

Translated from French

**French Republic
Ministry of Foreign and European Affairs**

**United Nations and International Organizations Affairs Directorate
Subdirectorates for human rights and humanitarian and social affairs**

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Report of France to the United Nations Secretary-General

Pursuant to resolution 61/30 of the United Nations General Assembly on Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the

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France

[Original: French]
[5 August 2008]

I. The conventional instruments of international humanitarian law (1949 Geneva Conventions and Additional Protocols thereto)

A. Signature, ratification and accession

The four 1949 Geneva Conventions entered into force in France on 28 June 1951.

The Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977 was ratified by France on 11 April 2001.

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) of 8 June 1977 was ratified by France on 24 February 1984.

France is currently undertaking the process of ratifying the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). (The draft ratification legislation is under consideration by Parliament).

B. Implementation

As part of the implementation of international humanitarian law, it is customary for the Government of France, alone or in conjunction with the Red Cross Society, to make commitments at the International Conference of the Red Cross and Red Crescent held every four years. At the thirtieth Conference, which was held in Geneva from 26 to 30 November 2007, the Government of France, together with the French Red Cross, undertook to ratify Protocol III of 8 December 2005 and to enhance protection under domestic law for the emblems recognized by the Geneva Conventions and the Additional Protocols thereto.

With respect to the enhancement of protection for emblems, article 433-14, paragraph 2, of the Criminal Code criminalizes the use of a document establishing an official capacity or an insignia regulated by public authority. The term “insignia” may be taken to mean the emblems of the health services of armies and the national societies officially authorized to assist them. The condition of “regulation by public authority” is satisfied by incorporating into the national legal order conditions for the use of the emblems defined by duly ratified international instruments. However, the constituent elements of article 433-14, paragraph 2, of the Criminal Code are not sufficient to fully meet the objectives of protection for the emblems of the International Red Cross and Red Crescent Movement (namely, the Red Cross, the Red Crescent and the Red Crystal). French legislation is therefore currently being amended with a view to better protecting the emblems of the International Red Cross and Red Crescent Movement.

particularly the preparation of a specific report on this issue, annexed to the annual

time of armed conflict, to disseminate international humanitarian law as widely as possible.²

France meets this obligation to disseminate international humanitarian law in a number of ways. Within the Ministry of Defence, the Office of the Law of Armed Conflicts is responsible for such dissemination and has produced several teaching documents, including a manual on the law of armed conflicts and an interactive CD-ROM on international humanitarian law. With the Chief of Staff of the Armed Forces, the Office is involved in training legal advisers, whose duty is to advise the Command at both the planning stage and in the conduct of operations. These advisers are also involved in disseminating the law of armed conflicts within the services of the Ministry of Defence in time of peace. Furthermore, every introductory military training course includes instruction in the law of armed conflicts. Training courses may be taken at the International Institute of Humanitarian Law in San Remo (Italy), or at the North Atlantic Treaty Organization (NATO) School in Oberammergau (Germany). These training courses complement the course organized each year for the Ministry of Defence by the legal affairs management and the Chief of Staff of the Armed Forces.

French law recalls the obligations imposed upon the military to respect and be familiar with international humanitarian law. Article D.4122-2 of the Defence Code recalls that military commanders “may not order any acts to be carried out that are inconsistent with the law, the rules of international law applicable to armed conflict or international conventions”. Article D.4122-3 of the same Code reminds subordinates that they must refuse to carry out orders that are clearly incompatible with the law on armed conflicts. Articles D.4122-7 to D.4122-11 of the Defence Code also recall the obligation to respect the rules of international law applicable to armed conflict. This last article, in particular, provides that “every soldier must be trained in, be aware of and respect the rules of international law applicable to armed conflict”.

F. Raising public awareness

The Government of France fully recognizes the status of and role played by the French Red Cross as an auxiliary to the public authorities, as provided for in the Statutes of the International Red Cross and Red Crescent Movement and as reaffirmed in various resolutions of the Movement at its international conferences. France fully endorses the thirtieth Conference resolution on the specific nature of the International Red Cross and Red Crescent Movement in action and partnerships and the role of National Societies as auxiliaries to the public authorities in the humanitarian field, as well as the resolution on the reaffirmation and implementation of international humanitarian law.

² Article 83 of Additional Protocol II

The National Consultative Commission on Human Rights (NCCHR) is a French national institution for the promotion of human rights and international humanitarian law which provides the Government of France with advice and proposals on these issues. Pursuant to Act No. 2007-292 of 5 March 2007 relating to NCCHR and decree No. 2007-1137 of 26 July 2007 on the composition and operation of NCCHR, the Commission plays the role of a national agency responsible for advising the authorities on the implementation, dissemination and development of international humanitarian law. The Commission has established a working group on instruction in international humanitarian law with a view to including such law in ed

convert the property).

