

Translated from Spanish

Ministry of Foreign Affairs and Human Mobility

Department of Multilateral Affairs

Directorate of Human Rights and Peace

Compilation of information on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Information provided by the Ministry of National Defence on General Assembly resolution 73/204, entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts”

Ecuador ratified the Geneva Conventions of 12 August 1949 on 11 August 1954; it ratified the Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international armed conflicts (Protocol I) and the Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of non-international armed conflicts (Protocol II) on 10 April 1979; and signed the Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the adoption of an additional distinctive emblem (Protocol III) on 8 December 2005. Ecuador complies with all established international humanitarian rules relating to armed conflict and considers it imperative to respect and ensure respect for those rules through their regular dissemination (especially in times of peace), given that they are founded on international humanitarian law. Ecuador reaffirms that the provisions of the Geneva Conventions and the Protocols Additional thereto must be applied in all circumstances to all persons who are protected by those instruments, without any distinction.

Consequently, in the conduct of armed conflict, Ecuador, as a Member State, and its armed forces are required to comply with all established international humanitarian rules relating to armed conflict, and with the need to respect and ensure respect for those rules, which must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the origin of the armed conflict or on the causes espoused by or attributed to the parties to the conflict.

Given that the parties to an armed conflict can make use of the services of the International Humanitarian Fact-Finding Commission, the Joint Command of the Ecuadorian Armed Forces

recommends giving ad hoc consent in order to ensure satisfactory compliance with the fundamental guarantees to which victims of armed conflict are entitled, and proceeding in accordance with Protocol I. Article 90(2)(c)(i) of the Protocol states as follows: “The Commission shall be competent to enquire into any facts alleged to be a grave breach as defined in the Conventions and this Protocol or other serious violation of the Conventions or of this Protocol”.

Ecuador also ratified the Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954) on 2 October 1956; the Protocol thereto (1954) on 8 February 1961; and the Second Protocol thereto (1999) on 2 August 2004. It ratified the Convention on the Rights of the Child (1989) on 23 March 1990, and the Optional Protocol thereto on the involvement of children in armed conflict (2000) on 7 June 2004.

With regard to the call upon all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation, and to the necessity of making the implementation of international humanitarian law more effective and the support for its further strengthening and development, Ecuador has incorporated the principle of respect for international humanitarian law into its constitutional and legal order. It disseminates the principle among members of the armed forces to ensure that they are aware of its inherent rules, and also emphasizes the fact that violations of international humanitarian law are crimes under the Comprehensive Organic Criminal Code (see part IV on specific offences, chapter 1 on serious violations of human rights and crimes under international humanitarian law).

In relation to participation in the thirty-second International Conference of the Red Cross and Red Crescent, held in Geneva from 8 to 10 December 2015, the Ministry of National Defence had submitted reports on the fulfilment of pledges on sexual violence in armed conflicts and other emergencies (pledge 2) and on the strengthening of the protection of education during armed conflict (pledge 3). It had also submitted reports entitled “Resolution 3: sexual and gender-based violence: joint action on prevention and response” (32IC/15/R3), “Resolution 4: health care at risk: continuing to protect health care delivery together” (32IC/15/R4), “Resolution 5: the safety and security of humanitarian volunteers” (32IC/15/R5) and “Resolution 6: strengthening legal frameworks for disaster response, risk reduction and first aid” (32IC/15/R6).

For the thirty-third International Conference of the Red Cross and Red Crescent, held in Geneva from 9 to 12 December 2019, the Ministry of Foreign Affairs and the Ministry of National Defence, in their respective capacities as Chair and Vice-Chair of the Ecuadorian National

Commission for the Implementation of International Humanitarian Law, were part of the official delegation, which took the lead on a joint pledge with Peru and also joined the sponsors of a proposal made by Austria. As at April 2020, Ecuador had made three voluntary pledges for the period 2019–2023.

The Ecuadorian National Commission for the Implementation of International Humanitarian Law was established by Executive Decree No. 1741 of 16 August 2006. It deals with matters of common interest in the implementation and dissemination of international humanitarian law, focusing on the dissemination of the supranational rules of international humanitarian law and their incorporation into Ecuadorian law.

The Commission, which held its most recent session on 19 February 2020, meets regularly and has set up mechanisms to promote dissemination, such as annual Mariscal Antonio José de Sucre courses on international humanitarian law. The eleventh edition of the course was held in Quito from 20 to 23 May 2019; the theme of the course was the use of force in international humanitarian law and international human rights law in the context of the commemoration of the seventieth anniversary of the signing of the Geneva Conventions. During the final months of 2019 and part of 2020, it worked on the revision of the draft regulations on the use of the emblem of the Red Cross and Red Crescent.

In order to contribute to the protection of victims of armed conflict, the Directorate of Human Rights and International Humanitarian Law of the Joint Command of the Armed Forces of Ecuador recommends that once the health emergency related to the coronavirus disease pandemic has ended, the Ministry of National Defence should coordinate all efforts necessary to promote socialization, and work with various government bodies, including the Human Rights Secretariat, the Ministry of Foreign Affairs and the Office of the Counsel General, to address the issue of the protection of victims of armed conflict. The goal of the exercise would be to ensure that those bodies work in a coordinated way, culminating in the drafting and submission of protocols for the proper treatment and protection of victims of armed conflict that can be applied nationwide.

It should be recalled that there is a close relationship between international human rights law and international humanitarian law in the context of the conduct of armed conflict, and that it is the obligation of the State to investigate violations of international humanitarian law, in accordance with article 146 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), dealing with penal sanctions, which states as follows: “The High

Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article. Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.”

Lastly, it is worth noting that the Beijing Declaration and Platform for Action is a visionary agenda for 2030 for women’s empowerment. Its aim is to promote gender equality and respect for the human rights of women and girls worldwide. It covers twelve areas, one of which is women and armed conflicts. Resolution 72/147, entitled “Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly”, contains criteria for compliance with and implementation of the Beijing Declaration and Platform for Action by Member States. It should be noted that, as demonstrated by the communication of the Office of Legal Affairs with reference LA/COD/2/1, concerning the submission of information on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, States parties have an obligation to comply with paragraph 25 of resolution 72/147 of 19 December 2017, in which the General Assembly “requests that reports of the Secretary-General submitted to the General Assembly and the Economic and Social Council and their subsidiary bodies continue to systematically address gender perspectives through gender-sensitive analysis and the provision of data disaggregated by sex and age, and that conclusions and recommendations for further action address the different situations and needs of women and men and girls and boys in order to facilitate gender-sensitive policy development, and in this regard requests the Secretary-General to convey the importance of reflecting a gender perspective to all stakeholders who provide input to his reports”.

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