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Introduction

Dear Fellow NATO Legal Professionals and Persons Interested in NATO,

The five articles in this issue of the NATO Legal Gazette address Belgium's approach to piracy, NATO-EU relations in Bosnia, military training manuals, the relationship between Ukraine and NATO and the expert team visit to Mostar, BIH, to chair a workshop on the NATO/PfP Status of Forces Agreement. Mr. Vincent Roobaert also contributes his review of the 2008 book, *Unlawful Attacks in Combat*, that draws upon the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia. We spotlight four members of our NATO legal community that now includes a total of 45 offices located in 24 countries, acknowledge the arrival and departure of our colleagues in the Hail and Farewell section, provide short topics of general interest, and a calendar of upcoming events.

Please note the call to NATO and partner nations to fill five billets (three legal advisors and two enlisted paralegals) for a legal mobile training team for the Afghan National Police Legal Affairs (NTM-A). Capt Kevin Brew (Kevin.M.Brew@afghan.swa.army.mil) is the primary point of contact for those interested in these positions.

Please also know that, regrettably, natural events in April caused the 2010 NATO Legal Conference to be rescheduled to the week of 27 September at the International Institute of Humanitarian Law in Sanremo, Italy. Representatives from nations and persons serving in NATO organizations remain invited. Further information on our program will be sent out shortly.

Finally, the NATO Legal Gazette exists because of the efforts of authors who wish to share articles on legal topics to the community of persons working in NATO, NATO nations, partners and international organizations and non-government organizations that engage with NATO. All readers of this Gazette are encouraged to share this issue with others interested in NATO and to author articles for our future editions. We hope to publish Issue 23 this summer and would gratefully appreciate your contribution to our discussion about matters of current interest that affect our international security Alliance.

I look forward to hearing from you.

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The Belgian Approach to Maritime Piracy in an International Context

Mr. Alfons Vanheusden, Mr. Frederik Naert, Mr. Marco Benatar *

Introduction

Maritime piracy – particularly on the high seas or other areas outside the jurisdiction of any State – is an old scourge. In recent years, it has once more returned to the foreground, most seriously in the waters off the coast of Somalia. The problem is of grave concern: piracy interferes with the freedom of the seas, endangers the transportation of humanitarian aid and constitutes a threat to the life and physical integrity of persons at sea and to the marine environment. In light of the unique characteristics of the piracy phenomenon, the international community must cooperate in order to efficiently curtail acts of piracy. This requirement is encapsulated in article 100 of the United Nations (hereafter UN) Convention on the Law of the Sea (hereafter UNCLOS) of 10 December 1982.¹

The international reaction

The increase in piratical acts and armed robbery at sea – the equivalent of piracy in territorial waters – off the coast of Somalia has, among other things, impelled the UN Security Council to pass various resolutions expressing its concern and emphasizing the need for greater international cooperation in the fight against piracy. In this regard, the UN Security Council has adopted a host of specific measures. Examples include the creation in January 2009 of a contact group for piracy off the coast of Somalia² and the UN Security Council's decision to allow States to act against pirates, even in the territorial waters and on the territory of Somalia with the consent of the Somali transitional government³. After several countries had escorted endangered World Food Programme (WFP) ships⁴, several individual states, as well as NATO⁵ and the EU (see below) moved to deploy warships in the region to protect shipping and combat piracy. Additionally, efforts were made to enhance the counter-piracy capabilities of local authorities and to tackle the causes of piracy.

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The opinions expressed in this contribution are entirely those of the authors.

¹ Belgium ratified UNCLOS on 13 November 1998.

² See UNSC Res. 1851 (16 December 2008), § 4. See also the contribution in the *NATO Legal Gazette* 21 (16 November 2009) and, more generally, the contribution in the *NATO Legal Gazette* 19 (7 April 2009).

³ See especially UNSC Res. 1816 (2 June 2008); 1846 (2 December 2008); 1851 (16 December 2008) and 1897 (30 November 2009).

⁴ See UNSC Res. 1772 (20 August 2007), § 18; 1801 (20 February 2008), § 12; and 1814 (15 May 2008), § 11.

⁵ See *inter alia* <http://www.shipping.nato.int/CounterPir>.

⁶ See *inter alia* <http://www.consilium.europa.eu/showPage.aspx?id=1518&lang=en>; <http://www.eunavfor.eu>; <http://www.mschoa.eu>; and F. NAERT, *International Law Aspects of the EU's Security and Defence Policy, with a Particular Focus on the Law of Armed Conflict and Human Rights*, Antwerp, Intersentia, 2009, 179-191 (with further references).

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Since the Belgian Navy participates in the EU's Operation Atalanta, this operation is briefly addressed here⁶. The legal framework for this operation can be found in Council Joint Action 2008/851/CFSP of 10 November 2008⁷. This legally binding instrument establishes *inter alia* the following mandate: protecting WFP vessels, including the presence of armed units on board those vessels; protecting merchant vessels; keeping watch over areas off the Somali coast in which there is a danger to maritime activities; taking the necessary measures, including the use of force to deter, prevent and intervene in order to bring to an end acts of piracy and armed robbery; and in view of prosecutions potentially being brought by the relevant States, arresting, detaining and transferring persons who have committed or are suspected of having committed, acts of piracy or armed robbery and seizing the vessels of the pirates or armed robbers or the vessels caught and which are in the hands of the pirates as well as the goods on board (art. 2).

Arrested and detained persons having committed, or suspected of having committed, acts of piracy or armed robbery and property used to carry out such acts shall be transferred to the competent authorities of the flag State participating in the operation of the vessel which took them captive, or if this State cannot or does not wish to exercise its jurisdiction, to another State which wishes to exercise its jurisdiction. These persons may only be transferred to a third State if the conditions for the transfer have been agreed with that third State in a manner consistent with relevant international law, notably international law on human rights, in order to guarantee in particular that no one shall be subjected to the death penalty, to torture, etc. (art. 12). Pursuant to this provision, agreements for transfer were concluded between the EU on one hand and Kenya and the Seychelles on the other hand⁸. The conditions governing the presence on board merchant ships of units belonging to Atalanta shall be agreed with the flag States of those vessels (art. 13).

New Belgian legislation

The Belgian Law of 5 June 1928 on revision of the Disciplinary and Criminal Code for merchant shipping and fisheries⁹ constitutes a legal basis for combating maritime piracy, but its scope is limited to Belgian-flagged merchant or fishing vessels. Consequently this law cannot provide a legal ground for prosecuting piratical acts committed against Belgian pleasure yachts or warships, or non-Belgian-flagged ships. This prompted the government to propose changes to the Belgian legislation in order to enable the Belgian authorities to counteract maritime piracy in optimal conditions. The government therefore introduced two related bills to fill this gap¹⁰.

⁶ See *inter alia* <http://www.consilium.europa.eu/showPage.aspx?id=1518&lang=en>; <http://www.eunavfor.eu>; <http://www.mschoa.eu>; and F. NAERT, *International Law Aspects of the EU's Security and Defence Policy, with a Particular Focus on the Law of Armed Conflict and Human Rights*, Antwerp, Intersentia, 2009, 179-191 (with further references).

⁷ O.J. L. 301, 12 November 2008, p. 33 (*corrig.* O.J. L. 10, 15 January 2009, p. 35 and O.J. L. 253, 25 September 2009, p. 18), as modified and extended by Council Decision 2009/907/CFSP, 8 December 2009, O.J. L. 322, 9 December 2009, p. 27.

⁸ See respectively O.J. L. 79, 25 March 2009, p. 49 and O.J. L. 315, 2 December 2009, p. 37.

⁹ *Belgisch Staatsblad/Moniteur belge* [official bulletin], 26 July 1928.

¹⁰ In conformity with guidelines on legislative drafting, the government opted for two separate bills.

