty of 22 April 1930, signed at London on 6 November 1936 (JoL of 1937, No 55, item 425).
- 12) International Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, signed at London on 8 August 1945 (JoL of 1947, No 63, item 367);

- 13) Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948 (JoL of 1952, No 2, item 9);
- 14) Geneva Conventions for the Protection of War Victims of 12 August 1949 (JoL of 1956, No 38, item 171).
 - First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field,
 - Second Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea,
 - Third Geneva Convention relative to the Treatment of Prisoners of War,
 - Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War,
- 15) 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, signed at The Hague on 14 May 1954 (JoL of 1957, No 46, item 212).
- 16) Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted by the United Nations General Assembly on 26 November 1968 (JoL of 1970, No 26, item 208);
- 17) Convention on the Prohibition of the Development, Production and Stockpiling of Biological and Toxin Weapons and on their Destruction, done at Moscow, London and Washington on 10 April 1972 (JoL of 1976, No 1, item 1).
- 18) Convention on the Prohibition of Military or Any Other Hostile Use of Environment Modification Techniques, opened for signature in Geneva on 18 May 1977 (JoL of 1978, No 31, item 132).
- 19) Protocols Additional to the Geneva Conventions of 12 August 1949, done at Geneva on 8 June 1977 (JoL of 1992, No 41, item 175, annex):
 - Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I),
 - Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II);
- 20) Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, with annexes, done at Geneva on 10 October 1980 (JoL of 1984, No 23, item 104):
 - 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);
- 21) Convention on the Rights of the Child, adopted by the United Nations General

- Assembly on 20 November 1989 (JoL of 1991, No 120, item 526);
- 22) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on 13 January 1993 (JoL of 1999, No 63, item 703);
 - 23) 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, (JoL of 2007, No 215, item 1583), (Protocol IV on blinding laser weapons);
 - 24) 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 (JoL of 2005, No 125, item 1408);
 - 25) Rome Statute of the International Criminal Court, done at Rome on 17 July 1998 (JoL of 2003, No 78, item 708);
 - 26) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted in New York on 25 May 2000 (JoL of 2007, No 91, item 608);
 - 27) Amended Article I of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, with annexes, done at Geneva on 10 October 1980, adopted by the States-Parties to the Convention at the Second CCW Review Conference in Geneva on 21 December 2001 (JoL of 2007, No 85, item 566);
 - 28) Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Adoption of an Additional Distinctive Emblem (Protocol III), adopted in Geneva on 8 December 2005 (JoL of 2010, No 70, item 447);

3. Multilateral international agreements in the field of international humanitarian law, signed by the Republic of Poland or currently in the process of ratification:

- 29) International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the United Nations General Assembly on 4 December 1989 – signed by the representative of the Republic of Poland on 28 December 1990.
- 30) Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, signed at Oslo on 18 September 1997 – signed by the representative of the Republic of Poland on 4 December 1997; work is currently under way to ratify the Convention in 2012;
- 31) Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on 26 March 1999;
- 32) Protocol on Explosive Remnants of War to the Convention on Prohibitions or

Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Protocol V), done at Geneva on 28 November 2003; work is currently under way to ratify this agreement.

4. Competence of national bodies and organizations in the implementation and dissemination of IHL

In Poland, both the executive and judicial authorities are responsible for the implementation and dissemination of IHL.

As far as the executive branch is concerned, activities are coordinated by the Ministry of Foreign Affairs, which inspires the activities of the Commission for International Humanitarian Law established in 2004 (Ordinance of the Prime Minister No 51 of 20 May 2004 (National Journal of Orders and Regulations of 2004, No 23, item 402 and of 2009, No73, item 918), tasked with the dissemination international humanitarian law standards for the purpose of transforming them into the Polish legal system. The Commission comprises representatives of the ministries competent in matters of implementation and dissemination of IHL, including representatives of the Ministry of National Defence, the Ministry of Justice, and the Ministry of Interior and Administration.

Courts and tribunals performing judicial functions 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 fulfilment of three premises: the agreement must be ratified, promulgated in the JoL, and suitable for direct application, i.e. it must not require the enactment of a statute. In exercising their office, judges are independent and answerable only to the Constitution and statutes (Article 178.1 of the Constitution).

II. Special protection of certain categories of persons

1. National civil defence

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

- a) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977;
- b) Act of 21 November 1967 on the Universal Duty to Defend the Republic of Poland (JoL of 2004 No 241, item 2416, as amended.), and in particular its Article 17 and Section IV: Civil Defence.
- c) Executive acts to the Act, particularly:

- Ordinance of the Council of Ministers of 25 June 2002 concerning the terms of reference of the Chief of National Civil Defence and the chiefs of civil defence of voivodeships, counties (*powiat*) and communes (*gmina*) (JoL of 2004 No 96, item 850),
- Ordinance of the Minister of Interior and Administration of 26 September 2002 concerning service in civil defence (JoL No 169, item 1391, and JoL of 2008 No 108, item 698).

The structure of civil defence in the Republic of Poland is based on the administrative division of the country, with civil defence in each territorial unit led by the head (*wójt, starosta, wojewoda*) of its administration. At the central level, the Chief of National Civil Defence reports to the Minister of Interior and Administration. Civil defence formations are the basic organizational units competent to perform civil defence tasks. Certain difficulty with ensuring protection as part of civil defence exists at the voivodeship level, since under the domestic law the Voivode is obligated to implement tasks relating to national defence. In light of Article 65 of Additional Protocol I, this could cause a cessation of the protection of the Voivode and of the Voivodeship office. In an extreme situation, it is possible to imagine the destruction of centres coordinating civil defence at the voivodeship level.

Issues relating to the protection of the emblem of civil defence are regulated in the 1977 Additional Protocol I and not anywhere else. There are no domestic regulations concerning the emblem of civil defence in peacetime, as is the case with the emblem of the Red Cross, protected pursuant to the Polish Red Cross Act of 16 November 1964 (JoL No 41, item 276).

2. Protection of medical and religious personnel

Specific protection granted to medical and religious personnel under international humanitarian law concerns these categories of persons who have received the authorization or order of a belligerent party to act on behalf of war victims. The protection and respect for this type of personnel means that direct attacks against them are prohibited and that they cannot be prevented from performing their humanitarian functions (Articles 24-26 of Geneva Convention I, Article 36 of Geneva Convention II, Article 20 of Geneva Convention IV, and Articles 8 and 15 of Additional Protocol I, Article 9 of Additional Protocol II). No one can be punished or convicted for conducting medical activity in accordance with medical and ethical principles, regardless of the party the intended beneficiary of the activities is from (Article 18 of Geneva Convention I, Article 16.1 of Additional Protocol I, Article 10.1 of Additional Protocol II). Moreover, such persons shall not be forced to perform acts or to carry out work contrary to their professional ethics or other norms that protect the good of the wounded and sick, or be forced to refrain from performing acts or from carrying out work required by those rules and provisions (Article 16.2 of Additional Protocol I, Article 10.2 of Additional Protocol II).

Despite the obligation to refrain from active participation in combat, medical staff may use light personal weapons for their own defence or for that of the wounded and sick in their charge (Article 22.1 of Geneva Convention I, Article 13.2 a) of Additional Protocol I).

The special protection status of medical and religious staff also applies in a situation where such persons fall into the hands of the enemy (Article 33 and 35 of Geneva Convention III). Though they shall not be formally considered as prisoners of war, they shall receive all the benefits and protection applicable to prisoners of war. While in camps containing prisoners of war, they shall not be obliged to do any work other than connected with their medical or spiritual functions. They should have the right to have access to the competent authorities of the camp in all matters relating to their duties. Chaplains shall exercise freely their ministry amongst prisoners of war of the same religion and shall be free to correspond with the ecclesiastical authorities in the country of detention and with international religious organizations.

In order to materialize the protection applicable to religious and spiritual staff, such persons may use the protective emblems defined by international law (Articles 38 and 44 of Geneva Convention I, Article 18 of Additional Protocol I, Article 12 of Additional Protocol II) and identity badges and cards. In Polish law, the use of protective emblems is laid down in Defensive Norm NO-02-A032:2009 displaying and concealing the Geneva Emblem on medical premises on land introduced by Decision No 105/MON of the Minister of National Defence of 1 April 2011 concerning the adoption and introduction of normalization documents pertaining to defence and national security (Official Journal of the Ministry of National Defence No 7, item 90). The issue of identity badges and cards is defined in Article 54a of the Act of 21 November 1967 on the universal duty to defend the Republic of Poland and the related executive Ordinance.

Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law shall be qualified as war crimes, pursuant to Article 8.2 b) xxiv of the Rome Statute of the International Criminal Court. Such activity constitutes a crime defined in Article 122 of the Criminal Code of 6 June 1997 (JoL No 88, item 533, as amended), which penalizes attacks on undefended buildings and using other forms of warfare prohibited under international law. Moreover, Article 123 of the Criminal Code penalizes the killing of medical and religious personnel committed in violation of international law and all acts which cause persons to suffer serious detriment to health, subject such persons to torture, cruel or inhuman treatment, make them, even with their consent, the objects of cognitive experiments, use their presence to protect an area or facility, or to protect one's own armed units from warfare, or keep such persons as hostages.

3. Protection of the staff of the Polish Red Cross and of other humanitarian organizations

This issue is regulated primarily by Article 26 of Geneva Convention I of 1949. Its aim 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 Polish Red Cross Act of 16 November 1964 on the and the PRC Statute introduced on the basis of the Ordinance of the Council of Ministers of 25 October 2004 on the adoption of the Statute of the Polish Red Cross. (JoL No 237, item 2372)

2) An 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 PRC Act, 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 Additional Protocols, 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 societies 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 on 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 to the staff of these organizations appropriate identity badges and cards. The latter obligation is implemented in accordance with Article 54a of the Act of 21 November 1967 on the universal duty to defend the Republic of Poland and the related Ordinance of the Minister of National Defence of 10 April 2008 concerning identity cards and badges. (JoL No 79, item 472 and no 105, item 676). The

subordination of the staff of aid societies to military authorities does not mean that these organizations lose their identity and status, so granting them equal protection does not mean that the staff of these organizations have been incorporated into the armed forces.

The rules of such subordination should be specified in domestic law (e.g. in the form of an ordinance to the PRC Act). It is noteworthy that the Ordinance of the President of the Republic of Poland of 1 September 1927 (JoL No 79, item 688 – repealed by the 1964 PRC Act), provided in Article 5 that “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, including the principle independence.

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 or establishments.

It is worth emphasizing that such in-depth regulation of the situation of medical care society staff is mainly linked to the fact that the First Geneva Convention ensures protection for military medical personnel, while the Fourth Geneva Convention provides equal status to civilian and military medical personnel only in exceptional situations. With the adoption of the 1977 Additional Protocols, this issue is of lesser significance for countries which – like Poland – are Parties to the Protocols. This is due to the fact that the Protocols ensure protection for medical personnel as a whole (Article 15 of Protocol I and Article 10 of Protocol II). Article 8.3 of Protocol I stipulates that "medical personnel" shall mean the military or civilian personnel of a Party to the conflict and personnel assigned to civil defence organizations; but also "medical personnel of national Red Cross (...) Societies and other national voluntary aid societies duly recognized and authorized by a Party to the conflict". Accents have thus been shifted – the status and protection of such personnel is not a special privilege, but a rule. However, due to the fact that the staff must be "duly recognized and authorized" by their Governments, and that not all states are parties to the Additional Protocols (as opposed to the Geneva Conventions, which are truly universal in nature), a cautionary approach implies the need to fulfil the above-mentioned requirements under Article 26 of Geneva Convention I.

4. Prisoners of war, interned persons and repatriates

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 No 105/MON of the Minister of National Defence of 1 April 2011, on the confirmation and implementation of normalization documents on national defence and security:

1) NO-02-A020:2010 *Procedures for the treatment of prisoners of war, captured equipment and documents of the adversary* – 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-A0036:2010 *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 and their transfer to the competent intelligence services;

3) NO-02-A042:2001 *Military exercises – Rules for conduct relative to persons pretending to be prisoners of war* – defines procedures aimed at acquiring appropriate habits as far as the treatment of prisoners of war is concerned.

Section III of chapter 2 of the 1967 Act 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), as well as the rules governing the awarding and revoking of military ranks. Article 43 of Geneva Convention III does not precise 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 fulfilment of this obligation could take any form provided it ensures that this provision is duly implemented.

5. National Information Bureau

The Geneva Conventions Relative to the Protection of War Victims of 12 August 1949 (in particular Article 22 of Geneva Convention III and Article 13 of Geneva Convention IV) and the Additional Protocols of 8 June 1977 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 Polish Red Cross Act 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. The National Information Bureau operates on the basis of the Ordinance of the Prime Minister of 12 May 1999 concerning the delegation of the competences of the Prime Minister laid down in the Polish

Red Cross Act (JoL No 42, item 425) and the Ordinance of the Council of Ministers on Accepting the Statute of the Polish Red Cross of 25 October 2004.

Pursuant to the provisions of the above legal acts and Article 131 of the Public Finances Act of 30 June 2005 (JoL No 249, item 2104, as amended), the Minister of Interior and Administration mandates the Polish Red Cross, in accordance with the provisions of the Public Benefit and Volunteer Activity Act of 24 April 2003 (JoL No 96, item 873, as amended) to implement the public task entitled, “Running the National Information and Tracing Bureau, provided for in international conventions on the treatment of prisoners of war and the protection of civilians during wartime”. The relevant agreement is signed every budget year between the Ministry of Interior and Administration and the Main Board of the Polish Red Cross. On the basis of such agreement, the MIA transfers a state budget subsidy for the purpose of operating the National Information and Tracing Bureau.

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).

III. Protection of specific categories of locations and premises:

1. Protection of the natural environment

The Republic of Poland is party to the Nuclear Test Ban Treaty done at Moscow on August 1963 (JoL No 52, item 288), 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 (JoL of 1995 No 19, item 88, annexed).

The protection of the natural environment is comprehensively regulated by the Environmental Protection Act of 27 April 2001 (JoL of 2008, No 25, item 150, as amended).

In its policy on environment protection, the Ministry of National Defence 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 Polish Armed Forces as a separate sub-system in the structures of the Ministry of National Defence. The development and the operation 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 environmental 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 applied to military training and fulfilment of other tasks,
- rational use must be made of the natural resources,
- environmental education is an integral part of every form of training and education in the Armed Forces of the RP,
- the Polish Armed Forces set a positive example of the protection of the natural environment.

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

- minimizing damage to the natural environment caused by current activity,
- prevention of future damage, also through legislation,
- elimination of past environmental damage,
- providing the defence sector with adequate financial resources in order to fulfil its environmental objectives,
- oversight of environment-oriented activities.

A number of legal acts has been adopted with this in mind, including the Ordinance of the Minister of National Defence of 16 October 2008 Identifying Bodies with Oversight Responsibilities for Environmental Protection in the Organizational Units of the Ministry of National Defence and Organizational Units Subordinated to the Minister of National Defence or under His Supervision (JoL No 195, item 1203) and the Ordinance of the Minister of National Defence of 9 August 2002 on Detailed Rules for Drawing Up Training Instruction to Meet the Requirements of Plant and Animal Protection during the Training of the Polish Armed Forces on Testing Grounds (JoL No 137, item 1157). Annual reports are drawn up on the state of the environment in areas under the administration of the Minister of National Defence and on fulfilment 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 Defence,
- collection of information about harmful and other waste materials.

Decision of the Minister of National Defence of 8 June 2010 (196/MON) established a Team for Operating and Improving the National System for Contamination Detection and Response. The Team is currently drafting an amendment to the Ordinance of the Council of Ministers on contamination detection and the division of competences in this regard. The objective of the amendment is to raise the effectiveness of co-operation procedures for entities operating within the National System for Contamination Detection and Response, as well as to define the role of the Government Centre for Security in terms of the operation of contamination detection and response.

In order to ensure external national security and exercise overall leadership in matters of national defence, on 16 October 2006 the Council of Ministers adopted the Ordinance on contamination detection and the division of the relevant competences (JoL No 191, item, 1415), issued on the basis of Article 6.2(5) of the Act of 21 November 1967 on the Universal Duty to Defend the Republic of Poland. This Ordinance applies in the event a state of emergency is declared, in particular due to a natural disaster, in order to prevent the effects of natural disasters, technical malfunction or terrorist acts which may lead to chemical, biological or radioactive contamination.

Under article 120 of the 1997 Criminal Code, the use of means of mass destruction prohibited by international law is a war crime. The catalogue 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.

2. Protection of cultural property

The Republic of Poland is bound by the 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. In 2010, measures were undertaken with a view to acceding to the Second Protocol to the Convention.

The principles of protection of cultural property in the event of armed conflict are defined in the Ordinance 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 (JoL No 212, item 2153). Most importantly it provides for an obligation on the part of the owner or user of cultural property to prepare a plan for the protection of the most valuable cultural sites, including their evacuation in the event of a threat. The Ordinance also provides for the identification of cultural property used in plans of protection, 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.

