
Translated from Russian

Information on the incorporation of the norms of the Protocols Additional to the Geneva Conventions of 1949 into the legislation of the Republic of Moldova

The Republic of Moldova ratified Additional Protocols I and II to the Geneva Conventions on 24 May 1993 and ratified Additional Protocol III on 19 August 2008.

It should be noted that the national legislation of the Republic of Moldova contains provisions governing the matters covered by these protocols.

For the purpose of acceding to the Geneva Conventions of 12 August 1949 for the protection of war victims and the Additional Protocols thereto of 8 June 1977, the Parliament of the Republic of Moldova adopted Law No. 673 of 12 November 1999 on the use and protection of the red cross emblem. The law sets out the conditions

and procedure for the use and protection of the red cross emblem and the designation

“Red Cross” in peacetime and in times of armed conflict.

Article 1, part 3, of the law states that “The red cross emblem, used in accordance with the Regulations on the Use of the Emblem of the Red Cross or the Red Crescent adopted in 1965 at the Twentieth Red Cross and Red Crescent International Conference in Vienna and revised in 1991 by the Council of Delegates in Budapest (hereinafter referred to as ‘Regulations on the Use of the Emblem’), is the emblem of the Red Cross Society of Moldova”. Under article 4, part 1, of the law, “In times of armed conflict the red cross emblem is a visible sign of protection. Its purpose is to indicate that certain persons, medical facilities and vehicles are protected by the Geneva Conventions”.

The red cross emblem may also be used in peacetime, with permission from the Red Cross Society of Moldova, to designate medical organizations that provide free medical care as well as ambulances used to transport patients free of charge.

It should also be noted that Government Decision No. 259 of 1 April 1999 adopting the Regulations on a National Committee for Consultations and Agreement on the Implementation of Humanitarian Law entered into force on 22 April 1999.

Article 1 of the Decision reads as follows: “(1) The National Committee for Consultations and Agreement on the Implementation of Humanitarian Law is a standing advisory body of the Government established for the purpose of considering issues relating to the implementation of the international legal obligations of the Republic of Moldova under the Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto of 8 June 1977 and arising from other international instruments of humanitarian law to which the Republic of Moldova is a party.

“(2) The Committee’s principal task is to ensure compliance with international humanitarian law, in particular by incorporating the norms thereof into the legislation of the Republic of Moldova”.

It should be noted that the penal legislation of the Republic of Moldova criminalizes the offences covered by the Geneva Conventions.

Article 137 of the Penal Code of the Republic of Moldova applies to both general and specific situations, since the article covers all of those offences but also refers to each offence separately.

With respect to inhuman treatment, under article 137, paragraph 1, of the Penal Code, “The use of any form of torture or inhuman treatment for the purpose of wilfully causing great suffering, serious physical injury or any other serious harm to the health of wounded or sick persons, prisoners of war, civilians, civilian medical

personnel or medical personnel of the Red Cross or similar organizations, shipwrecked persons or any other persons who fall into enemy hands, or conducting on such persons medical, biological or other scientific experiments for which there is no medical necessity is punishable by 8 to 15 years' imprisonment". It should be noted that this provision also criminalizes the offence of wilfully causing suffering.

Concerning unlawful deportation and transfer, article 137, paragraph 2, provides that the deportation, transfer or detention without lawful grounds of the persons listed in part 1 is punishable by 12 to 20 years' imprisonment. This article also contains provisions relating to unlawful detention.

Forced service in the military forces of the enemy is criminalized by article 137, part 2, paragraph (a) of the Penal Code.

Article 137, part 2, also provides penalties for hostage-taking and for the issuance of a sentence by an unlawfully constituted court without a pretrial investigation or compliance with the fundamental legal guarantees provided by law.

The Penal Code also covers such offences as:

Breach of international humanitarian law (article 138)

1. The execution of an illegal order leading to the perpetration of an offence under article 137 is punishable by 5 to 10 years' imprisonment.
2. The issuance by a commander to a subordinate, in a time of armed conflict or military hostilities, of a clearly illegal order for the perpetration of an offence under article 137, in the absence of evidence of a more serious offence, is punishable by 8 to 15 years' imprisonment.

3. A commander's non-performance or improper discharge of the duty to prevent his subordinates from perpetrating an offence under article 137 is punishable by 6 to 12 years' imprisonment.

Genocide (article 135)

Perpetration of one of the following acts with the aim of fully or partially eliminating a national, ethnic, racial or religious group:

- (a) Killing members of the group;
- (b) Causing serious harm to the physical and mental health of members of the group;
- (c) Taking measures to reduce the birth rate within the group;
- (d) Unlawful trafficking of children from the group; or

deceit, force, violence or the threat of violence is punishable by up to three years'

imprisonment.

Unlawful use of Red Cross insignia (article 363)

Unauthorized use of the Red Cross emblem and the name "Red Cross" or the use of insignia that can be misidentified as the Red Cross emblem are, if such acts lead to serious consequences, punishable by a fine of 150 penalty units or 180 to 240 hours of unpaid community service.

Fraudulent use of the Red Cross emblem as a means of protection during armed conflict (article 392)

The deceptive use of the emblem or distinctive insignia of the Red Cross as a means of protection during armed conflict, if it leads to

(a) Serious bodily injury or other serious harm to health; or

(b) The death of a person

is punishable by 5 to 10 years' imprisonment.