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On 19 December 2009, Parliament approved these bills: a law regarding the fight against maritime piracy and the modification of the Code of civil procedure on the one hand (hereafter Anti-Piracy Law I)¹¹ and a law regarding the fight against maritime piracy on the other hand (hereafter Anti-Piracy Law II)¹². On 30 December 2009 both laws were promulgated and on 14 January 2010 they were published in the *Belgisch Staatsblad/Moniteur belge* [official bulletin] and entered into force.

The new legislation criminalizes maritime piracy with adjusted penalties (Anti-Piracy Law II, art. 3 and 4). The definition of the offence is derived from art. 101 of UNCLOS. According to that provision, only acts on the high seas (and by extension in the exclusive economic zone on the basis of art. 58 of UNCLOS) and for private ends can qualify as piracy. In order to cope with modern forms of piracy the new Belgian legislation – whilst complying with international law – offers more possibilities. Thus, the offence of piracy does not only cover “illegal acts of violence, detention, or depredation” but also the “threat” thereof, although the latter does not appear in UNCLOS. The participation in, attempt to commit or preparation of piratical acts are also an offence. Moreover, the legislation covers cases where it is possible “to the extent provided for in international law” to take action against acts comparable to piracy that are perpetrated in other maritime zones, such as armed robbery at sea (*id.*, art. 3§3). For example, this is already the case for UN Security Council resolutions 1816, 1846 and 1851, which also apply to armed robbery committed in Somali territorial waters. This also includes the hypothesis of the coastal state's consent, which is for instance important in the context of Atalanta.

Furthermore, Belgian warships and military protection teams on board civilian vessels are authorized to prevent and repress acts of piracy. The legislation clarifies the framework for action of the Belgian military: it is authorized to take preventive, control and coercive measures against acts of piracy (*id.*, art. 5) and these measures are exhaustively enumerated. Measures include armed protection teams on board civilian vessels. This is one of the most efficient ways to protect ships. Additionally, the commanders of Belgian warships can seize a pirate ship or a ship taken by and under the control of pirates, as well as the goods on board. Such a seizure is a protective measure and is implemented pending a ruling of the competent court or tribunal regarding the assignment of those ships and goods. If it is impossible for practical reasons to board the ship suspected of piracy or if cooperation is lacking on the part of the persons in command of the suspected ship, the commander may order a change of course to a place or port where the ship can be controlled. In this case, the persons in command of the ship carry the costs and risks (*id.*, art. 5§3). In extreme cases, the new legislation enables recourse to armed force (*id.*, art. 5§4). Inspiration was drawn from articles L1521-5 and L1521-7 of the French *Code de la Défense*. The use of force is lawful in case of self-defence in compliance with Belgian law and when the applicable rules of engagement authorize such action.



Warship Louise-Marie
www.eunavfor.eu

¹¹ *Parlementaire Stukken/Documents Parlementaires* [official publication] House of Representatives, 2009-10, nr. 52-2215 and *Parlementaire Stukken* [official publication] Senate, 2009-10, nr. S-1562.

¹² *Parlementaire Stukken/Documents Parlementaires* [official publication] House of Representatives, 2009-10, nr. 52-2214 and *Parlementaire Stukken/Documents Parlementaires* [official publication] Senate, 2009-10, nr. S-1561.

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Those rules of engagement must be drawn up on the basis of applicable international law, including UN Security Council resolutions, and may not contravene Belgian law. In any event, force may only be used when it is necessary and exercised in a discriminating and proportional fashion.

The commander of the Belgian warship (or a comparable ship) or the commander of a Belgian military protection team on board a civilian vessel is allowed to deprive pirates of their liberty (art. 2§1 Anti-Piracy Law I)¹³. The commander must draw up a detailed report that includes *inter alia* the precise time of the deprivation of liberty (*id.*)¹⁴. He/she must immediately notify the federal prosecutor (*id.*, art. 2§2)¹⁵. The federal prosecutor will subsequently give the commander instructions with respect to the deprivation of liberty as well as other tasks that need to be completed (e.g. with a view to collecting and preserving evidence)¹⁶. In no event shall the deprivation of liberty on the sole authority of the commander exceed 24 hours (*id.*, art. 2§3)¹⁷. It must be confirmed by the federal prosecutor and this decision must immediately be communicated to the person concerned by the commander. When the deprivation of liberty is not confirmed within 24 hours, the person concerned must be released (*id.*, art. 2§3 and 4).

When the federal prosecutor decides to proceed with prosecution in Belgium and deems it suitable to issue an arrest warrant against the pirate detainee, he will request the intervention of an investigative judge, who can issue a provisional arrest warrant within 24 hours of the initial deprivation of liberty. A copy must be delivered to the person concerned (*id.*, art. 2§5). In the explanatory memorandum it was maintained that this referral is in accordance with the interpretation given by the ECtHR to the right of prompt access to judicial proceedings under art. 5 ECHR¹⁸. The Court has indeed ruled on this topic in *Medvedyev v. France* (10 July 2008 and, on appeal, 29 March 2010) and *Rigopoulos v. Spain* (12 January 1999) and paid due consideration to the specific maritime context¹⁹. Before issuing a provisional arrest warrant, the investigative judge hears the detainee (this can happen via radio, telephone, etc.), except when the hearing of this person is impossible due to exceptional circumstances²⁰.

¹³ This competence does not affect the competences granted by the Law of 5 June 1928 to the captain of a merchant or fishing vessel with respect to the deprivation of liberty.

¹⁴ Cf. art. 1, 6°, a) Law of 20 July 1990 on pre-trial detention.

¹⁵ The exclusive competence of the federal prosecutor is justified in light of the international character of piracy, the thin line with terrorism (see e.g. the overlap with the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (Rome, 10 March 1988) and its Protocol of 14 October 2005 (London)) and the links with other competences of the federal prosecution service.

¹⁶ Pursuant to art. 1, 4° Law of 20 July 1990 on pre-trial detention.

¹⁷ Cf. art. 1, 1° Law of 20 July 1990 on pre-trial detention.

¹⁸ *Parlementaire Stukken/Documents Parlementaires* [official publication] House of Representatives, 2009-10, nr. 52-2215/1, pp. 5-6.

¹⁹ In the appeals judgment in the first case, France was condemned because the deprivation of liberty was not lawful within the meaning of Article 5 § 1 ECHR "for lack of a legal basis of requisite quality to satisfy the general principle of legal certainty" but the 13-day detention on board that was necessary to reach France was not deemed in breach of art. 5§3 ECHR. In the second case, Spain was not condemned even though a drug trafficker was detained on board a ship for 16 days. This was because an investigative judge had authorized a search of the ship and had confirmed the arrest within 72 hours (the Spanish constitutional threshold), the 16 days were necessary to transport the individual to Spain, and he was immediately brought before a judge upon arrival.

²⁰ Compare with art. 16, § 2, subsection 4 of the Law of 20 July 1990 on pre-trial detention.

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If the hearing is impossible, he/she will hear the persons who can provide information concerning the charges (witnesses and/or victims). The provisional arrest warrant issued against a suspect is only valid until 24 hours after the detainee's arrival in Belgium and for a maximum period of one month. This time limit takes into consideration the particular nature of the mission: it will not always be possible to transport this person quickly to Belgium. This provisional arrest warrant draws upon the rules regarding extradition²¹.

When the federal prosecutor decides to prosecute, the suspect must be transferred to Belgium as soon as possible, physically appear before the investigative judge and be interrogated within 24 hours after his/her arrival in the country (art. 2§6 Anti-Piracy Law I). The investigative judge reviews compliance with the 24 hour time limit following the detainee's arrival in Belgium and maximum within one month.

The new legislation establishes a ground of extraterritorial jurisdiction for Belgian courts with respect to acts against Belgian ships or when pirates are apprehended by a Belgian warship or Belgian military personnel (art. 3 Anti-Piracy Law I). This stipulation introduces the fiction of the 'law of the flag'²². This fiction encompasses offences committed on board a Belgian ship as well as offences committed at the ship's hull and beyond, such as acts carried out from a ladder secured to the ship's hull. The federal prosecutor is authorized to prosecute in these two limited instances which both have a connection with Belgium. This is in conformity with articles 100 and 105 of UNCLOS (given that art. 105 allows the courts of the State which carried out the seizure of the pirates to decide upon the penalties to be imposed). Prosecution can even occur when the person is not found on Belgian territory²³.

