

*Stála misia Slovenskej republiky
pri Organizácii Spojených národov
New York*



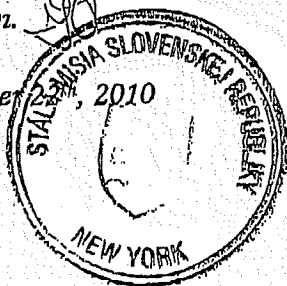
*Permanent Mission of the Slovak Republic
to the United Nations
New York*

No. 341/2010-USSM-ES

The Permanent Mission of the Slovak Republic to the United Nations presents its compliments to the Secretary-General of the United Nations and with regard to the note No. LA/COD/2 of 9 April 2010 has the honour to attach herewith information concerning the UN General Assembly resolution No. 63/125 relating to 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 Slovak 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, September



*H.E. Mr. Ban Ki-moon
Secretary-General
of the United Nations
New York*

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Implementation of the international humanitarian law in the Slovak Republic

The Slovak Republic pays permanent attention to the implementation and dissemination of the international humanitarian law. It is a State party to the Geneva Conventions of 12 August 1949 and to Additional Protocols I and II of 8 June 1977 thereof, including the Additional Protocol relating to the Adoption of an Additional Distinctive Emblem (Protocol III of 8 December 2005).

The Slovak Republic is also a State party to the Convention for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, 14 May 1954) and to the two protocols thereof (UNESCO, 14 May 1954 and 26 March 1999).

The Slovak Republic is presently a State party also to the Optional Protocol on the Involvement of Children in Armed Conflict of 25 May 2000 to the Convention on the Rights of the Child; the Optional Protocol entered into force for the Slovak Republic on 7 August 2006. In the declaration made at the time of the deposit of its instrument of ratification, the Slovak Republic stated that the minimum age set out in its legal system for voluntary recruitment to the armed forces is laid down in:

- Act No. 570/2005 Coll. on military service and on amending and supplementing other acts, which stipulates in section 6 that a person may voluntarily enter military service as from 1 January of the calendar year in which he/she attains the age of 19 years, and in
- Act No. 346/2005 Coll. on the State service of professional soldiers in the Armed Forces of the Slovak Republic and on amending and supplementing other acts, which stipulates in section 13 that the minimum age for admission to the State service is 18 years. The fact that the recruitment can be performed exclusively on the basis of the law and in compliance with the Constitution of the Slovak Republic offers sufficient guarantee against forced or coerced recruitment. It clearly follows from the above that the Slovak legislation does not permit compulsory recruitment to the armed forces of persons below the age of 18 years and that under no circumstances does the legal system of the Slovak Republic allow reducing the age of compulsory draft or recruitment for military service. The Initial Report of the Slovak Republic to the Optional Protocol on the Involvement of Children in Armed Conflict to the Convention on the Rights of the Child (hereinafter referred to as the "Initial Report") gives detailed information about the measures adopted by the Slovak Republic for its implementation. The draft initial report was discussed and adopted by the Government of the Slovak Republic in September 2009 by Resolution No. 593/2009.

The Slovak Republic also implements UN SC Resolutions No. 1325 of 2000 and No. 1820 of 2008 relating to the situation of women in armed conflicts and their role in the process of post-conflict reconstruction.

An integral part of the implementation of the principles of the international humanitarian law is the fulfilment of Slovakia's commitments under legally and politically binding documents on armament control and disarmament, commitments relating to the implementation of confidence and security-building measures, including the performance of inspections provided for in the international conventions by which it is bound, and the fulfilment of its

commitments arising from international treaties in the field of international humanitarian law relating to the protection of victims at the time of armed conflict and to the prohibition of the development, manufacture, stockpiling and use of certain types of weapons, especially weapons of mass destruction (except for the Convention on Cluster Munitions of 30 May 2008).

