

 Permanent
Mission
of Austria

to the United Nations
in New York

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NOTE VERBALE

The Permanent Mission of Austria to the United Nations presents its compliments to the Secretary-General of the United Nations and with regard to the request in Note Verbale LA/COD/2/1 from 17th January 2022 on “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts” has the honor to herewith submit attached the report by Austria.

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

New York, 1 June 2022

To the
Secretary-General of the United Nations
United Nations Headquarters
New York

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts and measures taken to strengthen international humanitarian law

Report by Austria

June 2022

Since Austria's last report in 2020, the following measures were taken by Austria relating to the Protocols Additional to the Geneva Conventions of 1949, the protection of victims of armed conflicts and the strengthening of International Humanitarian Law (IHL):

1. In the wake of the 33rd International Red Cross and Red Crescent Conference in December 2019, Austria joined further voluntary "Open Pledges" by other states and organisations. In line with the Austrian priorities of strengthening compliance with IHL, protecting civilians and cooperating with national IHL committees, commitments made related to strengthening domestic implementation of IHL in military operations, the protection of children in armed conflict and generally of civilians in urban areas, and to promoting the work of national IHL committees as well as the exchange of information among them.
2. As regards the pledge to host a regional conference of the European national IHL committees in Vienna in 2020, in close cooperation with the ICRC, this conference had to be postponed due to the COVID-19 pandemic, but is now envisaged to take place in spring of 2023. Likewise, the annual seminar on the promotion and dissemination of IHL organised by the MFA and the Austrian Red Cross in cooperation with the universities of Linz and Graz, which Austria pledged to continue, had to be cancelled in 2020 and 2021 as a result of the pandemic, but will be resumed.
3. In 2021, the Austrian Red Cross Law was amended to provide for a legal basis for the Austrian National Committee for the Implementation of IHL, which had existed informally already since 1988, co-chaired by the legal advisers of the Austrian foreign ministry and the Austrian Red Cross. The new provision on the Austrian National IHL Committee (Section 10a) reads as follows:

"In order to coordinate the implementation of international humanitarian law, a National Committee is hereby established which is jointly chaired by a representative of the Federal Ministry for European and International Affairs and the Austrian Red Cross. All Federal Ministers may delegate representatives to the National Committee. The National Committee may invite interested academics to participate in its meetings. The National Committee meets at least twice a year. The tasks of the Committee include the dissemination of knowledge on international humanitarian

law in Austria and advising the members of the Federal Government on the fulfilment of the obligations of the Republic of Austria under the Geneva Conventions and their Additional Protocols, as well as the coordination of the implementation of the pledges made by the Republic of Austria and the Austrian Red Cross at the International Conferences of the Red Cross and Red Crescent.”

Additionally, the amendment included a provision on an annual subsidy to the Austrian Red Cross (Sections 10b and c) of 2 Mio. €, intended to “secure its sustainable functioning as the recognised national Red Cross society according to Section 1 and the implementation of its tasks based on the Geneva Conventions and their Additional Protocols as well as the relevant decisions of the International Conferences of the Red Cross and Red Crescent (Section 2(2))”.

4. Austria currently chairs the *Ad hoc* subcommittee on monitoring and supervision of the implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, and is very actively engaged with two national experts in its work that aims at strengthening the existing reporting mechanism.
5. While fully agreeing that existing IHL applies to new technologies, Austria is among the states that advocate a legally binding instrument prohibiting autonomous weapon systems that do not provide for meaningful human control in order to prevent unintended consequences of such weapons in the future. To add momentum to discussions on the regulation of such weapon systems, Austria hosted a virtual conference on “Safeguarding Human Control over Autonomous Weapon Systems” in 2021 with a view to contributing to the work of the Convention on Certain Conventional Weapons Group of Governmental Experts on this subject. The conference focused on the legal, ethical, and security challenges posed by increasing levels of autonomy in weapon systems.
6. Following the adoption of the Treaty on the Prohibition of Nuclear Weapons (TPNW) in 2017, Austria now focusses on its promotion. A milestone was reached in October 2020 as the number of 50 ratifications required for the treaty’s entry into force was achieved. Hence, the TPNW entered into force on 22 January 2021. Austria will continue its cooperation with UN member states, international organisations, including the UN, the ICRC and civil society to raise awareness and make progress on addressing the issue of the catastrophic and unacceptable humanitarian consequences and risks of nuclear weapons and the need of attaining a world free of nuclear weapons. The first Meeting of States Parties chaired by Austria will take place in Vienna on 21 – 23 June 2022. Additionally, on the 20 June 2022, Austria is organizing an expert “Conference on the Humanitarian Impact of Nuclear Weapons (HINW22)”.