The special protection granted by the Convention is more comprehensive and is applied to a limited number of objects of cultural property. It covers refuges intended to shelter movable cultural property in the event of armed conflict, centres containing monuments and other immovable cultural property of very great importance. The request for special protection must be submitted to the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) by the authorities of the State where this property is located. All sites and refuges under special protection are listed in the “International Register of Cultural Property under Special Protection” maintained by UNESCO.⁶ To date, France has not entered any sites in this Register. France is considering compiling an individual inventory for the implementation of the Convention, since the current national inventory appears to be too broad.

France does not currently use the distinctive emblems proposed by the Convention to protect cultural property.

With regard to criminal penalties under French criminal law, article L.322-2 of the Criminal Code establishes that the destruction, degradation or deterioration of another person’s property “shall be punished by three years of imprisonment and a fine of 45,000 euros, when the property [...] is [...] a listed or registered building or

III. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict of 25 May 2000

A. Signature and ratification

France has been a party to the Convention on the Rights of the Child of 20 November 1989 since 7 August 1990 and to its Optional Protocol of 25 May 2000 since 5 February 2003.

B. Implementation

The 1989 Convention prohibits the use and any form of recruitment of children under the age of 15 years, while the Protocol thereto of 2000 prohibits the forced recruitment and use in armed conflict of children under the age of 18 years. The voluntary recruitment of children under the age of 18 years is also prohibited. France respects the prohibition of the forced recruitment of children under the age of 18 years and, moreover, has issued a reservation to article 1 of the Protocol in order to establish 17 years as the minimum age for voluntary recruitment. The ratification of the Optional Protocol by France demonstrates its strong commitment

reintegration of all categories of children associated with armed groups). To follow up the Paris conference, France and UNICEF also organized a ministerial meeting on 1 October 2007 in New York, chaired by Ms. Rama Yade, Secretary of State for Foreign Affairs and Human Rights, which helped to garner the support of more countries for the Paris Commitments. At the ministerial level, France will co-chair the first forum to monitor the Paris Commitments in autumn 2008.

IV. Other treaties on international humanitarian law relating to the protection of victims in armed conflict

1. Protocol V on Explosive Remnants of War dated 28 November 2003 to the Convention on Conventional Weapons of 10 October 1980

A. Signature, ratification and accession

Adopted by consensus on 28 November 2003 in Geneva and entering into force on 30 October 2006, Protocol V on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Ex93(o)49.6(e-4.9(es)-1.77(e)20.ngainMayrt

cover international cooperation and assistance in different areas of humanitarian mine clearance. France was the first of the five permanent members of the Security Council to ratify the Ottawa Convention, in July 1998.

B. Implementation

France has fulfilled its commitments under the Ottawa Convention in an exemplary manner, including by adopting the Act of 8 July 1998, establishing a National Commission for the Elimination of Anti-Personnel Mines, and by

of the Rome Statute, France availed itself of the provisions of article 124 of the Statute, which allow a State to declare that, for a period of seven years after the entry into force of this Statute for the State concerned, it does not accept the jurisdiction of the Court with respect to war crimes committed on its territory or by its nationals. However, France renounced the provisions of this declaration ahead of

persons are in French territory. On that basis, ICTR contacted the French authorities in order to refer the cases of two accused persons to the French courts. France agreed to the prosecution of Father Wenceslas Munyeshyaka and former prefect Laurent Bucyibaruta. The subject of an arrest warrant, sub-prefect Dominique Ntawukuriryayo, was also extradited to ICTR by France at the start of June 2008. Since the establishment of the Tribunal, France has consistently cooperated with ICTR not only for the identification and tracing of witnesses in French territory, the collection of testimonies and evidence and the shipment of documents, but also for the arrest and transfer of indictees. On 14 March 2003, France concluded an agreement with the United Nations on the enforcement of prison sentences imposed by ICTR within French territory.

2. The International Criminal Tribunal for the Former Yugoslavia (ICTY)

France has a general obligation of cooperation with ICTY under the terms of the provisions of the Statute annexed to Security Council resolutions 808 (1993) of 22 February 1993 and 827 (1993) of 25 May 1993. French officials have given testimony on numerous occasions since the establishment of the Tribunal. An agreement was signed with ICTY on 5 February 1999 to allow protected witnesses to be admitted to French territory. On 25 February 2000 France also signed an agreement with the United Nations on the enforcement of sentences imposed by ICTY. Several persons convicted by the Tribunal are currently serving their sentences in French prisons.
