

PERMANENT MISSION OF THE CZECH REPUBLIC
TO THE UNITED NATIONS

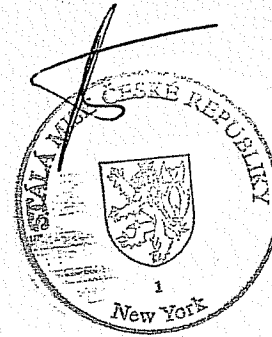
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The Permanent Mission of the Czech Republic to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to submit the "2008 Report of the Czech Republic on the Status of the Additional Protocols Relating to the Protection of Victims of Armed Conflicts of 1977, as well as on Measures Taken to Strengthen the Existing Body of International Humanitarian Law". The Permanent Mission of the Czech Republic to United Nations would appreciate if the Secretariat of the United Nations could include this report into the Addendum to the document A/63/118 – Report of the Secretary-General - "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

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

New York, 6 October 2008



His Excellency
Mr. Ban K i – m o o n
Secretary-General
United Nations
New York

Copy to the attention of:

Ms. Mahnoush H. Arsanjani
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Czech Republic

2008 Report on the Status of the Additional Protocols Relating to the Protection of Victims of Armed Conflicts of 1977, as well as on Measures Taken to Strengthen the Existing Body of International Humanitarian Law (IHL)

Incorporation of International Law into the National Legal System

1. The Czech Republic is a party to all fundamental IHL instruments, including the four Geneva Conventions of 1949, their two Additional Protocols of 1977 and the third Additional protocol of 2005.
2. According to Article 1 of its Constitution, the Czech Republic is obliged to obey all its obligations arising from the international law. This provision makes no distinction between the treaty and customary international law. Furthermore, Article 10 explicitly states that the treaties that have been ratified with consent of the Parliament prevail over the laws (except the Constitutional Acts). Therefore, the Czech Republic has to respect all the IHL principles, which may be derived either from the relevant treaties (Additional Protocols to the Geneva Conventions of 1949) or the customary international law.
2. Recently, the Czech Republic became party to the Additional Protocol III to the Geneva Conventions of 1949. The Additional Protocol III was duly ratified and became binding on the Czech Republic on November 23, 2007.
3. The Czech Republic made the declaration provided for under Article 90 of Protocol I to the Geneva Conventions, thus recognizing the competence of the International Humanitarian Fact-Finding Commission.
4. Since September 2007, the Czech Republic is bound by the Second Protocol of 1999 to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.
5. Since December 2006, The Czech Republic is bound by the Protocol V on Explosive Remnants of War to the 1980 Convention on Certain Conventional Weapons.

Implementation of IHL

6. In the beginning of 2005, the Armed Forces of the Czech Republic switched from the conscript to purely professional system. Therefore, the necessary transformation of all relevant military doctrines, manuals and guidelines has been commenced very recently. With this regard, appropriate implementation of the IHL rules and principles is being reviewed and should be secured in these documents.
7. The key legal and policy documents of the Czech Republic contain several explicit references or safeguards concerning implementation of IHL:
 - the Constitution stipulates that the Czech Republic obeys its obligations arising from the international law and that ratified treaties, including IHL instruments, constitute an integral part of the Czech legal order and prevail over laws.
 - the Military Strategy of the Czech Republic, which is a political guideline derived from the national security strategy, requires that the armed forces, during their activities, respect the international law applicable in armed conflicts.