7. Over the last years Austria, together with like-minded states, worked for a broad international engagement and the drawing up of a political declaration to address the human suffering caused by the use of explosive weapons in populated areas (EWIPA) and strengthen implementation of IHL in that regard. Austria hosted the first global conference on the topic under the heading of "Protecting Civilians in Urban Warfare" in 2019. Building on the main elements emerging from the Vienna conference, a draft political declaration was developed in subsequent consultations hosted by Ireland, but the process was slowed down as a result of the COVID-19 pandemic. With the negotiations resumed, the declaration is expected to be adopted in 2022.
8. Regarding anti-personnel mines and cluster munitions Austria will continue its cooperation with UN member states, international organisations, including the UN, the ICRC and civil society to reach the objective of a mine-free and cluster munitions free world. From 2018 to 2020, Austria was a member of the Committee on the implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction (Article 50, mine clearance). Austria regularly contributes financially to mine risk education, mine clearance and victim assistance projects, for instance in Syria and Ukraine.
9. On the occasion of the 20th anniversary of the NGO "Geneva Call", which focusses its activities on compliance with IHL, including banning of land mines, by non-state armed actors, Austria made a voluntary financial contribution to the NGO in 2020, which was repeated in 2021.
10. Austria actively participated in the sessions of the open-ended working group (OEWG) of the UN General Assembly on developments in the field of information and telecommunications in the context of international security, repeatedly stressing that existing international law in its entirety, including IHL, applied in cyber space and to the use of ICTs by states. In view of some divergent views, Austria highlighted that the applicability of IHL to cyber operations in armed conflict in no way encouraged the militarisation of cyberspace nor legitimized resort to armed conflict in any domain.
11. The Austrian Ministry of Defense continues to regularly organize the "Vienna Course on International Law for Military Legal Advisers", which takes place under the auspices of the European Security and Defense College (ESDC). The main aim of this course is to convey core knowledge about the application of international law, in particular human rights law and IHL, to international crisis-management operations by military and security forces.
12. The Austrian Ministry of Defence has published a compilation of legal documents on IHL, including both international treaties to which Austria is a party, as well as Austrian

laws and regulations, to serve as a key reference document, especially for legal advisers and law professors, for the training of members of the Austrian armed forces in IHL.

13. Austria remains a strong supporter of the International Criminal Court (ICC) and of the universality of the Rome Statute. Austria continuously makes voluntary contributions to the ICC Trust Fund for Victims, recently made a voluntary contribution to the ICC Office of the Prosecutor's Trust Fund for Advanced Technology and Specialized Capacity and is currently in the process of seconding an expert from the judiciary to the Court. Together with 40 other States Parties to the Rome Statute, Austria submitted the situation in Ukraine to the ICC on 2 March 2022. The ICC regularly cooperates with Austrian judicial authorities. A recent example of best practice is the procedure established in cooperation with the Federal Office for Immigration and Asylum that enables the ICC OTP on the basis of mutual legal assistance requests to screen pre-selected documents from asylum procedures for relevance to its investigations.
14. The fight against impunity also requires objective establishment of facts. In 2021, Austria again made a substantive voluntary financial contribution to the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 (IIIM). In addition, Austria continued its financial support to other institutions such as the Residual Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia. An amendment to the Federal Law on Cooperation with International Courts of March 2020 enables Austrian judicial authorities to cooperate in criminal matters with investigative or evidence-gathering bodies of the United Nations, such as the IIIM Syria, the Independent Investigative Mechanism for Myanmar or UNITAD.
15. In October 2021, the Ministry of Justice together with the Ludwig Boltzmann Institute for Human Rights, the EU Genocide Network and the University of Vienna held a statewide workshop for judges and prosecutors as well as investigators from the Ministry of the Interior on the prosecution of international crimes before national criminal courts. Particular topics regarding international humanitarian law and international criminal law are also included in the training curricula of new judges and prosecutors and are addressed at their study trips, as for instance at one to The Hague in May 2022 which included a visit to the ICC.