



Activity Report of the Interdepartmental Committee for International Humanitarian Law (ICIHL) 2009 – 2014¹

Bern, 2 September 2014

1. Bases, mandate and methods of operation of the ICIHL

The 26th International Conference of the International Red Cross and Red Crescent of 1995 recommended that the States Parties to the Geneva Conventions create national committees that could advise and assist governments in implementing and disseminating international humanitarian law (IHL).² Since then, more than 100 states have followed this recommendation and set up a national committee for the implementation of IHL that is recognised by the International Committee of the Red Cross (ICRC).³

On 16 December 2009, the Federal Council decided to upgrade what was at that time the Interdepartmental Core Group on International Humanitarian Law and give it formal status as an IHL body⁴ by creating an Interdepartmental Committee for International Humanitarian Law (ICIHL).⁵ The ICIHL was subsequently recognised by the ICRC as a national committee.⁶

Concurrently with this decision, the Federal Council approved the internal regulations of the ICIHL, which set forth the objectives, composition, powers and working methods of the body. The ICIHL's remit is to exchange information and to coordinate questions and activities concerning IHL at national level. By doing so, the ICIHL fosters and coordinates the consistent implementation of Switzerland's obligations under IHL. It is responsible for coordination among the federal authorities and maintains relations with the scientific community, civil society and other organisations concerned with IHL, such as the Swiss Red Cross (SRC) and the ICRC.

The ICIHL is not an independent committee with elected members. It is composed of representatives from the FDFA, the DDPS, the FDJP, the EAER, the FDHA and the Office of the Attorney General of Switzerland.⁷ The Directorate of International Law at the FDFA fills the role of chair and secretary of

¹ This report covers the period from 16 December 2009 to 31 August 2014.

² See Resolution 1 of the 26th International Conference of the International Red Cross and Red Crescent of 1995, in which the recommendations of a group of experts convened by Switzerland were adopted. 26th International Conference of the International Red Cross and Red Crescent, Geneva, Switzerland, 3-7 December 1995, *Resolution 1 – International Humanitarian Law: From Law to Action Report on the Follow-up to the International Conference for the Protection of War Victims*, 7 December 1995, available at: <http://www.icrc.org/eng/resources/documents/resolution/26-international-conference-resolution-1-1995.htm> (as at 8 July 2014).

³ For further information see also the ICRC website on the national IHL committees, available at: <http://www.icrc.org/eng/war-and-law/ihl-domestic-law/national-committees/index.jsp> (as at 8 July 2014).

⁴ Based on Art. 55 of the Government and Administration Organisation Act (GAOA), according to which the Federal Council and the departments may employ staff office, planning and coordination bodies as institutionalised conferences or as self-contained administrative units.

⁵ See also the ICIHL website, available at: <http://www.eda.admin.ch/eda/en/home/topics/intla/humlaw/hvrk.html> (as at 8 July 2014).

⁶ National committees have to meet certain criteria in relation to their aims, composition and working methods. These are set out in the ICRC guiding principles. See *Guiding principles concerning the status and methods of operation of national bodies for the implementation of international humanitarian law*, 30 May 1989, available at: http://www.icrc.org/eng/resources/documents/misc/guiding_principles_national_committees.htm (as at 8 July 2014).

⁷ Before the Criminal Justice Authorities Act (SR 173.71) came into force, the Office of the Attorney General of Switzerland took part as a representative of the FDJP. When the Criminal Justice Authorities Act (SR 173.71) entered into force on 1 January 2011, the Office of the Attorney General of Switzerland, as the federal criminal justice authority, became a self-governing authority outside the federal administration. These circumstances are to be taken into account by an amendment to the regulations in 2014.



the ICIHL. The ICIHL does not have any decision-making powers or budget of its own. Instead, scheduled activities are conducted and financed by the respective departments and public offices. The ICIHL webpages, for example, form part of the website of the Directorate of International Law and feature links to the public offices involved.

The ICIHL generally holds an ordinary meeting twice a year. To encourage the exchange of information with those parts of civil society that are interested in IHL and raise the profile of Swiss policies in this area, the ICIHL may invite the SRC, the ICRC and other representatives of civil society (practitioners, academics, NGOs, etc.) to these sessions. If required, the ICIHL may also involve working groups on specific topics; recourse was made to this measure when implementing the first action plan (2011).

2. ICIHL activities

The ICIHL deals with the entire spectrum of issues related to IHL. It primarily serves as a platform for sharing information and for discussing all the proposed measures and IHL-related topics which feature on the agenda of the Swiss federal authorities and the ICRC and SRC, while also acting as a catalyst for the dissemination and implementation of IHL at national level.

The priorities and aims of the ICIHL are defined in an annual action plan, which is updated each year, and which also sets out the issues to be addressed and the activities and events that are planned, including those of the SRC and ICRC.

2.1. Exchanging information and experiences

As a body tasked with exchanging information and experiences, the ICIHL ensures that the points of contact between the IHL-relevant projects and initiatives of the agencies involved are identified and that, wherever possible, synergies can be developed.