It is up to the federal prosecutor to decide on the desirability of prosecution before referral to the investigative judge and issuance of a provisional arrest warrant. Hence, referral to the investigative judge will only happen when the prosecution is initiated in Belgium. The federal prosecutor also determines whether there is another more appropriate forum for prosecution (art. 3§4 Anti-Piracy Law I). This court must possess the characteristics of independence, impartiality, and fairness²⁴. The explanatory memorandum emphasizes that it is up to the States in the region where piracy is committed to try the perpetrators and in this regard refers to UN Security Council resolution 1851 on Somalia²⁵. The prosecution of pirates in Belgium would therefore be exceptional and complementary, when Belgian interests are at stake. Belgian courts can, however, also play a part in other cases, namely as a last resort for avoiding impunity of pirates apprehended by Belgian military personnel.

²¹ Compare with Art. 5, subsection 2 of the Law of 15 March 1874 on extraditions (valid for 40 days) and art. 15 Law of 29 March 2004 regarding cooperation with the International Criminal Court (valid for 3 months).

²² In a manner similar to art. 73, subsection 1 of the Law of 5 June 1928.

²³ Pursuant to art. 73, subsection 4 of the Law of 5 June 1928 on revision of the Disciplinary and Criminal Code for merchant shipping and fisheries. It entails a necessary exception to the principle contained in art. 12 Preliminary Title of the Code of Criminal Procedure.

²⁴ Inspiration was drawn from art. 12 bis, subsection 3, 4° of the Preliminary Title of the Code of Criminal Procedure.

²⁵ *Parlementaire Stukken/Documents Parlementaires* [official publication] House of Representatives, 2009-10, nr. 52-2215/1, pp. 8-9.

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Potential civil actions are only admissible after a prior decision of the federal prosecutor to launch criminal proceedings and the Brussels courts have exclusive competence to try acts of piracy (art. 3§5 and 3§6 Anti-Piracy Law I).

Equipped with this legislation, Belgium should be well-prepared to continue assuming its role in the fight against piracy.

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Legal Aspects of NATO Support to the European Union Mission in Bosnia and Herzegovina

LTC Walter Greco – Chief Legal Adviser - NATO HQ Sarajevo

The significance of Bosnia and Herzegovina for NATO is great. Foremost, it is where, in 1995, the Alliance conducted its first ever crisis response operation to end a bitter three and a half year war on the continent of Europe that killed more than 100,000 persons and displaced another 2.2 million. Second, Bosnia and Herzegovina is where NATO and the European Union have divided the labour of post-conflict nation-building to apply the strengths of both international organizations. This article provides a summary of the legal aspects of NATO's support to the European Union mission in this continuing relationship.

To assist the fulfillment of the military tasks agreed upon in the General Framework Agreement of Peace (GFAP)¹ negotiated in Dayton and signed in Paris, first NATO deployed the 54,000 strong Implementation Force (IFOR). Twelve months later the NATO-led Stabilization Force (SFOR) replaced IFOR to continue the military GFAP tasks, maintain a secure environment, and facilitate the country's reconstruction.

By the end of 2004, in light of the improved security situation in Bosnia-Herzegovina and the wider region, NATO officially ended SFOR and the European Union initiated a new mission named Operation Althea for the Greek goddess of healing. Technically, Operations Althea and NATO Headquarters Sarajevo are the legal successors of SFOR authorized under Chapter VII of the UN Charter by the 2004 Security Council Resolution 1575.² The European Military Force (EUFOR) commands a multinational maneuver battalion headquartered at Camp Butmir near the Sarajevo airport and uses liaison and observation teams to maintain a presence across the country to address residual activities of the GFAP such as fulfilling the stabilization role that SFOR had performed,³ providing support to the international community's High Representative/EU Special Representative for Bosnia and Herzegovina, participating in defence reform and continuing the hunt for war criminals sought by the International Criminal Tribunal for the former Yugoslavia (ICTY).

The European Military Force (EUFOR) is a manifestation of the European Security and Defense Policy (ESDP), the predecessor to the Common Security and Defence Policy (CSDP) created by the Lisbon Treaty, that addresses what Javier Solana called the EU's special responsibility for the Balkans and provides support to Bosnia-Herzegovina.⁴ The role EUFOR now fulfills in Bosnia-Herzegovina arises from the institutional agreement reached by NATO and the EU after continuous discussions that have accompanied the efforts of the international community in Bosnia and Herzegovina.

¹ The General Framework -Agreement signed in Paris, France on 14 December 1995. See <http://www.nato.int/ifor/gfa/gfa-fm.htm>

² This is reaffirmed in the 2009 Security Council Resolution 1895.

³ United Nations Security Council (UNSC) Resolution 1575 was unanimously adopted on 22 November 2004. See <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Bosnia%20SRES1575.pdf>

⁴ See the webpage for Operation Althea for a full description of its mission, current activities, and history at <http://www.euforbih.org/eufor/>

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Based on the 1999 NATO Washington Summit that offered arrangements for the ready access by the European Union to the collective assets and capabilities of NATO for operations in which the Alliance as a whole is not engaged militarily as an Alliance,⁵ and the 2002 Berlin Plus Agreement⁶ that created an operational framework for effective military cooperation by these two international organizations, the Comprehensive Framework for NATO-EU relations was concluded on 17 March 2003 by an Exchange of Letters between the EU High Representative For Common Foreign and Security Policy and the Secretary General of NATO. The agreement tied together seven topics that would permit effective NATO-EU cooperation in Bosnia and Herzegovina. They included a NATO-EU agreement on information security, assured access to NATO planning capabilities for EU-led crisis management operations, the terms of reference for the so called, "NATO-EU command option" where the Deputy Supreme Commander Europe, a European officer, would direct EU crisis operations, the availability of NATO assets and capabilities to the EU, and the creation of arrangements for mutually reinforcing capability requirements for the two organizations.⁷

With the conclusion of the SFOR mission and the creation of Operation Althea, NATO redesignated its mission in Bosnia and Herzegovina as NATO Headquarters Sarajevo (NHQSa) with four tasks: first, assisting the government of Bosnia-Herzegovina in reforming its defense structures;⁸ second, assisting Bosnia-Herzegovina in meeting requirements for eventual membership in the NATO alliance; third, certain operational tasks including counter-terrorism while ensuring force protection and supporting the ICTY (e.g. power to detain and transfer indictees) and; fourth, providing planning, logistic and command support for the EU mission.⁹



Bosnia Herzegovina
www.geographicguide.net

⁵ See paragraphs 8, 9, and 10 of 'An Alliance for the 21st Century', Washington Summit Communiqué issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Washington, D.C. on 24th April 1999 at: http://www.nato.int/cps/en/natolive/official_texts_27440.htm?selectedLocale=en

⁷ For a 2002 European Union description of the agreement see: <http://www.consilium.europa.eu/uedocs/cmsUpload/03-11-11%20Berlin%20Plus%20press%20note%20BL.pdf>

⁸ In accordance with the 2005 Defence Reform Agreement, developed by the Defence Reform Commission, co-chaired by NATO.

⁹ The Council of the European Union takes the basic decisions on the operation. The EU's Political and Security Committee (PSC) exercises the political control and strategic direction of the operation, under the responsibility of the Council. Powers of decision with respect to the objectives and termination of the military operation remains vested in the Council, assisted by the EU Special Representative (EUSR) / High Representative (HR). The EU Military Committee (EUMC) monitors the proper execution of the EU military operation. The EU Operation Commander (OpCdr) for Operation Althea, General Sir John McColl, GBR-Army, together with the EU Operation Headquarters (OHQ) are located at SHAPE. Major General Bernhard Bair, AUS-Army, has been appointed EU Force Commander in Sarajevo since December 2009.