Rules concerning the implementation of international legal norms for the protection of cultural property are provided for in Decision No 250/MON of 4 August 2005 on Observing

the Rules of Protection of Cultural Property by the Polish Armed Forces in their Activities (Official Journal of the Ministry of National Defence No 15, item 135). "Instruction on the Principles of the Protection of Cultural Property by the Polish Armed Forces in their Activities" is currently being implemented in the Armed Forces. The decision specifies the tasks and competences of top officials in the Ministry of National Defence, commanders of the Armed Forces in the field of protection of cultural property. The organizational structure of the Ministry of National Defence includes an officer responsible for observing the principles of protection of cultural property arising from international law.

Cultural property subject to protection in the Republic of Poland can be marked with distinctive emblems, as defined in the Hague Convention of 14 May 1954. The principles of applying such markings are defined in the Ordinance of the Minister of Culture of 9 February 2004 concerning Information Emblem on Immovable Monuments entered in the Register of Monuments (JoL No 30, item 259).

In order to familiarize Polish Army soldiers with regulations dealing with the protection of cultural property in the event of armed conflict, specialist trainings in the protection of cultural heritage were organized for units preparing for missions in Afghanistan. The MOD published a booklet entitled, "Afghanistan's Cultural Heritage. Legal and Organizational Aspects of Protection" to help implement tasks in Afghanistan,

For many years now, 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 stabilization missions. The most recent expert training was held in May 2010 at the National Defence University. For nine years, the Ministry of Culture and National Heritage has co-organized the Polish School of International Humanitarian Law of Armed Conflict in Radziejowice. For many years, one of the topics covered by the School's curriculum is the "Protection of Cultural Property in the Event of Armed conflict".

According to Polish law, persons who commit breaches of the Hague Convention during armed conflict are subject to sanctions under Chapter XVI of the Criminal Code Act of 6 June 1997: crimes against peace, crimes against humanity and war crimes.

The introduction of these provisions to the Criminal Code fulfilled the requirements of Article 28 of the Convention, which obligates the states parties to introduce sanctions for breaches of the Convention in their criminal law. The Criminal Code provides for the prosecution of perpetrators regardless of nationality and regardless of whether the offence was committed in the territory of the Republic of Poland.

Pursuant to Resolution II to the 1954 Hague Convention, the Republic of Poland has set up an appropriate advisory body. It was established by the Ordinance of the Council of Ministers of 27 April 2004 on the Polish Advisory Committee (JoL No 102, item 1066). The Polish Advisory Committee is an auxiliary body 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 National Defence, 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. The Committee initiated its work in 2004.

3. Protection of civilian and military hospitals

This protection arises directly from the provisions of international humanitarian law and signifies, among other things, the obligation to respect medical establishments - which also include hospitals (with no distinction made between civilian and military hospitals) – and the prohibition of attacking them, as long as, apart from their humanitarian function, they are not used for hostile activities (Article 27 of the Annex to the 1907 Convention Respecting the Laws and Customs of War on Land. Article 19 of the First Geneva Convention, Article 12 of Additional Protocol I). Respect granted to medical establishments signifies that unauthorised persons and authorities shall not interfere with the medical activity in a way which could interfere with their work and the medical treatment process. Protection against attacks is backed by the obligation for due diligence to be taken in ensuring that the said medical establishments and units are, as far as possible, situated in such a manner that attacks against military objectives cannot jeopardise their safety during such attacks. Moreover, in order to materialize and display the right to special protection, medical establishments may be marked with protective emblems provided under the Geneva Conventions and their Additional Protocols, e.g. the emblem of the Red Cross. The use of these emblems should be subject to state control. The above issues are regulated by the aforementioned Defensive Norm NO-02-A032:2000. Geneva emblem. Camouflaging of land-based medical objects.

International humanitarian law lacks a norm which would categorically impose an obligation on states to mark medical establishments with protective-identification emblems. Therefore, a situation where medical establishments are not marked with protective emblems does not constitute a breach of law. Simultaneously, it should be emphasized that the prohibition to attack such establishments is an absolute one, meaning that attacking medical establishments under the pretext that by not using protective emblems, they are not covered by special protection, shall be qualified as war crimes pursuant to Article 8.2 b) xxiv of the Rome Statute of the International Criminal Court.

4. Protection of works and installations containing dangerous forces

International humanitarian law generally stipulates that works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population (Article 56.1 of Additional Protocol I, Article 15 of Additional Protocol II).

However, the special protection against attack is not absolute and shall cease if these works or installations are used in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support. If the protection ceases, the attacking party shall take all practical precautions to avoid the release of the dangerous forces. The attacked party shall strive to avoid locating any military objectives in the vicinity of the works or installations involving dangerous forces. Nevertheless, installations constructed for the sole purpose of defending the protected works or installations from attack are permissible. The parties to the conflict may conclude further agreements among themselves to provide additional protection for objects containing dangerous forces, and may mark them with a special sign consisting of a group of three bright orange circles placed on the same axis, as specified in Article 16 of Annex I to Additional Protocol I.

The protection of works and installations containing dangerous forces in the meaning of Article 56 of Additional Protocol I (dams, dykes, nuclear electrical generating stations) is regulated by the following legal acts:

1) Act of 22 August 1997 on the Protection of Persons and Property (JoL of 2005 No 145, item 1221, as amended) which defines the areas, objects and installations subject to special protection, and supervision over persons and property;

2) Act of 23 August 2001 on the Organization of Tasks in Order to Defend the State to be Implemented by Entrepreneurs (JoL No 122, item 1320), which lays down rules for the organization of tasks in order to defend the state to be implemented by entrepreneurs conducting business activity in the territory of the Republic of Poland (taking into account entrepreneurs of special significance economy and defence wise), and specifies the organs competent to oversee these tasks and the principles of their financing;

3) Ordinance of the Council of Ministers of 24 June 2003 on Objects of Special Importance for State Security and Defence and their Special Protection (JoL No 116, item 1090), which specifies the categories of objects of special importance for state security and defence, the tasks involved in their special protection and the competencies of state authorities in these matters.

5. Zones and localities under special protection

The Geneva Conventions of 1949 and the 1977 Additional Protocol relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I) provide for the possibility of creating various types of zones and towns subject to special protection, mainly in cases of international armed conflict. These include:

- **Hospital and safety zones** provided for by Article 23 of the First Geneva Convention and Article 14 of the Fourth Geneva Convention and in Annexes 1 to the Conventions. Their aim is to provide protection to sick and wounded soldiers and to personnel providing aid and administering these zones (First Geneva Convention), as well as to wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven

(Fourth Geneva Convention). Such zones may be established both in peacetime, as well as after the outbreak of hostilities, but their factual protection depends on the agreements made between the belligerents.

- **Neutralized zones** provided for in Article 15 of the Fourth Geneva Convention. They are intended to shelter from the effects of war wounded and sick combatants or non-combatants. In the case of armed conflict not of an international character, Article 3 of the Four Geneva Conventions of 1949 provides for the creation of analogous zones for civilians. Such zones may be created during armed conflict on the basis of an agreement made between the belligerents.

- **Non-defended localities** provided for by Article 59 of Additional Protocol I. Their aim is to provide protection of the civilian population in its place of residence located near or in a zone where armed forces are in contact. The status of non-defended localities stems from the declaration of one of the parties of the armed conflict (if all of the conditions laid down in Article 59 have been fulfilled) or by agreement of the belligerents (if all of the conditions laid down in Article 59 have not been fulfilled).

- **Demilitarized zones** provided for by Article 60 of Additional Protocol I. As in the case of non-defended localities, the aim of demilitarized zones is to provide protection of civilian population in its place of residence. They are created on the basis of an agreement made between the belligerents. The limits of the zone may be established unilaterally in peacetime.

The 1997 Criminal Code penalizes breaches of the legal regulations protecting the above-mentioned zones and localities against attack. Article 122.1 of the Criminal Code provides a penalty of deprivation of liberty for a minimum period of 5 years, or a penalty of deprivation of liberty for 25 years for an attack on a "non-defended locality or object, medical, demilitarized, or neutral zone (...)".

6. Graves Registration Service

The issue of the organization of cemeteries and the burial of deceased persons is regulated by the Act of 31 January 1959 on Cemeteries and the Burial of Deceased Persons (JoL of 2000, No 23, item 295, as amended). Article 10 of the law stipulates that the right of burial of military personnel deceased in the course performing active military duty 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 War Graves and Cemeteries Act of 28 March 1933 (JoL 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 corpses or their remains to other graves (including graves located abroad) are regulated by the provisions of Article 4 of the 1933 War Graves and Cemeteries Act and Article 14 of the Act on Cemeteries and the Burial of Deceased Persons of 1959, as well as the relevant Ordinance of the Minister of Health of 27 December 2007 concerning the Issuance of Permits and Certificates for the Transport of Corpses and Remains (JoL No 249, item 1866).

