

Resolution 2407 (2021)¹

Celebrating the 70th anniversary of the Geneva Conventions: the contribution of the Council of Europe to the increasing synergy between international humanitarian law and international human rights law

Parliamentary Assembly

1. The year 2019 marked the 70th anniversary of the four Geneva Conventions which codified much of modern international humanitarian law, the principal legal regime that regulates the conduct of warfare. It is no coincidence that both the Council of Europe and its foundational human rights instrument, the European Convention on Human Rights (ETS No. 5), also marked their 70th anniversaries around this time. All these instruments have their foundations in the aftermath of the Second World War, and have as their essential aims the maintenance of peace and the protection of individuals through international law and co-operation.
2. Both international humanitarian law and international human rights law have long histories predating the post-war adoption of the aforementioned conventions. Specific provisions of the two legal regimes on certain common issues are not always identical, but they are based on the same fundamental principles of humanity and human dignity. International humanitarian law is a set of special rules intended to apply only in the specific circumstances of armed conflict, whereas international human rights law is general and, in principle, applies in all circumstances.
3. In certain circumstances, the two regimes may overlap. The needs for legal certainty and effective protection of individual rights require careful interpretation of relevant provisions in such circumstances, in order to ensure that the two legal regimes remain complementary and coherent, and to prevent further fragmentation of international law in the relevant areas.
4. The Council of Europe, and in particular the European Court of Human Rights that is responsible for interpreting and supervising the implementation of the European Convention on Human Rights, has made a major contribution to achieving this goal. In a series of landmark judgments, building also on case law of the International Court of Justice, the European Court of Human Rights has helped to clarify the interaction between international humanitarian law and international human rights law, as laid down in the European Convention on Human Rights. This has been a complex and challenging task, given the general terms in which the European Convention on Human Rights is expressed and the fact that the European Court of Human Rights normally adjudicates not on abstract principles of law but on their application to specific sets of facts.
5. The Assembly therefore welcomes the contribution of the Council of Europe, and in particular the European Court of Human Rights, to increasing synergy between international humanitarian law and international human rights law. This contribution has improved the effectiveness of international law as a whole in ensuring protection of the rights of individuals during armed conflict.

1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 26 November 2021 (see [Doc. 15394](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Lord Richard Balfe).*



6. The Assembly recalls that all member States of the Council of Europe are parties to the European Convention on Human Rights and to the 1949 Geneva Conventions. It therefore calls on the relevant authorities of member States to:

6.1. follow closely the evolution of the case law of the European Court of Human Rights as regards the interplay between international humanitarian law and international human rights law, as well as developments in other fora, including the International Court of Justice;

6.2. ensure that their armed forces, military personnel, State officials, judiciary, and private military and security companies are properly trained in the essential content and practical application of international humanitarian law and the relevant provisions of international human rights law, keeping abreast of the evolving case law of the European Court of Human Rights;

6.3. provide within their domestic legal systems procedural guarantees for the respect of international humanitarian law and the relevant provisions of international human rights law within the context of armed conflict, including effective mechanisms for holding to account the perpetrators of any violations;

6.4. report on a regular and voluntary basis on the implementation of these measures.