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The activities of the NHQSa and European Forces Headquarters (EUFOR HQ), as legal successors of Stabilization Force¹⁰, encompass the implementation of the several framework documents related to the international military presence in Bosnia-Herzegovina. Common areas of legal concern include interpretation and implementation of the General Framework Agreement of Peace (GFAP) --with particular attention to the privileges and immunities arising from the GFAP Status of Forces agreement that remains essential to the implementation tasks-- the numerous United Nations Security Council Resolutions concerning the situation in Bosnia and Herzegovina, and transit agreements with Bosnia and Herzegovina, Montenegro, Serbia, Slovenia, Hungary, Austria, and Switzerland.

Additional responsibilities for NHQSa include interpretation and implementation of claims procedures and policy, vetting key positions in the Bosnia and Herzegovina Ministry of Defence and Armed Forces, social contributions and civilian personnel policy (civilian staff rules), the draft plan for a Common Coordinated Exit Strategy by the EU and NATO, which includes the draft plan for the future partial or total return of Camp Butmir to Bosnia and Herzegovina.

Because the EU controlled the forces at Camp Butmir after the conclusion of SFOR, it was agreed the management headquarters (HQ) had to be transferred under EU control with the EUFOR HQ Commandant performing the function of the EUFOR Commander on camp matters. However, all personnel of non-NATO Nations incorporated in the EUFOR HQ had to be trained in NATO procedures and the EU personnel also had to satisfy any necessary clearance requirements.

As a result of good coordination between EUFOR and NHQSa, NHQSa handed over the management of Camp Butmir to EUFOR, by conclusion of a Technical Agreement on 29 December 2006. The Technical Agreement governs the operational aspects of Camp Butmir. These include the hand-over of Camp Butmir management from NHQSa to EUFOR and the hand-over of HQ Commandant post that occurred on 1 April 2007.

The appendix attached to the Technical Agreement provides a list of NATO Headquarters Sarajevo /EUFOR common standard operating procedures (SOPs), as a clear indicator of the close interaction and cooperation between NATO and EUFOR personnel. These SOPs are significant for the standardization and common approach in handling the number of daily issues, such as the management of Camp Butmir, the utilization of shared assets and personnel, the claims procedures, the usage of vehicles and the recreational activities, the implementation of privileges and immunities granted under SOFA. Maintaining or issuing new joint SOPs remains one of the primary responsibilities of the HQ Commandant along with contracting, managing national-borne costs, and guarding the security of Camp Butmir.

Under the Agreement, EUFOR has responsibility for manning the posts needed for the management of the camp except for those connected to NATO communications and information services and the duties of NATO Headquarters Sarajevo Security Officer. EUFOR assumed responsibility for the day-to-day maintenance, but not for the infrastructural repairs of Camp Butmir unless such repairs relate to infrastructure created by EUFOR since December 2004.

¹⁰ United Nations Security Council Resolution 1575/2004.

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The costs for the maintenance of Camp Butmir infrastructures are charged to EUFOR and NATO under an agreed cost share percentage that is calculated according to the number of personnel in Camp Butmir every six months. The current cost-share is about 23% for NHQSa and 77% for EUFOR which counts all shared positions. The property book functions that identify the ownership of assets at Camp Butmir remain in the Command Element of NQSa, prior consent of NATO HQ Sarajevo. This step is necessary in order to transfer any of the assets or capabilities temporarily in possession of EUFOR and any major changes in use of areas, building, and infrastructures.

Arrangements with third parties concerning the use or disposal of parts of the camp made available for EUFOR use or affecting the EUFOR management of the Camp are subject to prior notification and approval of both EUFOR and NHQSa. Environmental damage caused before NATO's establishment in Camp Butmir on 6 February 1997 (when the the Lease Agreement was signed between SFOR and the Government of Federation BiH), or EUFOR Operation Althea since 2 December 2004, cannot be attributed to NATO/EUFOR. In case of proved responsibility for environmental damage, the relevant costs for NATO and the EU will be apportioned on the basis of the average cost share arrangement for each year beginning from the date the environmental damage has commenced.

Whenever possible, claims and liabilities are to be mutually settled by the Chief Legal Advisors of EUFOR and NHQSa, depending on the specific percentage of causation, but only if the damages caused occurred after their arrival in Camp Butmir and after the assumption of Camp Butmir management. EUFOR will not be held responsible for claims related to Camp Butmir infrastructure unless caused by acts or omissions of EUFOR or its personnel if an asset is lost or damaged. An "in-and-out" survey of assets transferred between NATO and the EU will be conducted in accordance with a standard agreed upon by the two organizations. Any NATO claims for reimbursement necessary because of damage to assets provided to the EU are to be addressed to the administrator of Operation Athena.

This summary of the legal aspects of NATO support to the EUFOR mission in Bosnia and Herzegovina displays how the high political agreements to better coordinate efforts between these two international organizations have ultimately been translated into procedures and administrative agreements. While lacking the drama that accompanies the start of an international military mission, the effectiveness of these administrative arrangements are essential as a mission approaches its conclusion. For all of the tragedy that has occurred in Bosnia and Herzegovina, one contribution the international community should be remembered for is how NATO and the EU effectively supported each other to maintain peace and return Bosnia and Herzegovina to stability.

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Legal Aspects of NATO Support to the European Union Mission in Bosnia and Herzegovina

"Appendix on " Legal aspects of NATO support to EUFOR mission in Bosnia and Herzegovina"

1. In summary, the daily cooperation between NHQSa and EUFOR and NHQSa support to "Althea Operation" is provided under the following mandate/agreements:
 - a. Under "Berlin Plus Agreement": availability of NATO assets and capability in favor of EUFOR "Operation Althea".
 - b. Since December 2004 EUFOR and NHQSa share the same UNSC Resolution mandate - the last one is the n. 1895 dated 18 November 2009.
 - c. MOU between EUFOR and NHQSa on the management of Camp Butmir dated 29 December 2006.

2. The following joint EUFOR/NHQSa SOPs are significant showing the joint resolution of daily problems:
 - Travel policy and Execution of business journey.
 - NHQSa and EUFOR claims common policy.
 - Road movement.
 - Instruction for drivers
 - HQ EUFOR/NHQSa ground to Air (AVN) communications.
 - Issue and control of duty free fuel in Camp Butmir.
 - In and out processing.
 - EUFOR/NHQSa Unit and TCNS withdrawal from Camp Butmir.
 - Maintenance and Store Room procedures.
 - Administration and Personal Section.
 - Moral and welfare activities concessionaries.
 - Date and information management.
 - Procedure for snow/ice removal at Camp Butmir.
 - Environmental status assessment guidelines.
 - Structuring of environmental staff.
 - NHQSa CIS Support to all Agencies.
 - Sarajevo International Airport.
 - HQ Commandant Department of Public Works.
 - Procedure for write-off of international property.
 - Submission, screening, and approval of Engineer Work Request (EWR)
 - Theatre property disposal officer responsibility.
 - Theatre property accounting and control.
 - Use of information system security and operating procedures.
 - Civilian personnel administration and support procedures.
 - HQ Commandant Department of Public Works.
 - Disbursing office-cash.
 - Financial Administration and Advance Accounts.
 - Terms of reference for Senior National Representatives (SNRS) and the SNR's committee.
 - HQ EUFOR/NHQSa Environmental Management.
 - Real Estate System Guidance Policy.
 - Mail inspection and containment procedures.
 - Camp Butmir Chaplain.
 - Theatre Financial Controller SOP for contracting.
 - Military personnel management and administration.
 - Shared goods and services-Financial cycle management.
 - Standards for HQ Building 200 in Camp Butmir.
 - Theatre Budfin SOP for internal audits.
 - Submission, screening, and approval of Engineer Work Request (EWR)
 - The recovery of Nation Borne Costs.