In the Slovak national legislation, Act No. 428/2007 on the State service of professional soldiers of the Armed Forces of the Slovak Republic defines the service discipline of members of the Armed Forces of the Slovak Republic as their obligation to respect the Constitution of the Slovak Republic, constitutional laws, other laws, other generally binding legal provisions, service regulations, military orders, etc. It stipulates that military orders may not be issued in contravention of the legal system of the Slovak Republic. The key principles underlying criminal liability are set out in sections 15 to 18 of Act No. 300/2005 Coll. the Criminal Code as amended (hereinafter referred to as "the Criminal Code"). Section 435, paragraph 3 of the Criminal Code stipulates that a commanding officer is criminally liable for criminal offences referred to in Title Two of the Special Part of the Criminal Code also if such offences are committed by the armed forces under his/her command and control authority as a result of his/her failure to control these forces, or if he/she knew or should have known – based on the circumstances at the time – that the armed forces have committed or prepared to commit such criminal offences, yet nevertheless did not take all necessary and adequate measures within the scope of his/her competence to prevent or suppress their commission, or did not refer the matter to the competent bodies for investigation and prosecution. The commanding officer who issued the order is responsible, in the capacity of perpetrator, for the criminal offence committed on the basis of such order. Section 117 (service discipline), paragraph 4 of the State Service Act provides that if a professional soldier believes that a military order, command, direction or instruction issued by his/her commanding officer is in contravention of a generally binding legal regulation, he/she must notify this fact to the commanding officer. When the commanding officer insists that the military order, command, direction or instruction be executed, he/she must confirm this in writing for the professional soldier, and the professional soldier is obliged to carry out the military order, command, direction or instruction. Furthermore, paragraph 5 of the same section stipulates that a professional soldier is obliged to refuse to carry out a military order, command, direction, or instruction issued by his/her commanding officer if the execution thereof would constitute a criminal offence, and must immediately notify this fact to the next higher chain of command of the commanding officer who issued the military order, command, direction or instruction. A member of the armed forces is criminally liable if he/she was aware or could have become aware immediately after receiving the order that the order was clearly and manifestly unlawful and that its execution would constitute a criminal offence. If the soldier was aware of the fact that the execution of the order resulted in the commission of a criminal offence, he/she would have been able to avoid criminal liability by notifying his/her commanding officer.

According to section 431, paragraphs 1 to 2 of the Criminal Code (War Atrocities), any person who violates the rules of the international law in time of war by inflicting cruel treatment on helpless civilian population, refugees, wounded persons, members of the armed forces who laid down their arms or prisoners of war, shall be punished by a term of imprisonment of four to ten years. The same punishment shall be imposed on any person who violates the rules of the international law in time of war by failing to take effective measures to protect persons who are in need of assistance, especially children, women and wounded persons, or who prevents or precludes such measures, or who prevents civil protection

organisations of the enemy, of a neutral State or of another State from carrying out their humanitarian tasks.

In 2006, the Guidelines of the Ministry of Defence of the Slovak Republic on the protection of cultural assets in case of armed conflict were approved and put into effect. Their aim is to unify the training of professional soldiers, civil servants and other employees participating in the implementation of the tasks of the armed forces to ensure that these tasks be carried out in compliance with the norms of the law of armed conflict, and that military operations conducted by or with the participation of armed forces of the Slovak Republic be executed in compliance with the law of armed conflict. The Guidelines have the aim of implementing the principles of the Convention for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, 14 May 1954) and of the Second Protocol to the Convention (UNESCO, 26 March 1999) in the planning and execution of military operations and in the instruction and training of armed forces of the Slovak Republic. The Guidelines were amended in 2009. In addition, Guidelines of the Ministry of Defence of the Slovak Republic No. 119/2008 relating to the training on the law of armed conflict were issued with a view to improving the implementation of the principles of the international humanitarian law and of the law of armed conflict in the defence sector. The training programme lays emphasis on the protection of persons (wounded, sick, shipwrecked, prisoners of war and civilians), protected buildings and cultural assets; prohibited warfare methods and means; applicability of international treaties in the area of the law of armed conflict and their implementation in countries with different cultures; responsibility and tasks of commanding officers and commissioned officers at headquarters when planning and executing military operations; the rules of the use of force (rules of engagement); cooperation with local administration and with non-governmental organisations in the area of the law of armed conflict, and responsibility of professional soldiers and commanding officers for violations of the norms of the law of armed conflict and for war crimes.