The procedures for 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 105/MON of the Minister of National Defence of 1 April 2011 concerning the Acceptance and Application of Normalization Documents Pertaining to Defence and National Security. The norm stipulates procedures for the sudden burial of own soldiers, members of allied forces and soldiers of the adversary, killed and deceased on land. Pursuant to the Norm, a killed person is a person injured in combat, who died in consequence of sustained injuries before receiving medical aid. 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, protection of bodies against carrion-eating animals and birds, 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.

IV. Restrictions of methods and means of armed combat

The Polish Armed Forces implement the prohibitions on the use of methods and means of armed combat stipulated in international agreements, as well as the positive obligations to act resulting from these acts, including:

- conducting programme training and supplementary training for subunits;
- conducting various forms of operational and tactical training (in particular command and staff exercises and military tactical exercises) which prepare commanders and soldiers to carry out tasks in accordance with their military purposes;
- preparing commanders and soldiers to carry out tasks during operations on foreign soil in Polish military contingents;

- accounting for restrictions arising from international law of armed conflict (ILAC) in legal acts regulating the principles for the use of forces by soldiers forming part of Polish military contingents.

Bearers of military equipment and weaponry (MEW) subject to commanders of the various Armed Forces constantly monitor new MEW acquisitions to fulfil the obligations arising from the restrictions of the use of methods and means of armed combat. The monitoring of newly-acquired MEW takes place on all levels of involvement of bearers within the MEW acquisition process (especially when drafting Technical and Tactical Requirements and accepting Preliminary Technical and Tactical Guidelines).

Furthermore, specific international agreements which introduce restrictions or prohibitions on the use of specific methods and means of armed conflict are implemented and disseminated through:

1) *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BTWC)*. The Polish Armed Forces have never possessed biological weapons or conducted research on biological weapons, and comply fully with the provision of the Convention. Every year, the Ministry of National Defence prepares and provides the MFA with input on the declaration on the actions undertaken relating to the Convention;

2) *Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques* – The Convention imposes on the Contracting States a prohibition on modifying the environment by manipulating natural processes – understood as the dynamics, composition or structure of the Earth. The Polish Armed Forces comply with the provision of this international agreement;

3) *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction*, known as the Chemical Weapons Convention (CWC) was concluded with the purpose of complete elimination of one type of weapons of mass destruction from military arsenals, and the implementation of international mechanisms aimed at effectively preventing efforts to recreate chemical weapons stockpiles. Each State Party to the Convention undertakes to destroy chemical weapons it owns or possesses, to submit declarations annually regarding the implementation of its activities involving the use of chemicals listed in the Convention, and to receive inspections conducted by the Organisation for the Prohibition of Chemical Weapons (OPCW). Poland has never possessed chemical weapons, and is therefore not burdened by any obligations with regard to their destruction. The function of the National Body for the implementation of the CWC is performed by the Ministry of Foreign Affairs, while its performance – i.e. the drafting of declarations, receiving inspections, co-operation with the OPCW – also involves: the Ministry of Economy, the Ministry of National Defence, and the Ministry of Interior and Administration. The implementation of the Convention is regulated by the following legal acts:

- Act of 22 June 2001 on the Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (JoL No 76, item 812);
- Ordinance of the Minister of Economy of 8 April 2002 on Specific Data to be Included in Information on Activities Involving the Use of Chemicals and their Precursors (JoL No 56, item 507);
- Ordinance of the Council of Ministers of 30 December 2010 on Special Procedure for Receiving Inspections of the Organisation for the Prohibition of Chemical Weapons in the Territory of the Republic of Poland (JoL of 2011, No 9, item 40);
- Ordinance of the Minister of National Defence of 9 November 2010 on the Development, Production, Modification and Use of Toxic Chemicals and their Precursors (JoL No 217 item 1432).

The Ministry of National Defence is implementing CWC provisions through the legal acts referred to above, in the following way:

- monitoring of trading in toxic chemicals and/or their precursors, as listed in Schedule 1 to the Convention (in permitted amounts and for permitted purposes);
- annually drafting a general overview (and providing plans for the following year) on the use of chemical substances listed in Schedule 1 to the Convention (for the MND);
- participation in trainings, conferences and workshops organized under the patronage or directly by the OPCW;
- the use of toxic chemicals and/or their precursors, as listed in Schedule 1 to the Convention, for protection purposes in the framework of military exercises on the basis of the "Instruction on Defence Training against Weapons of Mass Destruction in the Polish Armed Forces", adopted by Order No 1165/Szkol./P7 of the Chief of the General Staff of the Polish Armed Forces of 22 December 2005.

Work is currently under way in the MOD to amend Decision No 321/MON of 25 October 2004 on the Implementation of the Provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, by Organizational Units of the Ministry of National Defence and Organizational Units Subordinate to or Supervised by the Minister of National Defence (Official Journal of the Ministry of National Defence No 15, item 161);

4) *Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects*, known as the CCW Convention – an integral part of the CCW Convention are the five Protocols, with regard to which:

Protocol I on Non-Detectable Fragments – the Polish Armed Forces do not possess weapons with fragments which in the human body escape detection with X-rays;

Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (amended in 1996) – the Polish Armed Forces have undertaken measures ensuring that any potential use of mines will be made in accordance with the restrictions imposed by the Protocol (e.g. the obligation to mark minefields, subsequently demine them, and apply the relevant documentation procedures). The International Security Policy Department provides annual input to the national report on the application of the provisions of the *Amended Protocol II* by the MOD. The reports are available on the websites of the UN Office at Geneva under the following tabs: Disarmament / The CCW Convention / Amended Protocol II;

Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons – the Polish Armed Forces do not possess incendiary weapons;

Protocol IV on Blinding Laser Weapons – the Polish Armed Forces do not possess blinding laser weapons;

Protocol V on Explosive Remnants of War – the agreement is currently in its final stage of ratification;

5) *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (the so-called Ottawa Convention)* – Poland signed the Convention in 1997, but has not ratified it as yet. In accordance with the information accepted by the Council of Ministers in 2009, Poland should become bound by the Convention in 2012. In view of the fact that the Convention will soon be incorporated into the Polish legal system and there are a number of pending preparatory measures need to ensure that its provisions are properly applied, the Minister of National Defence issued a Decision No 89/MON of 17 March 2011 on Measures Undertaken in the Ministry of National Defence in Connection with the Planned Ratification by the Republic of Poland of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, done at Oslo on 18 September 1997.

It is worth noting that Poland has been fulfilling the provisions and obligations arising from the Convention for many years – it does not produce anti-personnel mines and has introduced a ban on the transfer of anti-personnel mines through Polish territory, pursuant to the Ordinance of the Council of Ministers of 23 November 2004 on the Prohibition of and Restrictions in Trading in Goods of Strategic Importance for National Security (JoL No 255, item 2557), and – since 2003 – has been providing, on a voluntary basis, annual reports on activities covered by the scope of the Convention. Moreover, a process has been initiated to destroy anti-personnel mines still present in the arsenal of the Polish Armed Forces. Since 2008, over 770,000 of the oldest types of mines have been withdrawn and dismantled. As of the end of 2010, mines which remain in the arsenal of the Polish Armed Forces have been

removed from operational needs. As in the case of earlier batches, these will be dismantled and subsequently destroyed.

Despite the fact that Poland has not yet ratified the Ottawa Convention, the process has been initiated to update the doctrines, instruction and rules to meet the Treaty's requirements. Pursuant to the "Expert Guidelines of the Chief of Army Engineers Providing Directions for the Operation of the Polish Armed Forces in the Scope of Army Engineering in 2011", soldiers will be trained in anti-personnel mine identification and disposal.

Acting in the spirit of the Ottawa Convention, when taking part in peacekeeping missions abroad, representatives of the Polish Armed Forces are actively involved in raising awareness among civilians of the threats arising from anti-personnel mines and other dangerous remnants of war, and provide significant help in demining and clearing unspent ordnance in regions where they operate.

Additional information about the application of the Ottawa Convention is included in annual reports submitted by Poland and available on the website of the UN Office at Geneva under the following tabs: Disarmament/Anti-Personnel Landmines Convention/Article 7 reports.

The tactical-technical assumptions for weapons and military equipment, which provide grounds 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 to see whether it complies with the 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 checked for compliance with technical specifications developed pursuant to the Act of 17 November 2006 on the System of Checking Compliance of Products Manufactured for State Security and Defence Needs (JoL No 235, item 1700) and the implementing regulations issued pursuant to the Act.