Military Humanitarian Law Manuals and their Effect in Light of International Law

1st LT Gergely Tóth- Legal Officer, Support Brigade of HDF¹

I. Introduction

As the Law of Armed Conflict (LOAC) was increasingly codified in the second half of the 19th century, it became progressively important to incorporate its provisions into domestic legal systems as this was the only way to ensure practical adherence to it. Naturally, the most obvious way of doing so was ratification of international treaties. However, it was necessary to make legal provisions available to the main "users", i.e. the armed forces, for three reasons: First, the sometimes abstract and legalistic wording of treaties had to be made more concrete, taking into account the actualities of the given armed forces. As we will see, this process takes place at different levels.

Second, it is necessary to interpret or clarify some measures of the international treaty.

Third, even today, customary International Humanitarian Law is an important part of International Humanitarian Law. Making its content available in a written form makes its implementation much easier or even more accessible to all. It is extremely difficult to fulfil all three requirements in a single document and according to some, it is outright impossible². That is why there are different types of legal manuals. According to the most widely accepted differentiation, we can talk about international, domestic, and lower-level manuals³.

The de Mulinen manual is probably the best example of an international manual, despite the fact that its effect was not as great on domestic manuals as it was envisioned at its creation⁴. The most important aim of an international manual is to give an example for developing the other two categories described above, as well as to influence their content by clarifying their view on certain issues (according to the views of the author or the international organization behind him).

National manuals themselves can be divided into different sub-categories – proposing a system of such categories is one of the aims of this article –, and their "proliferation" has become apparent since the early '90s. Although many nations have such manuals, their exact (legal) status and their scope cover a very wide spectrum. This is partially due to the fact that they usually try to fulfil dual roles: on one hand, they clarify and spell out the position of their issuing government on a number of issues, and on the other hand, they function as the basic document of national regulation on the matter.

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² Prof. David Turns from the UK Defence Academy was arguing along this line of thought in his presentation during the conference: National Military Manuals on the Law of Armed Conflict in 2008, in Oslo.

³ Charles Garraway, "The use and abuse of military manuals", in *Yearbook of International Humanitarian Law* (2004), p.425-40

⁴ Frederic de Mulinen, *Handbook on the Law of War for Armed Forces*, International Committee of the Red Cross, 1987.

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However, the oldest and most widely used type of manuals is what I called "lower level" - certainly not describing their quality, but rather indicating their place in the hierarchy of regulations. The aim of these manuals is simply to regulate the behaviour of those taking part in the armed conflict. Sometimes they do not even appear as separate manuals, but only as a chapter or an annex to a general legal manual or the service regulations.

The following pages are an overview of the most important legal and practical questions regarding military legal manuals, and highlight a few points on the Hungarian situation as a national example.

II. Some history

The Lieber Code⁵ is not only one of the first examples of documents regulating the conduct of hostilities, but also one of the first military legal manuals. This document has unilaterally regulated a number of legal issues regarding the waging of the American Civil War by Union forces.

At the turning of the 19th and 20th centuries, many great powers started to issue LOAC manuals. The most famous of these is probably the British Manual of Military Law⁶, its 1914 issue was amended by adding a chapter (Chapter XIV.) dealing with regulations for ground forces. In fact, this chapter consists in rephrasing in more simple and understandable terms the then existing basic rules of combat. However, even today, this is the main goal of lower level manuals. This restricted approach also means that it could not elaborate on the delicate issues of those times, neither could it have an influence on international law⁷.

Nevertheless, even presently, many countries – including Hungary – regulate IHL for its troops in such a "lower level" way.

It is worth to follow the evolution of the British regulation, as it demonstrates how a narrow-focused and very special audience-oriented manual can in time become a true national manual, aimed at a wider audience. In 1936, based on the Geneva Conventions of 1929⁸, the chapter mentioned above was heavily reworked. By 1958, due to the incorporation of the numerous rules of the 1949 Geneva Conventions⁹, it became impractical to contain all rules in a single chapter; consequently it was issued as a separate volume, with a note that it constitutes part of the general military legal manual¹⁰.

⁵ Instructions for the Government of Armies of the United States in the Field (Lieber Code). 24 April 1863

⁶ Manual of Military Law, HMSO, London, 1914.

⁷ We may note here that there have been works much earlier taking a "snapshot" of customary law existing at the time, but these were not aimed at practical application, and rather stuck to the scholarly approach of the topic. For example, the Laws of War on Land, Manual published by the Institute of International Law (1880), widely known as the Oxford Manual.

⁸ Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field. Geneva, 27 July 1929., és Convention relative to the Treatment of Prisoners of War. Geneva, 27 July 1929.

⁹ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949; Geneva Convention for the Amelioration of the Conditions of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949; Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949.

¹⁰The Law of War on Land, being Part III of the Manual of Military Law, Her Majesty's Stationery Office, 1958.

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After the signing of the Additional Protocols for the Geneva Conventions¹¹, work was resumed in 1977 with the aim of incorporating the new rules. The first draft was prepared from 1978 to 1986. The main problem was that not even NATO – more precisely its member states – had a unified position on the Additional Protocols, thus undermining the hope that they accept a common interpretation of the documents. In later drafts, experiences of the 1991 Gulf War, then those of the Kosovo conflict and Afghanistan were used in the document. Finally, it was accepted and issued in 2004¹², and ever since it is one of the most important points of reference for such manuals.

The evolution process described above occurred more or less in a similar fashion in other countries where a similar manual dealing exclusively with LOAC was created. Germany issued its manual in 1992¹³, Canada in 2001¹⁴, Switzerland in 2005¹⁵.

Parallel to this process, as there was an increasing need for states to introduce such manuals, more and more works appeared on the international level to answer the need of states. They put forward their own interpretation and views on certain debatable issues. The International Committee of the Red Cross (ICRC) was the first to recognize the importance of such manuals and it prepared two examples: first the de Mulinen handbook in 1987, mentioned earlier, then the "Model Manual"¹⁶ in 1999. The 1999 Bulletin of the UN Secretary General¹⁷ can also be considered as some kind of an international manual, although its practical and legal value is questioned in professional circles. The San Remo manual on naval warfare¹⁸ deals with a very special part of the IHL, but nevertheless fits into the line of model manuals described above: to illustrate its effect, we may look at the British manual, utilizing almost verbatim the content of the San Remo document. The two latest international manuals deal with rules applicable in non-international armed conflicts¹⁹ and air and missile warfare²⁰.

¹¹Protocol Additional to the Geneva Conventions of 12 August 1949, and Protocol Relating to the Protection of Victims of Non International Armed Conflicts.

¹²UK Ministry of Defence, *The Manual of the Law of Armed Conflict*, Oxford University Press, 2004.

¹³ZDv 15/2 Humanitäres Völkerrecht in bewaffneten Konflikten – Handbuch – 1992.

¹⁴Office of the Judge Advocate General, *Joint Doctrine Manual Law of Armed Conflict at the Operational and Tactical Levels*, B-GJ-005-104/FP-021. The document is available at: http://www.forces.gc.ca/jag/training/publications/law_of_armed_conflict/LOAC_2004_e.pdf

¹⁵Rechtliche Grundlagen für das Verhalten im Einsatz, Reglement 51.007/IV.

¹⁶Anthony P.V. Rogers and Paul Malherbe, *Fight It Right: Model Manual on the Law of Armed Conflict for Armed Forces*, International Committee of the Red Cross, 1999.

¹⁷Secretary-General's Bulletin: Observance by United Nations Forces of International Humanitarian Law, UN doc. ST/SGB/1999/13

¹⁸Louise DoswaldBeck (ed.), *San Remo Manual on International Applicable to Armed Conflicts at Sea*, Cambridge University Press, 1995.

¹⁹International Institute of Humanitarian Law, *The Manual on the Law of Non-International Armed Conflict*, Martinus Nijhoff Publishers, 2006.

