



**INTERNATIONAL HUMANITARIAN  
FACT-FINDING COMMISSION (IHFFC)**

---

**COMMISSION INTERNATIONALE HUMANITAIRE  
D'ÉTABLISSEMENT DES FAITS (CIHEF)**

Statement  
before the 6<sup>th</sup> Committee of the UN General Assembly  
New York, October 7, 2016  
by Justinas Žilinskas, member of the IHFFC

Mister Chair, Excellencies, Ladies and Gentleman

This debate is an important opportunity for the International Humanitarian Fact-Finding Commission to take the floor, to update you on our work and to raise awareness on one of the mechanisms to ensure respect for international humanitarian law.

The IHFFC was established by Article 90 of the Additional Protocol I of the Geneva Conventions of 1949. It is an instrument at the disposal of States and the International Community to ensure that IHL is applied during all types of armed conflicts.

What the Commission offers is available for the use of States if there are allegations of serious violations of international humanitarian law. The IHFFC is a specialized institution composed of 15 members elected by the States which have recognized the Commission's competence.

The Commissioners do not represent their States and they serve in their personal capacity, as a result of which the Commission is truly independent and impartial. The Commissioners are designed to reflect geographic diversity and come from all parts of the world, representing different disciplines such as military officers, judges, university professors of law, medical doctors, psychiatrists and diplomats.

Relating to the procedure of the Commission, I would like to underline that it is designed for cooperation with parties to the conflict, which may also appoint "ad hoc" members assuring its transparency. The procedure of fact-finding is confidential and the report on the findings is submitted to the Parties with recommendations. However, that report shall not be published unless all Parties to the conflict have requested the Commission to do so [Art.90(5)(c)]. If the Commission is unable to secure sufficient evidence for factual and impartial findings, the Commission shall state the reasons for that inability [Art. 90(5)(b)].

The task of the Commission is not to blame and shame, but to investigate allegations of violations of international humanitarian law, with a view to establishing a greater respect for international humanitarian law. The Commission also offers its "good offices" which

can be used to avoid further conflict escalation which can only affect detrimentally civilian populations, and also be used to comment on the possibilities of a friendly settlement.

The Commission has offered its services and its good offices in a number of situations and it has carried out delicate negotiations with several parties and is continuing to do so. The Commission has concluded necessary technical agreements with Swiss Humanitarian Aid, a unit of Swiss Agency for Development and Cooperation, which guarantees swift and effective Commission's deployment in the case of the mission. But to be able to operate, the Commission needs a specific mandate given by the parties to the conflict. To date, that has not been forthcoming.

The General Assembly through Resolution A/55/148 of January 19th., 2001 called upon all States that were parties to Protocol I and those States who were not, on becoming Parties to the Protocol, to make the declaration on acceptance of the Commission's competence under Article 90.

Since then, 18 further States have made a declaration of acceptance of the competence of the International Humanitarian Fact Finding Commission (St. Kitts and Nevis (April 17, 2014) being the latest), so that the total number of such States is now 76. However, there is a need for more States to join in order to guarantee equitable geographic representation and to enable the Commission to gain a critical mass. The Commission is working hard on this matter and the number of States Parties accepting the Commission's competence is growing slowly but constantly.

The General Assembly has called several times upon States to make use of the services of the Commission in appropriate cases. We hope that the Assembly will again express their confidence in the Commission in order to facilitate, through its services, the restoration of an attitude of respect for International Humanitarian Law, especially the Geneva Conventions and their Additional Protocols, and by joining forces with the Commission to mitigate the suffering of people in conflicts. We also hope that the Security Council will continue with its expressed intention to consider making use of the Commission.

The Commission would like to draw attention to the possibility that it could be complementary to other Fact-Finding Missions established by human rights bodies and other United Nations organs, being tasked to investigate specific facts or events where parties to the conflict cannot agree, and could offer complementary expertise based on its specific international humanitarian law knowledge and experience. This could be achieved through the *ad hoc* use of individual Commissioners if required.

The Commission reiterates that it would be helpful to the Commission to receive comments from States and the relevant United Nations organs as to why they have not yet made use of the services offered by the Commission and why there appears to be a preference to appoint *ad hoc* Commissions, rather than to engage the only established body. In this respect, I would like to draw attention to the General Assembly declaration A/67/L.1 of September 19<sup>th</sup>, 2012 on the Rule of Law at the National and International Levels, in particular paragraphs 21 and 22.

In the latter, States commit themselves to investigate “violations of international humanitarian law” through, among others, “international mechanisms”. The International Humanitarian Fact-Finding Commission is the only permanent “international mechanism” specializing in international humanitarian law that could fulfill such missions. Therefore, the Commission would be ready to work with the UN Secretariat and other competent institutions/organisations to develop a questionnaire that would be presented to States leading, among other goals, to more effective answers in promoting the Commission.

The IHFFC also would like to draw attention to the recent MSF’s statement before the UN Security Council, calling for, I quote, “*dedicated mechanisms for independent, prompt, and effective investigations into attacks on civilians and medical care*” unquote. The Commission is precisely an institution, which can also be active in such investigations, and has the advantage to be already existing and existing on a permanent basis. IHFFC’s involvement in that respect would therefore greatly help, on a very practical ground, all efforts which have to be made for respecting and ensuring respect for IHL. The MSF’s statement also calls upon the Secretary General to appoint a special representative mandated to document and report attacks on medical facilities. The IHFFC may also be of help in this regard.

The Commission also would like to remind the States that has accepted its competence that this year an election of Commission’s members is being held and the deadline for the candidatures is almost here.

To conclude I would like to recall the readiness of the Commission to act as an instrument of the international community to enhance respect for international humanitarian law.

I thank you for your attention.