V. Responsibility for breaches of international humanitarian law, including the implementation of the provisions of the Rome Statute of the International Criminal Court

1. 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 under Polish law. Earlier Polish penal legislation criminalized war crimes to a certain extent (Military Criminal Code of 21 October 1932). Criminal liability for this type of crime was extended through the decree of the President of the RP of 30 March 1943 envisaging punishment for the gravest 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 Murder and Persecution of Civilians and Prisoners and for Traitors of the Polish Nation (the so-called August Decree), and through the Criminal 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” to the Criminal Code was unsuccessful. During parliamentary legislative work on the draft Code, that chapter was removed, with the intent of regulating its subject in a separate law, which, ultimately, was not adopted. A new Chapter XVI of the Criminal Code entitled “Crimes against Peace, Humanity and War crimes” was introduced as late as in 1997 following the codification of the criminal law. Chapter XVI covers several areas of protection: international peace (Article 117), fundamental human rights (Articles 118 and 119), principles of production and handling of weapons of mass destruction and other means of warfare (Article 121), and the principal norms of warfare and conduct during armed conflicts (Articles 120 and 122-126).

The division present in the title of Chapter XVI makes reference to the Charter of the International Military Tribunal in Nuremberg, which in Article 6 defines crimes against peace, war crimes and crimes against humanity. Thus, Chapter 16 addresses the most socially damaging crimes, which is reflected in the severity of the attendant penalties.

The choice of method used in incorporating provisions addressing violations of international humanitarian law into Polish law shaped the new regulations. In particular, this is true of the way the prohibited methods and means of warfare specific to international humanitarian law were described without listing them on a case by case basis. The Criminal Code regulates these issues in a synthetic way, through references to the prohibitions specified in international law. The provisions of Chapter XVI of the Criminal Code on war crimes do not distinguish between international and domestic armed conflicts, which means that they apply to both kinds of conflicts.

A review of the incorporation into Polish law of the provisions of international humanitarian law, conducted before the introduction into the Criminal 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 the time). The Statute is not a typical criminal law agreement and does not contain provisions obligating states parties to punish the crimes it covers; it merely lays down the scope of crimes subject to the jurisdiction of the International Criminal Court. However, bearing in mind the fact that the definitions of crimes against humanity and war crimes set out in the Statute are the currently accepted standard in international law, the Ministry of Justice drafted an amendment to the Criminal Code, aimed at fully implementing the crimes covered by the Statute in Polish law. The Criminal Code Amendment Act was adopted on May 20, 2010 and entered into force on September 8, 2010.

It provides for the introduction of additional crimes against humanity corresponding to the scope of Article 7 of the Statute (the newly-introduced Article 118a of the CC), the supplementation of war crimes referred to in Article 8 of the Statute (Articles 122, 124, 125

CC) and expands the scope of responsibility of commanders and other superiors in accordance with the wording of Article 28 of the Statute (newly-introduced Article 126b CC).

- **Criminal law in the scope of the so-called grave breaches of the Geneva Conventions and of Protocol I,**

Pursuant to Articles 49, 50, 129 and 146 of the four Geneva Conventions of 1949, the 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.

The Criminal Code criminalizes the following grave breaches of the Geneva Conventions.

1) **wilful killing** – criminalized under Article 123 § 1 of the Criminal Code:

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

1) persons who surrendered, laying down their arms or lacking any means of defence,

2) the wounded, sick, shipwrecked persons, medical personnel or clergy,

3) prisoners of war,

4) civilians in an occupied area, annexed or under warfare, or other persons who are protected by international law during warfare,

shall be subject to the penalty of 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.

b) torture and inhuman treatment, including biological experiments – criminalized under Article 123 § 2 of the Criminal Code

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

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

c) wilful causing of great suffering or serious injury to body or health – criminalized under Articles 123 § 2 and 124 of the Criminal Code:

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

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

Article 124. § 1. *Whoever, in violation of international law, forces the persons specified in Article 123 § 1 to serve in enemy armed forces or participate in military action directed*

against their own country, **uses corporal punishment**, uses violence, unlawful threat or deceit to force these persons to participate or engage in sexual intercourse or any other sexual act, perpetrates an attack on human dignity, especially by way of humiliating treatment, deprives them of liberty or of the right to independent and impartial judicial proceedings, or restricts their right to defence in criminal proceedings, or declares the rights or claims of citizens of the opposing side to be null and void, suspended or inadmissible for court action, shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.

d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and intentionally – criminalized pursuant to Article 125 of the Criminal Code:

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

e) 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 Criminal Code:

*Article 124 § 1. Whoever, in violation of international law, **forces the persons specified in Article 123 § 1 to serve in enemy armed forces** or participate in military action directed against their own country, uses corporal punishment, uses violence, unlawful threat or deceit to force these persons to participate or engage in sexual intercourse or any other sexual act, perpetrates an attack on human dignity, especially by way of humiliating treatment, deprives them of liberty or of the right to independent and impartial judicial proceedings, or restricts their right to defence in criminal proceedings, or declares the rights or claims of citizens of the opposing side to be null and void, suspended or inadmissible for court action, shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.*

f) wilfully depriving a prisoner of war or a civilian person of the right to a fair and regular trial – criminalized under Article 124 of the Criminal Code:

*Article 124 § 1. Whoever, in violation of international law, forces the persons specified in Article 123 § 1 to serve in enemy armed forces or participate in military action directed against their own country, uses corporal punishment, violence, unlawful threat or deceit to force these persons to participate or engage in sexual intercourse or any other sexual act, perpetrates an attack on human dignity, in particular debasing and humiliating treatment, **deprives them of liberty or of the right to independent and impartial judicial proceedings**, or restricts their right to defence in criminal proceedings, or declares the rights or claims of citizens of the opposing side to be null and void, suspended or inadmissible for court action,*

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

g) directing attacks against the civilian population as such or against individual civilians – criminalized under Article 122 of the Criminal Code,

h) directing indiscriminate attacks against the civilian population as such or against civilian objects – criminalized under Article 122 of the Criminal Code,

i) directing attacks against objects containing dangerous forces – criminalized under Article 122 of the Criminal Code,

j) directing attacks against non-defended localities and demilitarized zones – criminalized under Article 122 of the Criminal Code,

k) directing attacks against individual persons with the knowledge that such persons are *hors de combat* – criminalized under Article 122 of the Criminal 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 specifies the prohibited methods and means of warfare. All acts mentioned in subparagraphs 7-11 are considered prohibited methods of warfare.

l) unjustified delay in the repatriation of prisoners of war or civilian persons – criminalized under Article 124 of the Criminal Code,

Article 124 § 2. The same punishment shall be imposed on anyone who, in violation of international law, commits an unjustified delay in the repatriation of prisoners of war or civilian persons, relocates, resettles or deports civilian persons, inducts or recruits for service in armed forces of persons under 18 or the use of such persons in warfare.

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

Article 119 § 1. Whoever uses violence or makes 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.

Article 123 § 2. Whoever, in violation of international law, causes the persons specified in § 1 to suffer serious detriment to health, subjects such persons to torture, cruel or inhuman treatment, makes them, even with their consent, the objects of cognitive experiments, uses their presence to protect a certain area or facility, or to protect own armed units from warfare, or keeps such persons as hostages, shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.

n) unlawful deportation or transfer of civilian persons – criminalized under Article 124 of the Criminal Code:

*Article 124 § 2. The same punishment shall be imposed on anyone who, in violation of international law, commits an unjustified delay in the repatriation of prisoners of war or civilian persons, **resettles or deports civilian persons**, inducts or recruits for service in armed forces of persons under 18 or the use of such persons in warfare.*

o) taking of hostages – criminalized under Article 123 § 2 of the Criminal Code:

*Article 123 § 2. Whoever, in violation of international law, causes the persons specified in § 1 to suffer serious detriment to health, subjects such persons to torture, cruel or inhuman treatment, makes them, even with their consent, the objects of cognitive experiments, uses their presence to protect a certain area or facility, or to protect its own armed units against warfare, or **keeps such persons as hostages**, shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.*

p) directing attacks against clearly identified 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 Criminal 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 regulated by the Criminal Code are common crimes, meaning that they can be committed by any natural 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 Criminal Code applies to them. Depending on the specific circumstances under which an act was committed, Article 18 § 3 may also be applicable (abetting through omission).

Article 2. Criminal liability for an offence with criminal consequences committed 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.