Thus, the ICIHL has enabled a regular and structured exchange on legislative projects to take place, such as

- the implementation of the Rome Statute of the International Criminal Court,
- the revision of the Protection of Cultural Property Act,
- the ratification of the Convention on Cluster Munitions,
- the Arms Trade Treaty.

In addition, the ICIHL serves as an information platform for projects

- on humanitarian access,⁸
- under the Swiss strategy on the protection of civilians in armed conflicts,⁹
- with regard to private military and security companies (PMSCs)¹⁰, and
- on the joint initiative of Switzerland and the ICRC on strengthening compliance with IHL.¹¹

2.2. Selected ICIHL activities

⁸ The handbook and field manual on humanitarian access in situations of armed conflict is available at: <http://www.eda.admin.ch/eda/en/home/doc/publi/phumiq.html> (as at 8 July 2014).

⁹ The strategy on the protection of civilians in armed conflicts is available at: <http://www.eda.admin.ch/eda/en/home/doc/publi/phumiq.html> (as at 8 July 2014).

¹⁰ For further information on the topic of private military and security companies, see the FDFA website, available at: <http://www.eda.admin.ch/eda/en/home/topics/intla/humlaw/pse.html> (as at 8 July 2014).

¹¹ For further information on the initiative of Switzerland and the ICRC on strengthening compliance with IHL, see the FDFA website, available at: <http://www.eda.admin.ch/eda/en/home/topics/intla/humlaw/icrc.html> (as at 8 July 2014).



Alongside its function as a body for exchanging information and sharing experiences, the ICIHL was involved in a variety of activities aimed at promoting the implementation and dissemination of IHL in Switzerland.

2.2.1. Disseminating international humanitarian law and training members of the authorities

One of the ICIHL's most important goals is to improve knowledge about IHL within the federal administration and among the general public, including schools, in Switzerland. This constitutes one of the core tasks of the authorities in meeting their obligations under the Geneva Conventions. Article 1 common to the four Geneva Conventions requires the states party to the Geneva Conventions to undertake both "to respect and to ensure respect for" the Convention "in all circumstances". This involves disseminating IHL and including the study of it "in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population." "Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions."¹²

To date, only the DDPS provides specific training in IHL in Switzerland, and this is reserved for members of the army. In addition, there is no public office or programme devoted to the systematic dissemination of IHL. Also the SRC has only been able to carry out selective activities in this area.¹³ A special situation arises with regard to schools in particular, as the cantons have authority over education matters and are therefore responsible for spreading knowledge about IHL within schools.

To create a basis for the dissemination of knowledge about IHL within the federal administration and among the general public, in schools, among media representatives and members of parliament, the ICIHL set up a working group in 2011, which formulated a concept for disseminating IHL in collaboration with the SRC. Since then, the yearly action plan has contained a grid for activities specifically aimed at spreading a basic knowledge of IHL within a variety of target groups.¹⁴ This not only allows the dissemination activities of the various members of the ICIHL to be planned and monitored more systematically, but also enables such dissemination to be promoted in a targeted manner. For its part, the ICRC offered to provide long-term support for these activities, e.g. by making training material available in order to encourage the integration of IHL as a permanent part of the curriculum or of training programmes for journalists and other target groups, and also features in the annual action plan activity grid.

On the occasion of the 31st International Conference of the International Red Cross and Red Crescent of 2011, Switzerland committed itself in its joint pledge on the "auxiliary role" of the SRC to partner with the SRC in conducting projects for the dissemination of IHL.¹⁵ The ICIHL subsequently assisted the SRC, among other things, with the publication of a brochure on IHL for parliamentarians.¹⁶ It also

¹² See for example Art. 144 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, adopted in Geneva on 12 August 1949 (RS 0.518.51).

¹³ However, the SRC has been committed for many years, together with the ICRC, to organising a course in IHL in French for university students in Switzerland once every three years and points out the importance of IHL in its various publications.

¹⁴ These target groups include members of the authorities, the general public, schools, universities, media representatives, parliamentarians and the army.

¹⁵ See, pledges made during the 31st International Conference of the Red Cross and Red Crescent, Pledge P2107, available at: <http://www.icrc.org/appweb/p31e.nsf/pledge.xsp?action=openDocument&documentId=B6D4FE8EDD90C8A5C125795200364690> (as at 8 July 2014).

¹⁶ SRC, *Respekt für das Humanitäre Völkerrecht: Ein Handbuch für Parlamentarierinnen und Parlamentarier*, [Respect for international humanitarian law: A handbook for parliamentarians] July 2014, available in German or French at: <https://www.redcross.ch/de/shop/publikationen/respekt-fur-das-humanitare-volkerrecht> (as at 8 July 2014).



provided financial and subject-matter support to the course run by the SRC for students at higher education institutions, which was organised in 2012 jointly by the ICRC and SRC.

Moreover, in-house training sessions were held within the federal administration itself. In March 2013, the DIL ran its first course on IHL with the support of the DDPS and the ICRC. In 2014, the ICIHL organised a second course. Employees of the federal administration, especially FDFA staff involved in activities in conflict regions, were given a basic knowledge of IHL. These sessions brought together in-house experts and specialists from international organisations and universities to teach both theoretical and practical aspects of IHL. Having received positive feedback, the ICIHL will continue to run such courses in future, generally on a yearly basis.