- the Act on Professional Military enumerates among basic duties of soldiers the duty to follow the IHL. Identical obligation is contained in the Basic Order of the Czech Armed Forces.
- according to the Act on Professional Military, the soldiers are under a legal obligation not to obey orders of the superior should they commit a crime by the accomplishment of such orders (the grave breaches under the Geneva Conventions of 1949 and the Additional Protocol I had been implemented into the Criminal Code as crimes – see further).
- the Czech law imposes the above mentioned obligation also on policemen, fire-fighters, prison-guards etc.
- the grave breaches under the Art. 3 common to the Geneva Conventions of 1949 and the Additional Protocol I had been implemented into the Criminal Code as crimes – although of the grave breaches of Art. 3, only the crime of *Torture or other inhuman or cruel treatment* is explicitly listed in the Criminal Code chapter entitled *Crimes against Humanity*. All the rest of Art. 3 grave breaches is to be prosecuted under *general crimes* such as *Murder* (para 219 of the Criminal Code); *Trafficking in humans* (para 232a); *Infliction of bodily harm* (para 221, 222), *Violence against group of people or against an individual* (para 196, 197, 197a), *Torture and other inhuman and cruel treatment* (para 259a); *Rape* (para 241), *Restriction of personal liberty* (para 231), *Deprivation of personal liberty* (232); *Restriction of freedom of religion* (para 236) etc.
- War Crimes: the Criminal Code allows to prosecute military personnel, who use or order to be used, means or methods of combat that are prohibited by law, including attack on civilian population. The relevant (*special war*) crimes under the Czech Criminal Code are mainly as follows: *Employment of prohibited means and methods of warfare* (para 262), *War cruelty* (para 263); *Pillaging in the area of military operations* (para 264), *Persecution of population* (para 263a); *Abuse of internationally recognized and state emblems* (para 265). The remaining acts considered War Crimes under the IHL are prosecuted under the *general crimes* provisions of the Criminal Code.
- the Doctrine of the Armed Forces of the Czech Republic acknowledges basic IHL principles, determines limits for military operations and use of force and imposes obligations on commanders in this respect.

8. In order to enhance the implementation and promotion of IHL in the Czech Republic, the Ministry of Foreign Affairs of the Czech Republic established on an informal basis the Inter-ministerial Commission on IHL.

Dissemination of IHL (Particularly in the Czech Armed Forces)

9. The Czech Republic has transformed the overall system of military training with regard to the fact that there are fully professional armed forces now. This system consists of career training of an individual, regular daily training of individuals or units and ad-hoc training, be it specialized courses for individuals or pre-deployment training of particular units. This process is a good opportunity to promote the IHL, which has been included in the concrete training programs that have been issued so far and will be included in the ones to be issued in the coming years. In January 2008, a manual for the instructors of IHL training was issued, which is based on the concept of the ICRC publication *Fight it Right*, adapted to the Czech conditions. In May 2008, a consequent week-long seminar was organized introducing this publication to military instructors. As a result of this, it is guaranteed that every individual military professional meets IHL since the very beginning of his or her career, during regular annual training, whenever he or she wants to be promoted and before any deployment to a real operation.

10. The Czech Republic attaches importance to the education of officers, since IHL imposes special obligations on commanders. In December 2007, a manual for the commanders summarizing the essentials of the IHL was issued.

11. The academic military education is centralized within the Defense University located in Vyškov. This institution provides appropriate education, including mandatory courses on IHL to all prospective commanders. There is a significant amount of these lectures both in Bachelor's and Master's curriculum. One of the professors at the Defense University has in the beginning of 2008 published the first ever comprehensive textbook on the IHL for the purposes of university-level instruction.

12. The compliance within the military with IHL is promoted also by military legal advisers. They are available on a brigade level and above, in some cases on a battalion level too. Furthermore, the Czech Armed Forces have a limited number of reserve military legal advisers. Dealing with IHL issues is an inherent responsibility of every legal adviser. Although they are not responsible for training or tactical decision-making, they have to be capable of providing necessary legal advice to their commanders. Moreover, legal advisers participate in the process of developing rules of engagement for particular operations. Therefore, the legal advisers, Ministry of Defense lawyers and some other top brass participated in the December 2007 seminar on the Rules of Engagement, organized by the Defense Ministry, where the emphasis was put on the IHL rules. Since the scale of legal knowledge that any military lawyer should possess is relatively wide, a special handbook on operational law is being prepared by the General Staff of the Armed Forces and will be issued shortly. In the outline of this handbook, which has already been drafted, the IHL plays a central role.

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

14. Despite very recent adoption by the Czech Republic of the Additional Protocol III to the Geneva Conventions of 1949, the use of the third distinctive emblem is already being promoted in the instruction materials published by the Ministry of Defense. Information about "red crystal" emblem is included in the educational curricula as well.

15. The Ministry of Defense has recently launched a specialized intranet site (accessible for the Ministry and Armed Forces staff) dedicated to the IHL. The site contains some basic information and downloadable documents. The intention is in the near future to widen the site and move it over to the internet so that the broad public can access the information it contains.

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