- **Criminal law in the scope of war crimes other than the so-called grave breaches of the Geneva Conventions and of Protocol I**

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

1. all methods of warfare prohibited under international law (Article 122),
2. all means of warfare prohibited under international law (Article 122),
3. using persons protected under international humanitarian law to protect, through their presence, specific areas, objects, or one's own forces from warfare (Article 123),
4. application of corporal punishment (Article 124),
5. deprivation of a person's liberty in breach of international humanitarian law (Article 124),
6. committing attacks on human dignity against persons protected under international humanitarian law, especially by way of debasing and humiliating treatment (Article 124),
7. forcing persons to take part in combat operations against their own country (Article 124),
8. resettlement of the civilian population (Article 124),
9. committing sexual crimes against persons protected under international humanitarian law (Article 124),
10. declaring the rights or claims of citizens of the opposing side to be null and void, suspended or inadmissible for court action (Article 124),
11. conscription into, or recruitment by armed forces of persons under 18 years of age or the use of such persons in warfare (Article 124),
12. restriction of the right of persons protected under international humanitarian law to defence in criminal proceedings (Article 124),
13. 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),
14. using during warfare of the state flag or military markings of the enemy, a neutral state or an international organization or commission (Article 126).

- **Criminal law in the scope of the crime of genocide**

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

Article 118 § 1. Whoever, acting with the intent to destroy in full or in part any national, ethnic, racial, political or religious group, or group with a 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 that threaten them with biological extinction, 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 fulfil the obligations stemming from the UN Convention of 9 December 1948 on the Prevention and Punishment of the Crime of Genocide (JoL of 1952 No 2, item 9). The definition of the crime of genocide in Polish law is broader

than the Convention's definition. Article 118, in addition to groups named in the 1948 Convention, also includes political groups and groups with a specific world outlook.

Genocide, also called extermination is the gravest crime, carrying the penalty of the deprivation of liberty for a minimum term of 12 years, the penalty of the deprivation of liberty for 25 years, or the penalty of the deprivation of liberty for life. Penalization applies not only to the principal perpetrator but also to all forms of complicity – including leadership and command complicity – which applies, in particular, to persons issuing the orders: political leaders, commanders of 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.

- **Criminal law concerning crimes against humanity**

The Act of May 20 2010 introduces a new crime (art. 118a) whose scope corresponds to that of Article 7 of the Rome Statute of the International Criminal Court, i.e. crimes against humanity.

Article 118a § 1. Whoever, while taking part in a large-scale attack or in at least one in a series of attacks directed against part of the population with the aim of implementing or supporting the policies of a country or organisation;

- 1) *commits murder,*
- 2) *causes serious injury to a person's health,*
- 3) *creates conditions for persons belonging to a group of the population living conditions which threaten their biological existence, in particular by denying access to food or medical care, aimed to destroy this group,*
shall be subject to the penalty of deprivation of liberty for a minimum term of 12 years, the penalty of deprivation of liberty for 25 years, or the penalty of deprivation of liberty for life.

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

- 1) *is responsible for a person's enslavement or subjects a person to enslavement,*
- 2) *deprives a person of his/her liberty for a period exceeding 7 days or does so with particular torment,*
- 3) *applies torture or subjects a person to cruel or inhuman treatment,*
- 4) *commits rape or uses violence, unlawful threat, deceit to otherwise violate the sexual liberty of a person,*
- 5) *uses violence or unlawful threat to cause a woman to become pregnant with the purpose of influencing the ethnic composition of a population group, or of causing any other serious breach of international law,*
- 6) *deprives a person of liberty and declines to provide information as to the whereabouts of this persons, or provides false information as to the whereabouts of this person, with the purpose of depriving this person of legal aid for a prolonged period of time,*
shall be subject to the penalty of deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.

§ 3. Whoever, while taking part in a large-scale attack or in at least one in a series of attacks directed against part of the population undertaken with the aim of implementing or supporting the policies of a country or organisation:

- 1) in violation of international law, causes a person to change their lawful place of residence,*
- 2) commits serious acts of repression against a population group which are considered unacceptable under international laws, in particular because of their political, racial, national, ethnic, cultural, or religious affiliation, or because of their lack of religious beliefs, thereby leading to a deprivation of fundamental rights,*
shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.

Apart from Article 118a, which reflects crimes against humanity under Article 7 of the Rome Statute of the International Criminal Court, the Criminal Code includes – in Chapter XVI devoted to crimes against peace, humanity, and war crimes – Article 119 which defines the crime of using violence or making 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. Article 119 protects the fundamental values and human rights, first and foremost, the right to life and to develop individual values and group distinctness.

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.

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

- **Jurisdiction**

Criminal law does not limit the liability for offences covered under Chapter XVI of the Criminal Code, i.e. crimes against peace, humanity and war crimes, to those committed by soldiers. Crimes listed in this chapter are common crimes, meaning that any person can commit them. Consequently, cases involving such crimes are examined by common courts of law, unless they are explicitly within the jurisdiction of military courts. However, it should be noted that the Polish criminal law is evolving in the direction of eliminating differences in proceedings before military and common courts. The Polish Code of Criminal Procedure – the Act of 6 June 1997 (JoL No 89, item 555) significantly restricted the jurisdiction of military courts as regards the subject matter it is competent to examine. The system of military courts has been changed to reflect that of common courts of law, while the differences that have remained are warranted by the special nature of the military; furthermore, the Minister of Justice exercises general administrative and organisational oversight over their activity. Criminal proceedings before military courts are conducted in accordance with the procedural

guarantees applicable in court proceedings before common courts of law and fulfil the relevant international standards.

- **Liability of superiors**

A superior or higher ranking soldier authorized to issue orders, when issuing an order the fulfilment of which is tantamount to the commission of prohibited act, is subject to criminal liability under Article 18 § 1 of the Criminal 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 commitment of the act (Article 22 § 1 of the Criminal Code). Occasionally, the conduct of a superior may also fulfil the prerequisites of a prohibited act provided for in Article 231 of the Criminal Code. A superior does not only mean a person performing military service, but also a civilian to whom a soldier reports during his service.

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 a term of between 1 and 3 years.

§ 2. If the perpetrator commits the act specified in § 1 with the purpose of obtaining material or personal benefit, he/she shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years.

§ 3. If the perpetrator of the act specified in 1 § acts unintentionally and causes essential damage, he/she shall be subject to a fine, the penalty of restriction of liberty or deprivation of liberty for up to 2 years.

In its Article 28, the Rome Statute of the International Criminal Court provides for the liability of a military commander or other superior for crimes covered by the Statute committed by forces under his or her effective command and control. Such liability is limited to cases where the superior either knew or should have known that his or her forces were committing or about to commit such crimes, and failed to take all necessary measures to prevent or repress their commitment. Although the Criminal Code provides for abetting through omission (Article 18 § 3) which essentially overlaps with the scope of Article 28 of the Statute, this responsibility is limited to intentional crimes, while Article 28 also provides for the responsibility of the military commander or other superior if the actions of his or her forces are undertaken unintentionally. A new specific regulation has thus been introduced (Article 126b), which considers the commander or superior who permits the commission of an

unlawful act by his or her superior as the perpetrator of such crimes (and not as an abettor) and provides for their responsibility also in the case of unintentionally-committed crimes.

Article 126b. § 1. Whoever, failing to perform the obligation of necessary control, permits the commitment of acts defined under Articles 117 § 3; 118; 118a; 119 § 1; 120-126a by a person under his or her effective command and control,

shall be subject to the penalty provided for in these regulations.

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

- **Defence of superior orders**

The concept of an order is defined in Article 115 § 18 of the Criminal 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 Criminal Code a soldier who perpetrates a prohibited act which constitutes the fulfilment of an order is not committing a crime, unless in fulfilling the order he was wilfully committing a crime. The obligation to fulfil an order is annulled if its fulfilment would constitute an offence. The responsibility of the soldier is based on the awareness of the criminal nature of the order, i.e. on the awareness of its inconsistency with criminal law provisions and the conviction that he or she would be committing a crime by performing the order. Article 344 § 1 of the Criminal Code stipulates that a soldier who refuses to fulfil or fails to fulfil an order that leads to the commitment of an offence is not guilty of the offence of insubordination. Pursuant to §2 of that article, in the event of the fulfilment of an order in a way that contravenes its content to substantially reduce its harmfulness, a court may apply extraordinary mitigation of punishment, or forego punishment altogether.

- **Non-applicability of statute of limitations**

Poland is party to the Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, adopted by the UN General Assembly on 26 November 1968.

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

Article 43 of the Constitution:

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

Article 105 of the Criminal Code

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

- **Jurisdiction of Polish courts in criminal cases and the obligation to prosecute crimes under Articles 49, 50, 129 and 146 of the four Geneva Conventions of 1949**

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 fulfilment of the above obligation largely hinges on Articles 5, 109-113 of the Criminal Code and Article 10 of the Polish Code of Criminal Procedure. Articles 5 and 109-113 of the Criminal Code specify the rules of responsibility for crimes committed abroad. These regulations specify the scope of application of the Criminal Code and, at the same time, the jurisdiction of Polish courts in criminal cases, including with regard to crimes against peace, humanity, and war crimes.