2.2.2. Updating the ICRC study on customary international humanitarian law

In 2005, following extensive research and widespread consultation with experts, the ICRC published its study on customary IHL. The ICRC subsequently decided to incorporate the study in a database providing access to the rules of customary IHL and related practice, which is periodically updated. To this end, it collated information on relevant state practice with the help of the ICRC delegations and national Red Cross societies.¹⁷ Since 2008, Switzerland has also been providing the ICRC with information on Swiss practice (military manuals, national legislation, national case-law, as well as official statements, reports and declarations in international forums). The ICIHL coordinates the collection of the relevant practice and transmits it to the ICRC.

2.2.3. Participating in universal and regional meetings of national IHL committees

Since the inception of the ICIHL, Switzerland has been able to participate in the universal meetings of the national IHL committees and thus also to take part in international networking. The Third Universal Meeting of National Committees on International Humanitarian Law took place from 27-29 October 2010 in Geneva and considered the implementation of the Rome Statute of the International Criminal Court into domestic law, among others. The participation of a Swiss representative enabled Switzerland to make an active contribution on a subject that is of great importance to us. Alongside the universal meetings, regional meetings are also held, providing the national IHL committees with a forum in which to discuss their roles, activities and challenges. In 2013, a Swiss representative attended three regional conferences, in Beijing, Abuja and San José. These meetings were specifically used to present the diplomatic initiative of Switzerland and the ICRC on strengthening compliance with IHL. These meetings also serve to exchange views and information on current developments and experiences.

2.2.4. Bilateral cooperation with national committees

Contact with other national committees gives Switzerland access to countries or regions in which cooperation in the area of IHL is otherwise slight, and creates an opportunity to discuss Swiss initiatives – such as the Montreux Document on private military and security companies or the previously mentioned initiative of Switzerland and the ICRC on strengthening compliance with IHL – with various relevant ministries.

In 2012, Switzerland supported the Jordanian IHL Committee, enabling it to conduct courses on IHL. The ICIHL proposes to foster contact with other national IHL committees and, where necessary and possible, to provide them with financial or technical support. Cooperation of this nature is intended to assist the national IHL committees in exercising their mandate and to make a contribution to the

¹⁷ For further information on customary international humanitarian law, see the ICRC website, available at: <http://www.icrc.org/eng/war-and-law/treaties-customary-law/customary-law/> (as at 8 July 2014).



dissemination and implementation of IHL through specific projects. For Switzerland, cooperation and contact of this kind represents a further opportunity to exchange best practices and to present, and move forward with, its initiatives.

2.2.5. Organising events on the challenges of international humanitarian law

Alongside its function as a platform for exchanging information and experience, the ICIHL provides an ideal forum for opinion-making and conducting debates on topics related to IHL. Organising follow-on events to the ordinary meetings creates an excellent opportunity to cooperate with (internal and external) experts in holding lectures and discussions on the current issues and challenges of IHL and, in so doing, to encourage the forming of opinions and establishment of positions within the administration. To this end, an event was held in conjunction with the 9th ordinary meeting of the ICIHL at which Dr Nils Melzer of GCSP spoke on the opportunities and challenges for IHL of new technologies (with a focus on autonomous weapons systems).

3. Outlook

In the five years since it was established, the ICIHL has developed into a body through which the offices and units of the federal administration whose activities touch on IHL can exchange information and experiences, coordinate their activities and maintain a dialogue with the SRC and the ICRC. This has served to enhance the coherent implementation and dissemination of IHL.

It can be envisaged that in future the ICIHL will not only tackle more cross-cutting topics related to IHL, but that it will also deal with them in greater depth. There is no lack of challenges, especially in areas with interfaces to other areas of international law, such as combating terrorism, protecting cultural property or the relationship between IHL and human rights. In addition, armed conflicts and operational reality present ever-new challenges for IHL, which are also of significance to Switzerland and which call for a more in-depth engagement. We are thinking here of the discussion on the development of new weapons: the development of ever-more autonomous weapons systems (robots), for example, raises a whole host of legal issues. It is in Switzerland's interests to continue its involvement in these discussions. The ICIHL can make an important contribution to clarifying such questions and to establishing a position within the federal administration.

The ICIHL also intends to become more operational. To achieve this aim, the ICIHL would like to build on its exchange with the SRC, the ICRC and other experts and civil society representatives. The existing network should now be cultivated even more resolutely and better use should be made of the expertise available within this network, by organising events on the current issues relating to IHL, for example.

Lastly, the ICIHL intends to step up and strengthen its contact and cooperation with other national committees, each of which brings together the key ministries dealing with IHL. Outside the universal and regional meetings of the national IHL committees, the ICIHL therefore strives to establish a more intense level of cooperation with other national committees. This will enable platforms to be created that facilitate a more in-depth discussion on issues affecting IHL and in which the ICIHL can make its expertise in dissemination and implementation available to others. At the same time, it will be possible for Switzerland to gain access to countries or regions, allowing it to advance and promote its concerns and initiatives.