

Template Questionnaire relating to the status of the Protocols Additional to the 1949 Geneva Conventions and on measures to strengthen the existing body of international humanitarian law (IHL)

Submission from Austria on new developments and activities undertaken during the reporting period June 2022 – June 2024

Please set out briefly any new developments or activities undertaken in the following areas:

I. Ratifications or Accessions to the Geneva Conventions of 1949, their Additional Protocols and other relevant international humanitarian law (IHL) treaties:

N/A

II. Adoption of national legislation to implement the above-mentioned instruments:

N/A

III. Adoption of other measures of implementation and for the dissemination of IHL:

In order to promote universal jurisdiction for international crimes, the Austrian Federal Ministry of Justice adopted a **decree**¹ in July 2022 to the effect that **Austrian courts may assume jurisdiction over international crimes committed outside of Austria** if persons seeking international protection in Austria are the victims of those crimes.

IV. Domestic case law relating to the above-mentioned instruments:

On 26 January 2022 the **Regional Court Feldkirch** rendered a **decision**² **convicting an Austrian national**, who had served in 2015 in a unit of foreign volunteers in the Ukrainian armed forces, **for war crimes against persons** pursuant to § 321b para 3 (1) of the Austrian Penal Code³ (“inflicting severe physical or mental pain or suffering to a protected person under international humanitarian law who is in custody or otherwise under control, unless such pain or suffering arises only from, is part of, or is incidental to a lawful sanction”). The Office of the Prosecutor appealed the sentence of two and a half years of imprisonment on probation. On 12 July 2022, the **Higher Regional Court of Appeals of Innsbruck rendered a final decision**⁴, increasing the sentence to three years (including two years on probation). The latter decision specifically emphasizes the defendant’s de-facto leadership position within his unit.

¹ Erlass des Bundesministeriums für Justiz v. 5.7.2022, 2022-0.448.134, eJAB1 Nr. 18/2022.

² Urteil des Landesgerichts Feldkirch v. 26.1.2022, AZ 16 Hv 53/21g [not published].

³ § 321b Absatz 3 Ziffer 1 Strafgesetzbuch, Federal Law Gazette 60/1974, as amended.

⁴ Urteil des Oberlandesgerichts Innsbruck v. 12.7.2022, AZ 11 Bs 89/22h [not published].

V. Activities carried out by national commissions or committees to support the implementation or dissemination of IHL:

Austria works closely with the Austrian Red Cross and other relevant stakeholders at national level in order to promote observance and dissemination of IHL standards. In March 2023, Austria, the Austrian Red Cross and the ICRC organised the **European regional conference of National Committees on International Humanitarian Law (NCIHL)**. The conference provided an opportunity for exchange of best practises among NCIHLs as well as substantive discussion on topical IHL issues including resolution of missing persons cases, explosive weapons in populated areas, universal jurisdiction, humanitarian exemptions to sanctions regimes.

In addition, Austria organises **meetings of its National IHL Committee twice per year**, bringing together stakeholders including from the Federal Government (Foreign Affairs, Defence, Home Affairs, Justice, Arts and Culture), the Austrian Red Cross and universities.

VI. Other relevant initiatives to promote respect for the 1949 Geneva Conventions, their Additional Protocols and other relevant instruments:

The ***Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas*** (EWIPA Political Declaration) was adopted in Dublin in June of 2022 by 83 States. To further its implementation, and in preparation of the first meeting of signatory States in April 2024, Austria organised a **Military Workshop** in January 2024 in Vienna. In addition, the Austrian Armed Forces are in the process of systematically integrating the commitments made in the EWIPA Political Declaration in its strategy, training and procurement.

Regarding the use of new technologies and artificial intelligence for military equipment, Austria is at the forefront of promoting the thorough and meaningful regulation of lethal autonomous weapons systems (LAWS). In October 2022, Austria initiated and coordinated a **joint statement** by 70 States in the **UNGA 1st Committee**, which called for the regulation of and necessity of human control over autonomous weapons systems. In October 2023, Austria initiated the first-ever **UNGA resolution (A/Res/78/241) on autonomous weapons systems** which was adopted with the support of 164 States. The resolution requests the UN Secretary General to submit a report reflecting the views of States on lethal autonomous weapons systems and ways to address the challenges arising from humanitarian, legal, security, technological and ethical perspectives, including the role of humans in the use of force. In April 2024, Austria hosted the **international conference “Humanity at the Crossroads: Autonomous Weapons Systems and the Challenge of Regulation”** in Vienna, in order to further advance the discourse around the challenges posed by autonomous weapons systems and the urgent need for negotiating a legally-binding instrument to address these challenges.

Austria has recently finalized its ***Position Paper on Cyber Activities and International Law***⁵, which includes *Cyber Activities and IHL* as one of its focus areas. This Position Paper outlines the Austrian understanding of the application of international law to cyber activities.

The Austrian Defence Academy offers **trainings, workshops and seminars on IHL** and specific aspects thereof on a regular basis to members of the Austrian Armed Forces. These are often also open to other (civilian) stakeholders.

The Austrian Red Cross offers trainings, workshops and seminars on IHL and specific aspects thereof on a regular basis to relevant stakeholders.

⁵ See [https://docs-library.unoda.org/Open-Ended_Working_Group_on_Information_and_Communication_Technologies_-_2021/Austrian_Position_Paper_-_Cyber_Activities_and_International_Law_\(Final_23.04.2024\).pdf](https://docs-library.unoda.org/Open-Ended_Working_Group_on_Information_and_Communication_Technologies_-_2021/Austrian_Position_Paper_-_Cyber_Activities_and_International_Law_(Final_23.04.2024).pdf).