Article 5 of the Criminal Code specifies the principle of territoriality. Pursuant to this 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 § 2 of the Criminal Code).

The Criminal Code does not precisely define the concept of “the territory of the Republic of Poland”. That concept is elaborated in the Act of 12 October 1990 on the Protection of the State Border (JoL of 2009 No 12 item 67, as amended) 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 Act of 21 March 1991 on the Maritime Domain of the Republic of Poland and Maritime Administration (JoL of 2003 No 153, item 1502, as amended) provides that the territorial sea encompasses territorial waters extending 12 nautical miles from the lowest water mark along the coast or the external boundary of internal sea waters (bays and harbours). The Criminal Code extends the application of the principle of territoriality to prohibited acts committed outside the territory of the Republic of Poland. Polish criminal law 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

applies when the act was committed on board of a Polish vessel in a foreign port, or in the open sea.

Article 10 of the Polish Code of Criminal Procedure 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 Criminal Code are prosecuted *ex officio*, the principle of legalism is fully applicable in their case. The principle of legalism laid down in Article 10 of the Polish Code of Criminal Procedure obligates all judicial organs to ensure that no one – with the exception of cases specified 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. Agencies tasked with law enforcement (prosecutors, the police, the Internal Security Agency, the Military Police, agencies with special authority under law) 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 to press charges in the event of an act prosecuted *ex officio*.

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

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

Article 110 § 1. Polish criminal 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 nature.

§ 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 favour 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 that they commit:

- 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 obtaining material gain in the territory of the Republic of Poland.*

Article 113. Notwithstanding the regulations in force in the place where the offense was committed, Polish criminal law shall apply to a Polish citizen or an alien, with respect to whom no decision on extradition has been taken, in the event that an offence was committed abroad which the Republic of Poland is obligated to prosecute under international agreements, or an offence covered by the Rome Statute of the International Criminal Court, done at Rome on July 17 1998. (JoL of 2003, No 78, Item 708).

2. The International Humanitarian Fact-Finding Commission

The International Humanitarian Fact-Finding Commission was created in accordance with Article 90 of Additional Protocol I which provides for the creation of the International Fact-Finding Commission. The Commission itself amended its name, which was accepted in practice by the states. It began its work on 25 June 1991.

The Commission consists of fifteen members “of high moral standing and recognized impartiality”, who serve in their personal capacity. It is competent to investigate any facts alleged to constitute 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. On a formal basis, the Commission is competent to perform its functions in international armed conflict, but the wording of Article 90 also permits it act in the event of a non-international armed conflict, if the parties to the conflict so agree.

The basis for the Commission's competence is always an agreement of the parties to the conflict. States may accept *a priori* competence before the outbreak of an armed conflict. As of 30 April 2011, seventy two states have agreed to accept the Commission's competence under this procedure. The competence of the Commission can also be accepted *ex post*, after a breach of humanitarian law takes place. The Commission launches an enquiry into alleged violations of IHL at the request of a party to a conflict, if the other parties accept the competence of the Commission. If not all of the parties accept the competence *a priori*, the Commission is competent to undertake actions after receiving *ex post* agreement of the other parties to the conflict. Based on the findings 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 Humanitarian Fact-Finding Commission. To date, two Poles have served on the Commission: Professor Roman Jasica in 1996-1999 and Elżbieta Mikos-Skuza, Ph.D. who has been a

member and vice president since 2001. The current term expires in December 2011. Poland officially supports the Commission on forums discussing the issue of the implementation of international humanitarian law, e.g. by accepting humanitarian commitments regarding the Commission formulated during International Conferences of the Red Cross and Red Crescent.

VI. Dissemination of international humanitarian law:

1. Dissemination of international humanitarian law by government administration

a) Ministry of National Defence

The professionalization of the Polish Armed Forces in recent years has resulted in much greater practical emphasis on international law of armed conflict. The significance of law of war has been raised 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 the Law of War.

International law of armed conflict is now part of the curriculum for candidates for professional servicemen and is taught at career advancement courses attended by professional servicemen of the Polish Armed Forces.

Decision No 203/MON of the Minister of National Defence of 10 June 2010 introduces a separate subject into the curriculum of full-time studies and the officer's course for officer candidates.- Minimum Program Requirements (Official Journal of the Ministry of National Defence No 12, item 136) – separate subject – "International law of armed conflict" – 20 teaching hours. Additionally, the field of international law of armed conflict is covered by other courses, including: peacekeeping and stabilization measures, aspects of national and international security, civil-military cooperation and environmental protection. These courses are taught at:

- the Naval Academy in Gdynia,
- the Military University of Technology in Warsaw,
- the Army Academy in Wrocław,
- the Air Force Academy in Dęblin.

Decision No 420/MON of the Minister of National Defence of 12 September 2008 on the implementation of a career advancement system for professional servicemen of the Polish Armed Forces (Official Journal of the Ministry of National Defence No 18 Item 241, annexed) provides for the teaching of topics covering international law of armed conflict on all course levels, in the framework of post-graduate courses and credit classes run by:

- the National Defence University in Warsaw,

- the Naval Academy in Gdynia,
- the Army Academy in Wrocław,
- the Air Force Academy in Dęblin.
- the NCO Army Academy in Poznań
- the NCO Air Force Academy in Dęblin.
- the NCO Naval Academy in Ustka.

By decision of the Director of the Department of Education and Defence Promotion of the Ministry of National Defence the curriculum comprises structural and programme guidelines for six professional development courses in the framework of the "Professional development system for professional servicemen of the Polish Armed Forces". The following courses have been implemented since 2007:

- Course on international law of armed conflict for battalion and company commanders (equivalent) – 68 hours, run by the National Defence University;
- Course on international law of armed conflict for Air Force officers and NCOs – 60 hours run by the Air Force Academy;
- Course on international law of armed conflict for Land Army officers and NCOs – 60 hours, run by the Land Forces Training Centre;
- Course on international law of armed conflict for Navy officers and NCOs – 60 hours, run by the Naval Academy;
- Course on international law of armed conflict for NCOs of: Special Forces, Warsaw Garrison Command, Armed Forces Support Inspectorate, Operational Command, Military Police – 35 hours, run by the Military Centre for Civic Education;
- Course on international law of armed conflict for Navy officers and NCOs – 60 hours, run by the Naval Training Centre;

Pursuant to the "Methodology of the civic education of soldiers in active military service", introduced by Decision No 436 /MON of the Minister of National Defence of 8 January 2008, (Official Journal of the Ministry of National Defence No 24, item 265, annex), instruction in international law of armed conflict is provided to all Armed Forces personnel in the framework of civic education.

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 participants to be directly involved, to do their own analysis and to solve special cases.

Practical training focuses on the implementation of international 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 prevent them from breaching the norms of international law in extreme combat conditions. Furthermore, all servicemen deployed in

peacekeeping and stabilization missions undergo compulsory courses in international law of armed conflict, and in the cultural and legal conditions which exist in a given country.

Additionally, other measures are undertaken in order to acquaint Polish Armed Forces servicemen and employees with the principles and obligations arising from international humanitarian law and issues related to individual responsibility for one's actions. These include: series of trainings for professional army corps and employees of the Polish Armed Forces – in the form of supplementary trainings, conferences, meetings in the framework of cooperation with international organizations and dissemination of training and information materials.

New publications and teaching aids have been prepared (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 law of armed conflict. The manuals published to date have been on Iraq, Afghanistan, Pakistan, Chad, Syria, Lebanon, Congo and Kosovo. Two editions of the *International law of armed conflict – rules of engagement* (Afghanistan and Chad) have also been issued. Specialist publications on international law of armed conflict are systematically supplied to all libraries in the armed forces and to the educational departments of military units and institutions.

In order to better coordinate measures undertaken in the Ministry of National Defence in disseminating humanitarian law, pursuant to Decision No 342/MON of the Minister of National Defence of 7 October 2009 on Establishing a Team Tasked with Drafting the Rules of Training in "International Law of Armed Conflict" in the Ministry of National Defence (Official Journal of the Ministry of National Defence No 19 Item 219) an expert team tasked with drafting – by the end of 2011 – a comprehensive concept for training and teaching international law of armed conflict was established. Additionally, this concept will implement solutions which are currently being applied by NATO, on the basis of the document entitled STANAG 2449 LO (Edition 1) – TRAINING IN THE LAW OF ARMED CONFLICT.

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 Defence and the International Committee of the Red Cross (signed on 31 May 1999), the Department of Education and Defence Promotion of the Ministry of National Defence 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, discussing the role of legal advisers in the armed forces, attracted participants from nineteen countries.