²⁰Manual on International Law Applicable to Air and Missile Warfare Bern, 15 May 2009. Program on Humanitarian Policy and Conflict Research at Harvard University

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What is obvious from above is that manuals became one of the most widespread ways of transmitting rules towards "end-users." However, examining them one by one, it is also clear that they do not only diverge in their content, but in other features as well. In some instances it can be explained by differences in national security policy or in capabilities of armed forces, but in other cases they make it plain that there is no "genre" of such manuals yet; it is still not clear which place such a manual holds in international or domestic law. In the following paragraphs, I will examine a few questions relating to this uncertainty.

III. Situation of the Manuals in Domestic and International Law

We may wonder if there is some basis in international law for issuing manuals, or, to approach it from another angle, whether there is an obligation for states to instruct their armed forces.

In Articles 80, 82 and 83, the First Additional Protocol of 1977 stipulates that States Parties must take every necessary step to ensure respect to the IHL by their armed forces, appoint military legal advisers to support commanders' decisions, and to disseminate rules of LOAC among personnel. As we see, these articles do not even mention manuals; however, the use of such documents can very well facilitate fulfilling the requirements of the articles.

A national manual can ensure uniform interpretation of legal rules, and it is a very useful tool for developing training curricula and orienting key commanders who usually do not hold a legal degree.

An example of why it is good to have a manual is the situation of the United States of America (USA). As it is well known, the USA has never signed the Additional Protocols of 1977. Yet it recognizes that the great majority of the rules contained in them are actually part of customary humanitarian law and acts accordingly. For military planners and decision-makers it is always a problem to decide which rules are customary, and which are not. Since the existing manual is rather old, commanders and legal advisors alike have to rely on the LOAC chapter of the Operational Law Handbook²¹, or on the legal parts of manuals²² dealing with specific issues. The problem is that even nowadays there is no clear position from the government on exactly which parts of the Protocols are recognized as customary law²³. This problem has now been recognized and development of a new manual is underway, with the aim, among other things, of clarifying the US position on this subject.

²¹International and Operational Law Department, Operational Law Handbook, The Judge Advocate General's Legal Center & School. Its 2007 issue is available at: <http://www.fas.org/irp/doddir/army/law2007.pdf>

²² A collection of them is to be found on Joint Electronic Library webpage: <http://www.dtic.mil/doctrine/>

²³ For many years, an article¹ written in 1987 by Michael J. Matheson, then Deputy Legal Adviser for the Department of State, was used since it was the source with the greatest authority on the topic. The content of the article was included in the Operational Law Handbook 2005, (p. 15-16), but there was an "Errata Sheet" attached to it, stating that it interpreted the US position too loosely. This probably made things even more complicated instead of clarifying the issue. The article was:

Michael J. Matheson, "The United States Position on the Relation of Customary International Law to the 1977 Protocols Additional to the 1949 Geneva Conventions", 2 American University Journal of International Law and Policy 1987, p. 419.

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If we consider the important role a manual can play in shaping the behaviour of a State's armed forces, and accordingly its actions on the international stage, the question is to what extent the content of a manual can shape customary international (humanitarian) law. To put it in other words, as we saw it with the example of the USA, customary rules can have a strong impact on manuals; the question is whether it works in the other direction?

An answer could be that supposing the manual has official approval, as is usually the case, then it naturally reflects the *opinio juris* of the state, and to some degree its actions as well, at least as a verbal act. In reality, it is not that straightforward and studies written on the topic take different positions. Still it is often the fact that on certain issues the position of a state can only be learnt from a manual.

As stated earlier, there are all kinds of opinions in academic writings: in his textbook²⁴ Professor Ian Brownlie states that manuals constitute an evidence of customary law²⁵. Opposite to this, Lord Wright, chairman of the UN committee examining war crimes after WW2 stated categorically that military manuals do not constitute customary law²⁶.

Also states hold different opinions on whether manuals can constitute or influence customary international law. The 1956 US manual²⁷ - although rules contained in it are naturally outdated - makes a multi-fold statement in its introduction: first, it says that the aim of the manual is to give direction to commanders and troops; second, it states that only those parts of the manual that repeat wording of national or international regulation are binding on courts; third, other parts of the manual can prove existing customs or practices. Another much more elaborate position is to be found in the State Department letter²⁸ written in response to the ICRC's study on customary international law. According to that, although manuals are important in mapping state practice and *opinio juris*, their examination should not replace taking into account other forms of state practice and *opinio juris*, most notably the analysis of ongoing military operations in the field. It is to be seen how the position taken in this letter will become official policy.

²⁴ Practically, this is the position of the ICRC's famous work on customary IHL: Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Cambridge University Press, 2005.

²⁵ Ian Brownlie, *Principles of Public International Law*, 5th edition, Clarendon Press, 1998, p. 5.

²⁶ Lord Wright of Durley, "Foreword", United Nations War Crimes Commission, *Law Reports of Trials of War Criminals*, Vol. VIII, His Majesty's Stationery Office, 1949, p. x.

²⁷ Department of the Army Field Manual FM27- 10: *The Law of War on Land*, Department of the Army, July 1956.

²⁸ John B. Bellinger III and William J. Haynes II, U.S. Initial Response to ICRC Study on Customary International Law, U.S. Department of State, 3 November 2006. Elérhető: <http://www.state.gov/s/l/rls/82630.htm>

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Practice of international courts shows that they tend to accept manuals as a possible evidence of customary law. Both ICTY in the Tadic Case²⁹ and the Israeli Supreme Court in the case on targeted killings³⁰ examined manuals, and while the ICTY only generally referred to the usefulness of manuals in "finding" customary law, the Israeli court examined different nations' manuals to find that international customary law prohibits attacks on civilians if they are not taking a direct part in hostilities.

So what are the relevant factors to be taken into account when examining the relationship of manuals to customary law? (As we will see, the answer has a relevance to the situation of manuals in domestic law.)

First, by whom and how the manual is produced is important. To which extent the manual is linked to the government, and whether there is an official approval at the end of the process (international manuals obviously lack it) are relevant. Not only the possible link of authors to the state is relevant, but if they are state officials, their position in hierarchy can also matter because of the authoritativeness. A work written by eminent scholars can, just by this fact, be considered an auxiliary source of international law under the Statute of the International Court of Justice³¹.

Second, the circulation (or publicity) of the manual is an indication: whether it is only for internal use, mostly to aid training and practical decision-making, or whether it is available for a wider audience meeting academic standards. For the latter, the 2004 UK manual published by the Oxford University Press is a good example. This publication was published for the international audience, too, with the approval of the Ministry of Defence and it constitutes a verbal act of state, and thus creates a legal obligation on the side of the issuing state. Naturally, the availability of a manual can be influenced by other factors such as language or even finances.

Linked to circulation is the question of audience, or the way the manual envisions its own role. From actual authoritative law to a simple "reminder" of rules the scale is very wide. Language of the work can be an indication also: it implies greater authority if it contains concrete, imperative rules.

Regarding the content of manuals they mostly deal with rules that are treaty obligations. Those that do not necessarily constitute customary law, as they may be policy or custom such as may not be included.

²⁹International Criminal Tribunal for the Former Yugoslavia, Prosecutor v. Duško Tadić a/k/a "Dule", Case No. IT941AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 99.

³⁰Supreme Court of Israel sitting as the High Court of Justice, The Public Committee against Torture in Israel et al v. The Government of Israel et al., HCJ 769/2, Judgement, 13 December 2006, para. 30.

³¹Yoram Dinstein, "The ICRC Customary Humanitarian Law Study", 36 Israel Yearbook on Human Rights 2006, pp. 6-7.