An Agreement was signed on 26 February 1999 between the Ministry of Defence of the Slovak Republic and the International Committee of the Red Cross (hereinafter referred to as "the ICRC") on cooperation in the area of dissemination of the humanitarian law and of humanitarian legal provisions in general. The Agreement (hereinafter referred to as "the Agreement") was signed by the Slovak Defence Minister and the President of the ICRC. In the Agreement, the Slovak Republic reaffirmed its commitment to disseminate and implement the principles of the humanitarian law and the law of armed conflict in the armed forces of the Slovak Republic (hereinafter referred to as the "AF SR"). In the Agreement, the ICRC pledged to provide assistance in the instruction and training of AF SR in the area of the humanitarian law and the law of armed conflict by means of lectures, seminars, training courses, working sessions, and by providing support for publications in this area. The defence sector has made full use of this assistance. From 1999 to date, the defence ministry sector has been implementing the Agreement in its entirety.

The principles of the international humanitarian law and of the law of armed conflict are incorporated into instruction and training programmes for AF SR members. Members of the Armed Forces receive instruction and training on the law of armed conflict, with emphasis on the Geneva and Hague Conventions (including the additional protocols thereof), on peaceful resolution of disputes, and on sanctions for the violation of the principles of the international law of armed conflict, in the course of military training from the lowest to the highest level. Professional soldiers receive key information in the Basic Training School whose attendance is compulsory for all applicants for State service career as professional soldiers. The training

continues with courses organised by the Academy for Non-Commissioned Officers in Martin, and by the AF SR Academy in Liptovský Mikuláš. The units undergoing preparation for deployment in NATO, EU or UN-led international crisis management operations receive special training, which is focused on relevant issues.

The authorities of the Slovak Republic, in conjunction with the Slovak Red Cross, take part in effective implementation and dissemination of the international humanitarian law, especially by means of organising training events and publishing specialised publications intended not only for members of the armed forces, but also for the professional community and general public. An example of these efforts is the Agreement on Mutual Cooperation signed between the Ministry of Defence of the Slovak Republic and the Slovak Red Cross in December 2009.

The Slovak Republic and the Slovak Red Cross closely cooperate also with the legal advisory service of the ICRC; this cooperation has resulted, inter alia, in several successful projects related to the implementation and dissemination of the international humanitarian law in Slovakia, such as issuance of specialised publications (e.g., Kadlečík, Branislav: "Slovak/English Text of Selected Provisions of Act No. 300/2005 Coll. Criminal Code as amended, Act No. 301/2005 Coll. Code of Criminal Procedure as amended and Other Acts Implementing the Norms of International Humanitarian Law into the Legal Order of the Slovak Republic" published by the Ministry of Justice of the Slovak Republic in 2008). In cooperation with the ICRC, the defence ministry sector published translations of basic international treaties (including the publications such as The Military Humanitarian Law. The Hague Conventions in the System of the International Humanitarian Law; The Waging of Armed Conflict. Selected Hague Conventions and other International Treaties) and the manuals on the international humanitarian law and the law of armed conflict such as The Wartime Law, A Compendium for Commanding Officers; The Law of Armed Conflict. Training Manual for Instructors. In the performance of their tasks, the armed forces are also using the publication of the Geneva Conventions and additional protocols thereof, published by the Central Secretariat of the Slovak Red Cross in cooperation with the ICRC in 2002.

The above cooperation also includes the organisation of joint training events and ministerial and/or expert level participation in international conferences, seminars and other specialised events organised by the ICRC.

Implementation of the principles of international humanitarian law in current armed conflicts is fostered by means of manuals issued for members of AF SR deployed in international operations, such as:

- Manual for the AF SR soldier deployed in the international operation KFOR,
- Manual for the AF SR soldier deployed in the peacekeeping force UNFICYP,
- Manual for the AF SR soldier deployed in the military operation ISAF,
- The law of armed conflict, a concise compendium for commanding officers.

Since 1 January 2002, the Committee on the International Humanitarian Law (hereinafter referred to as "the CIHL"), established by the Minister of Foreign Affairs of the Slovak Republic on 20 September 2001, has performed the role of the Minister's standing advisory body. The legal status and tasks of the CIHL are set out in its Statute.