The Ministry of National Defence participates each year in the Polish School of International Law of Armed Conflict in Radziejowice, organized by the Main Board of the Polish Red Cross (the School is supported financially by the MOD, 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 Defence take part in the periodic works of commissions and panels tasked with the dissemination of knowledge about international law of armed conflict:

- the Inter-Ministerial 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, who are later sent to work in UN and EU police missions.

In 2009, there one series was held for 10 persons participating in a specialized course for commanders of police contingents and six series of a specialized course for 145 police officers – experts serving in police contingents. In 2010, six series of specialized courses were held for 148 police officers serving with police contingents.

The Officer Training School of the State Fire Service in Krakow has implemented the following measures aimed at the dissemination of international humanitarian law:

- on October 19-22, 2009, an international humanitarian law course for six persons was organised;
- on September 23-25, 2009, a conference entitled "Protection of Cultural Property in Situations of High-level Threat" was held; it was attended by 81 participants.

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

On May 9-14, 2010, four representatives of the National Headquarters of the State Fire Service participated in the 15th edition of the Polish School in International Law of Armed Conflict, organized by the PRC.

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”.

The 2010 curriculum of the Centre for Education Development includes the promotion and information concerning the program “Exploring Humanitarian Law” among the employees of the Centre and teachers. In the framework of the implementation of the

"Exploring Humanitarian Law" programme, research was conducted in 2010 aimed at gathering information on the scope, content and conduct of courses in international humanitarian law in middle and secondary schools. The research was implemented via an electronic version of a questionnaire for teachers and pupils uploaded to the Centre for Education Development website. The results of the above-mentioned research were published in the *Report on the implementation of information on humanitarian law*. In October 2010, the Coordination Team for implementing and monitoring the "Exploring Humanitarian Law" programme – consisting of representatives of the MND, the PRC and the Centre for Education Development – conducted its analysis of the results of the report and planned measures to be implemented in 2011.

In accordance with the amendment to Article 166 of the Act on Universal Duty to Defend the RP, a subject called "Education for Security" was introduced into the curricula of middle and secondary schools in the school year 2009/2010. It will replace the subject "Defence 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, laid down in the Ordinance of the Minister of National Education of 23 December 2008 (JoL 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 defence as well as the political and military factors which guarantee state security, but first and foremost, about the genesis of international humanitarian law and its major instruments. Classes in "Education for Security" cover the study of 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.

2. Dissemination of international humanitarian law by the Polish Red Cross

The Centre 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 mainly with the dissemination of information about IHL as well as the principles and mission of the International Red Cross and Red Crescent Movement. The Centre 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 Centre 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 Centre's broad-ranging activities is also possible thanks to the work of a large group of volunteers.

- **International projects**

The Centre for the Dissemination of IHL, in close collaboration with the International Committee of the Red Cross, is responsible for the organization of diverse projects, primarily addressed to students and NGO workers. The most important activities include: – the **Warsaw Summer School in International Humanitarian Law**: a ten-day course in English, in international humanitarian law for law students from around the world. The lecturers include top academics from European universities and international institutions. Twenty-eight editions of the school have been held so far, with an average of 40 participants each year.

- **National projects**

The main target groups of national PCR activities aimed at disseminating IHL 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 Centre's work:

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

- organization of **seminars** – e.g. seminars on the implementation of the Statute of the International Criminal Court for military judges and prosecutors, organized jointly with the ICRC and the Law Department of the Warsaw University (December 2008);

- organization and patronage of **scientific conferences** – it is worth noting the joint initiative of the National Defence University and the Polish Red Cross to organize, in April 2010, of a conference on the occasion of the 30th anniversary of the adoption of the Convention on Certain Conventional Weapons, entitled "Between Humanitarian imperatives and Achieving Military Objectives", as well as the patronage of the annual IHL conferences organized by the Naval Academy in Gdynia (organized in 2011 in collaboration with the University of Gdańsk);

- **initiation and conducting of lectures** at Polish academic centres, e.g. a series of lectures on "Armed conflicts and the media", organized three times at the Institute of Journalism of Warsaw University (2000-2003);

- presenting lectures and conducting specialized classes and trainings in the framework of the measures undertaken by the Ministry of National Defence – 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; cooperation spanning many years with the Central Military Library and the National Defence University,

in conducting specialized courses in international humanitarian law for officers, since 2008 cooperation with the Land Forces Training Centre in Poznań (co-organization of trainings 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 centres, teacher training centres, PRC workers and volunteers). 3500 training kits (consisting of the program, a teacher's methodological manual and cassette) have been produced for the needs of the program. Representatives 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 Ordinance 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; In the second half of 2010, the PRC – together with its project partners (ICRC, MNE and the Centre for Education Development (CED)) – compiled a new "Exploring Humanitarian Law" implementation programme for 2011-2013. A new version of manual was translated into Polish and made available in CD format and on the PRC and MNE websites. In October 2010, a group of experts in the field of middle school and high school education adopted the guidelines for a new platform for the "Exploring Humanitarian Law" programme, with e-learning – internet trainings in the field of IHL for teachers – specified as one its main elements. In March 2011, a conference was held in Warsaw with the participation of representatives of education boards, middle schools and high schools from Poland, aimed at promoting new educational materials the "Exploring Humanitarian Law” programme for 2011-2013, as well as initiating a thorough debate both on past achievements and future challenges for the "Exploring Humanitarian Law” programme, in the framework of the often modified education system.

- **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 Treaty and the latest convention prohibiting cluster munitions. Since 2010, we have also been conducting, in cooperation with the Ministry of Foreign Affairs, measures aimed at informing Polish society about the new international process relating to the Arms Trade Treaty.

- 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; fourteen editions of the competition have been held to date, with 74 theses presented;

- running of the **Marian Flemming Library** (over 5000 volumes), used by students and post-graduates in law, political sciences, and international relations, as well as secondary school students from across the country and PRC workers and volunteers;

- 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. 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 Centre;

- coordination of the activities of the Commission for the Protection of the Emblem and related actions, including:

a) 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);

b) assessment of applications for use of the emblem;

c) interventions in the event of misuse on a national scale;

- **publication and promotion of books**, most prominently including:

a) "Collection of documents in international humanitarian law" (2003) – in collaboration with the National Defence University;

b) "Manual on the protection of the emblem" (2004);

c) "Study on customary humanitarian law" (2006) by Jean –Marie Henckaerts;

d) 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);

e) preparation and publication of own information materials (e.g. leaflet "140 years of the International Red Cross and Red Crescent Movement") and promotional materials (posters about the Professor R. Bierzanek Competition and the Polish ILAC 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 **trainings for PRC workers and volunteers**;

preparation of visits by representatives of the ICRC (including President Jakob Kellengerger in 2008 and the representatives of the ICRC delegation in Brussels and Belgrade in 2010 and

2011) and the International Federation of Red Cross and Red Crescent Societies, (including Secretary General Bekele Geleta in 2009);

- cooperation with other institutions and organizations in Poland for the purpose of conducting joint campaigns or educational programs.

3. Activities of the inter-institutional International Humanitarian Law Commission

On 20 May 2004 the Prime Minister issued Ordinance No 51 (National Journal of Orders and Regulations 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 pursues its tasks by conducting reviews and analyses of international agreements relating to IHL and by formulating opinions in this field, presenting the Prime Minister with periodic opinions on the legislative, organizational and educational measures which should be undertaken with a view to ensuring that the Republic of Poland performs its obligations in the field of international humanitarian law, as well as formulating proposals related to the preparation of legal acts aimed at transposing international humanitarian law into Polish law.

The Commission comprises the Under-Secretary of State at the Ministry of Foreign Affairs (Chair), a representative of the Head of the Prime Minister's Chancellery (Deputy Chair), and representatives of the ministries competent in matters of internal affairs, public administration, foreign affairs, public finances, culture and protection of national heritage, science, national education, health, higher education and the Minister of National Defence and Minister of Justice. Other invited persons may also participate in the Commission's work, which means that, in practice, representatives of the Polish Red Cross and the Polish Institute of International Affairs are also invited.

Since 2009, the Commission implemented a series of measures aimed at disseminating international humanitarian law. Among others, three expert teams have been established to draft the 1st and 2nd Reports on the implementation and dissemination of the International Humanitarian Law in the Republic of Poland, to analyse obligations in the field of assistance measures arising from international agreements on disarmament, and to adopt specific proposals for further actions in this field. 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 the identification of 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 2nd Report – which includes up to date information on the implementation and dissemination of international humanitarian law in Poland – will be disseminated among the

interested institutions, both in Poland and abroad. The report will also be made available on the official websites of the Ministry of Foreign Affairs, the Ministry of National Defence, the Ministry of Justice and the Ministry of Interior and Administration.