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Analyzing the effect that manuals may have, it is worth to recall the Lieber Code again: the aim of Francis Lieber was to collect customary law at the time. Naturally, this regulation only applied to Union Forces; however, a copy of the work soon found its way to Confederate troops. Since they found its content very agreeable, the Confederate War Ministry started to use it with minor modifications, and in a few years time European countries also started to copy it. That process is similar for today's manuals. At the conception, they are only applied by the country that produces them, later other countries – especially if they are allied and/or participate in multinational operations – can copy the rules contained in it; in the end, rules that have not been part of customary law can become so widespread that at least it becomes arguable whether they gained the status of customary law. For example, if the decision³² of the Australian government to treat persons detained in operations abroad regardless of their status, according to the provisions of the Fourth Geneva Convention is to be copied by other countries, although this does not stand a high chance, we have to admit that it could constitute customary law over time (if *opinio juris* is somehow to be present).

Finally, regarding the relationship between manuals and customary law: it is necessary to take into account the practical execution of rules in the manuals. State practice followed in armed conflicts can and in peacetime, may significantly diverge with the possibility of manuals not being so strictly adhered to during the conflict. For example, Iraq was arguing for the prohibition of chemical warfare during the '80s, while at the same time using these very weapons on a scale unprecedented since WWI. In this sense we have to support the statement of Hays Parks claiming that actions authorized by a government during war speak louder than statements made during peacetime³³.

Domestic status of a manual is an important factor to influence its adherence to it. In Germany and Switzerland the manuals were promulgated as law, its violation can have criminal consequences, while the British manual does not have this status, therefore its violation does not automatically imply such procedure. It can be said that in general it is more likely that manuals have legal status in continental legal systems than in Common Law countries.

However, it is important to keep in mind that both in the domestic and international settings a manual is only one element of the total body of regulations. Therefore it is unavoidable to examine its interplay with other elements, such as criminal law or lower level technical rules and instructions, only applicable to a certain narrower set of situations. (For example, a manual on engineering tasks may briefly dwell on legal regulations regarding mines and booby-traps.)

³² Commonwealth, "Australia: Government for the Meeting of Contracting Parties to the Fourth Geneva Convention, Geneva, 27- 29 October 1998", 2 Yearbook of International Humanitarian Law 1999, p. 451.

³³W. Hays Parks, "The ICRC Customary Law Study: A Preliminary Assessment", 99 American Society of International Law Proceedings 2005, pp. 208-10.

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IV. What should a manual look like?

As it was demonstrated, there is no “golden path” when writing manuals, it is not possible to create the ideal document suitable for all armed forces. This is one of the reasons why international manuals had a limited success.

As we saw there are at least three legal options: it can be promulgated as law or as a lower-level legal rule, or it may be published as a non-legal instrument. If that is the case, it may have different official levels from inclusion in service regulations to simply appearing in an academic monthly or quarterly publication.

Not only legal traditions or the participation in an armed conflict can have an effect on the content of the manual, but e.g. on the equipment available to a certain armed force. Today, in asymmetric conflicts, one of the most important legal questions is the one of direct participation, in practical terms how long a person can hide its weapons and distinctive signs when preparing for an attack without losing the privilege of combatant status. The first Additional Protocol stipulates³⁴ that from the time he is visible to the enemy, he should at least carry his weapon openly. With advances in night-vision technology, “being seen” is not as evident as it was before. Does it mean seen by only the naked eye, or by the use of technical (infrared, light-amplification, thermo-vision) features as well? What, if only one side possesses these aids, and the other side does not even know exactly when he is being seen?³⁵ The answer of a manual will probably heavily depend on equipment available to its issuing country. For example, the British manual takes the position³⁶ that it applies to technical means, too. Other manuals may not deal with the question at all, or take the opposite view. It is obvious that the UK manual has this provision because the UK possesses one of the best equipped forces in the world; therefore the UK wants to fully utilize the advantages stemming from it. Manuals have to conform to the entire context of its use, the best balance between legality and effectiveness has to be found in its regulations.

However, in the end, manuals are assessed by asking the question whether their content is actually put into practice, thus to what extent it influences the behaviour of combatants. Not enough emphasis can be put on training, legal “skills” have to be integrated in the training of personnel as e.g. maintenance of equipment. The existence of a good manual, complemented by rigorous training and a system of competent legal advisers can have a very positive effect on the observance of LOAC by any armed force.

While there is no definite answer to the question in the subtitle, it can be certainly said that having a manual is a positive development in the implementation of IHL, but it is even more important how its content is translated into training at every possible level.

³⁴ Art. 44. para 3. point b).

³⁵ Similar concern may arise with the unmanned aerial vehicle (UAV).

³⁶ in point 4.5.3.

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V. A national example: Hungary

The Hungarian situation regarding a manual is somewhat special and does not entirely fit into either category enumerated at the beginning of this article; however, the current regulation is somewhere between rules found in low-level technical manuals and a "normal" manual. The Hungarian "manual" is an annex attached to the Service Regulations of the Defence Forces, which was promulgated as a Ministry of Defence Decree. (In the hierarchy of the Hungarian legal system, such Decree takes place below the Constitution, Acts of Parliament, and Government Decrees.) Thus, having a central role in the life of the Hungarian Defence Forces (HDF) it is promulgated as a normative law, albeit at a lower level.

This annex is not a full manual, rather a short collection of the most important rules of LOAC in a logical order. It can be viewed as an *aide-memoire*, giving a quick overview of the topic to someone familiar with it, while introducing the most basic rules relevant for a reader not well-versed in law.

Taking into account that knowledge of Service Regulations is part of every training procedure, it is safe to assume that incorporating LOAC rules in the annex results in the most widespread dissemination of such rules. In this sense this practice is very good and should be followed/upheld in the future.

On the other hand, its advantage is also a disadvantage. Because of the length and the need to speak in a "popular" voice it lacks the sophisticated nature of "real" manuals, as well as their scope. Yet it is not really a practical tool for military legal advisers. Even that personnel receive a more extensive instruction on LOAC during their pre-deployment training, they can greatly benefit from an always accessible, comprehensive manual.

VI. CONCLUSION

To conclude, I would like to make an overview of the most important questions to be answered when planning and writing a manual, with references to my national example, which serves here a good basis, since the Hungarian regulation is not in the form of a traditional manual, and its content needs lot of improvement, so it is safe to say that it is necessary to begin with an almost blank paper. Most of the suggestions may apply to countries in a similar situation.

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1. Preliminary questions

a. *Is there a need for a manual or to review / rewrite the manual?*

There is always a need when the manual is non-existing or the existing manual is outdated, or not in the appropriate level of promulgation and distribution. In the Hungarian example the annex of the Service Regulations satisfies certain needs, and it should be kept in its current form¹, but it should be more practical and manual type.

b. *What is the aim of the manual? (Who are the users?)*

In any armed forces, the aim is to provide a useful tool and giving a uniform interpretation of rules to legal officers. The other is to provide guidance to staff officers, training officers and probably most importantly to the soldiers on the ground. In the Hungarian situation this would be a first official compilation and interpretation of IHL rules.

c. *How should it relate to other legal regulations?*

It should be promulgated at the level of general military regulations, similar to Service Regulations, preferably at a normative level. This would give both the necessary authority, and the wide availability.

2. How should it be prepared?

a. *Who should write the manual? What would be the preferred method? (Who is responsible, who gives the final consent?)*

Since its main user would be the armed forces, it should be prepared by persons within the organization with the knowledge of the special needs it has to answer. A longer, more analytical work is necessary. First drafts should be prepared by a smaller committee of legal, operational and training officers with a good knowledge of IHL and with experience from operations. They should consult with senior (occasionally political) leadership from time to time, receiving guidance on issues that should be decided on that level. Relevant international examples (other manuals and experiences of their application) should also be taken into account. The draft should then be circulated both in government channels as well as in academic circles. A lot of countries have their National Advisory Committee on IHL (a governmental body incorporating experts from relevant ministries, as well as usually the national Red Cross society) could serve as a platform for this phase of the work. The final draft prepared by this body could then be promulgated by the Minister of Defence.

b. *What length should it have?*

There are practical limits on the length. As the evolution of the British manual demonstrates there is such a great body of law that it can only be dealt with in a separate document. However there must be a balance of depth and details on one hand and the amount that is still comprehensible by the potential audience.

