Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1427 (1999)[1]

Respect for international humanitarian law in Europe

Parliamentary Assembly

1. The year 1999 marks the fiftieth anniversary of the four Geneva Conventions of 1949 which, together with their two Additional Protocols of 1977, are the principal instruments of international humanitarian law. This "law of Geneva", as it is sometimes called, comprises rules which, in times of armed conflict, seek to protect persons who are not, or are no longer, taking part in the hostilities, and to restrict the means and methods of warfare employed.

2. Coincidentally, 1999 is also the centenary of the First Hague Peace Conference, which adopted the first of the "Hague Conventions" (also known as "the law of war") establishing the rights and obligations of belligerents in the conduct of military operations and seeking to limit the means of harming the enemy.

3. Tragically, it must also be said that 1999, the year in which the Council of Europe celebrates its own fiftieth anniversary, marks one of the lowest points in the history of respect for international humanitarian law in Europe. The conflict in Kosovo has seen some of the worst reported abuses in recent years, coming in the wake of previous wars in the territory of the former Yugoslavia and also in the Caucasus. Hence the world, and Europe not least, more than ever needs the protection afforded by international humanitarian law and the institutions set up to implement it.

4. It is essential that the Council of Europe member states do everything possible to promulgate as widely as possible and to ensure respect for international humanitarian law. It is an obligation for all states parties to the Geneva Conventions and the Additional Protocols to adapt their national legislation so that these texts can be implemented and penalties for violations be established by law. Parliamentarians have a particular responsibility in this regard.

5. The Parliamentary Assembly considers it essential that violations of humanitarian law are punished so as to ensure that a "culture of impunity" does not take root. The permanent International Criminal Court with universal jurisdiction is to be welcomed, and the Assembly reaffirms its Recommendation 1408 (1999) on the International Criminal Court, calling in particular on the member states to ratify the court's statute as soon as possible. Pending the start of its deliberations, everything must be done to ensure that the International Criminal Tribunals for the Former Yugoslavia and Rwanda are able to carry out their work.

6. However, no international tribunal can take the place of states in meeting their obligation to ensure the proper enforcement of international humanitarian law in regard to persons committing violations of that law, ordering others to commit them or condoning these actions, wherever they take place and irrespective of the nationality of their author.

7. The Assembly pays tribute to the International Committee of the Red Cross (ICRC) for its unique efforts to protect and assist the victims of armed conflicts all over the world and to promote respect for international humanitarian law as guardian of the Geneva Conventions and their Additional Protocols.

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1. Assembly debate on 23 September 1999 (31st Sitting) (see Doc. 8462, report of the Committee on Migration, Refugees and Demography, rapporteur: Mr Jurgens; and Doc. 8510, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Jäätteenmäki). Text adopted by the Assembly on 23 September 1999 (31st Sitting).

8. The Assembly recommends that the Committee of Ministers:

8.1. invite the appropriate bodies:

a. to give greater emphasis to international humanitarian law in drawing up programmes of legal co-operation and training;

b. to include compliance with international humanitarian law in monitoring activities;

c. to study the role the Council of Europe can play in the development of international humanitarian law, and in particular the possibility of helping the victims of violations of international humanitarian law through the mechanisms of the European Convention on Human Rights;

8.2. invite the governments of the member states:

a. to ratify, if they have not already done so, Additional Protocols I and II of 1977 to the Geneva Conventions of 1949, and to lift any reservations they may have to these instruments;

b. to sign and ratify the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes adopted in 1974;

c. to ensure that all their obligations arising from these instruments are systematically reviewed and carried out;

d. to establish, if they have not already done so, national interministerial commissions responsible for monitoring compliance with, and implementing, international humanitarian law;

e. to recognise the jurisdiction without prior agreement of the International Fact-Finding Commission established pursuant to Additional Protocol I to the Geneva Conventions and to submit enquiries to it;

f. to increase resources devoted to the dissemination of the principles of international humanitarian law, particularly among the armed forces, police and prison staff;

g. to grant the International Committee of the Red Cross unrestricted access to persons deprived of liberty in connection with armed conflict or internal strife;

h. to increase their financial support for the International Committee of the Red Cross;

i. to introduce the aut dedere aut iudicare[2] principle in their criminal law;

j. to sign and ratify as soon as possible the international convention of 1997 prohibiting anti-personnel mines signed in Ottawa by 121 states.

9. The Assembly calls on the parliaments of the member states, if they have not already done so, to initiate and enact legislation:

a. ratifying Additional Protocols I and II of 1977 to the Geneva Conventions of 1949, and lifting any reservations they may have to these instruments;

b. granting the International Committee of the Red Cross unrestricted access to persons deprived of liberty in connection with armed conflict or internal strife.

2. That is, "either extradite or try".