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3. How should the content of the manual be put into practice?

In one word: training. In practice, however, training means a lot of different activities, at different levels. It is paramount that on all levels persons with a relevant knowledge (and practical experiences) are available and are also capable to train others to their use. First, training the trainers is necessary to achieve this goal. A manual is a great help in this, but not sufficient in itself. Creating a manual is not the end of the process, but the beginning – it has only relevance if it is read, used, exercised. This requires rigorous training.

4. How should a manual be updated and kept up-to-date?

There are well developed ways of doing after action reviews and lessons learned. It is important that international (humanitarian) law is not a static body of law, but a dynamic, changing system of rules. A manual should reflect it from time to time. It is wise to set up a flexible mechanism to implement updates already when promulgating such a manual. Regarding the frequency, it is certainly worth looking at it every 3-4 years, as this is a period long enough for substantial changes to take place in international law. Besides the formal dissemination, the evident tool to implement the updates is repeated training. The most important thing is simply not to forget that such updates are necessary and that they have to be known by persons applying them.

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Ukraine at the doors of Euro-Atlantic Structures (Part II)

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“Ukraine will become a member of the Alliance.”¹ At first glance political statements deliver a prudent, positive, and encouraging message about NATO – Ukraine cooperation. The political statements veil the perplexing fusion of strategic concerns, military requirements, and an ongoing process of interaction. After more than sixteen years of cooperation the balance sheet is mixed; Ukraine walks the path of transformation while NATO welcomes an achievement in reforms without immediately taking a conclusive stance on membership.

The cooperation is beneficial for many sound reasons. NATO plays a key role in Ukraine's efforts to replace legacies of the past, guide the country towards reforms in different spheres and create efficient, responsive and transparent armed forces that can truly face emerging threats and challenges.

For its part, NATO had constantly reiterated its interest in Ukraine: “Its size and pivotal geostrategic role make Ukraine a key to ensuring Europe's long-term stability. This is why NATO has consistently sought to assist Ukraine, as it charts its way into the future.”² “NATO's door remains firmly open but the final decision whether to enter rests with the Ukrainian people and leaders”.³ As the former NATO Secretary General Jaap de Hoop Scheffer put it, all the Allies are friends of Ukraine but not all the Ukrainians are friends of NATO. In general, the Alliance has mildly been appreciated in the country, the awareness of the population is inadequate⁴ influenced by long-standing absence of unity in political, ethnic, cultural, religious and mental terms.⁵

NATO's commitment to help Ukraine with reforms is uncontroversial; regardless of the current and future form of cooperation, NATO countries have strategic interests at stake. Securing Ukraine into the Alliance is crucial but remains result driven. A delicate balancing act is required. Membership is a political process with no exact method to measure the progress in reforms, except for those in the defence sector. Taking into account Russia's unambiguous posture towards NATO's eastern enlargement, while no other viable alternative for cooperation in security and defence area exists, the prospect of including Ukraine in NATO remains distant and clouded by geopolitical plots and power games.

¹ Declaration to the press by NATO Secretary General Jaap de Hoop Scheffer at the occasion of NATO 2008 Bucharest Summit stated that Ukraine will become a member of the Alliance, <http://nato.int/docu/comm/2008/0804-bucharest/index.html>.

² G. Roberstson, speech delivered at the Ukraine – NATO symposium, “*The world in 21st century: cooperation, partnership, dialogue*”; see <http://www.nato.int>.

³ European Diplomacy and Defense, No.100, 9 February 2008.

⁴ Recent polls show that only 21.4 percent of Ukrainians are inclined to support NATO membership. The polls identify the main reasons for the negative attitude to NATO: the most Ukrainians fears that it will spoil relations with Russia (74 percent), force them to take part in US led wars (67 percent), exacerbate tensions in society (60 percent), prompt more spending on defence (58 percent) and make Ukraine target for terrorists (58 percent).

⁵ Martin Malek, the “*Western Vector of the Foreign and Security Policy of Ukraine*”, *Journal of Slavic Military Studies*, 22: 515-542, 2009.

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In forming a picture about the effect of the present cooperation and outlook for the future, it is important to note the results of the presidential elections. The opposition leader Viktor Yanukovich narrowly won the run off of the election. Supported by almost half of the voters, he has pledged to scrap Ukraine's bid to join NATO. With Yulia Tymoshenko, Ukraine's incumbent Prime Minister, obtaining the second best position it becomes clear that Russia has strengthened its influence. Among other issues, both candidates have pledged to improve soured ties with Russia rather than work on Kiev's NATO aspirations. The Orange revolution dream of creating a different model of post-Soviet states has suffered a wide awakening and it can be assumed that there will be a sharp turnaround in the Euro-Atlantic integration path.⁶

Ukraine and NATO embarked on the path of cooperation shortly after Ukraine's independence and engaged in the continuous building of legal bases for implementation of Ukraine's Euro-Atlantic ambitions and materialization of a deeper cooperation. Reservoir for support from NATO comprises of a cluster of political declarations and framework documents guiding the cooperation. There is general satisfaction with these documents⁷ on the Ukrainian side; the dispositions of the documents are considered a solid base for cooperation and adequate guidance for implementation.

From the NATO's side, the prerequisites for rapprochement are clear. Any country seeking to join the Alliance must meet the key requirements: a functioning democratic political system based on a market economy, the treatment of minority population in accordance with the guidelines of the OSCE,⁸ a commitment to peaceful resolution of disputes with neighbours, the ability and willingness to make a military contribution to the Alliance and to achieve interoperability with other members' forces and commitment to enhance civil-military relations in the institutional structures.⁹ The present frameworks for cooperation reflect the logic of the general enlargement criteria,¹⁰ while being carried out in the spirit of the Partnership for Peace programme.

Since 1994 Ukraine has participated in the Partnership for Peace Programme (PfP) and its Planning and Review Process. PfP is an "immediate and practical programme that will transform the relationship between NATO and participating states."¹¹

⁶ Ukraine AFP January 18th and January 19th 2010.

⁷ The framework documents are PfP Framework document (February 8, 1994), Individual PfP (September 1995), the Charter on Distinctive Partnership (July 8, 1997), NATO-Ukraine Action Plan (November 2002), Intensified Dialogue (April 2005).

⁸ Organization for Security and Cooperation in Europe.

⁹ NATO 1995 Study on Enlargement.

¹⁰ Ukraine was the first of Commonwealth of Independent States (CIS) countries to sign the Partnership for Peace framework document on February 8, 1994.

¹¹ Gale Mattox and Arthur Rachwald, "Enlarging NATO: the national debates", Boulder, Colorado, Lynne Rainer Publishers, 2001, p.17.

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Simply put, it is a guide for armed forces of the partner country towards compatibility with those of NATO counterparts, with no link to membership. Once in full swing it enables NATO to measure progress of internal transformation in the security and defence sector. Whereas the original focus was on enhancing PfP activities and allowing participating nations to identify specific forces to be provided for PfP and define their scope of improving interoperability, Ukraine has used this planning tool since 2000 in support of its defence reform.¹²

The formal basis for NATO – Ukraine interaction is the 1997 Charter on a distinctive partnership.¹³ The document does not contain any statements about a membership perspective or security guarantees for Ukraine. An intensified dialogue on Ukraine's membership aspirations and related reforms, the Charter provides for areas of cooperation and consultation and established the NATO – Ukraine Commission (NUC), a forum for consultation to take the work forward. The NUC keeps the cooperative activities rolling, overseeing joint working groups in different sector reforms.

The distinctive partnership between NATO and Ukraine is a pragmatic balance of political dialogue and military cooperation. It is a mechanism involving Ukraine in the process of reforms, mainly in the military and defence sector and involving the Alliance by means of support to reforms. The dispositions of the Charter reveal its nature of a political declaration: an affirmation of NATO's support for independence, sovereignty and development of Ukraine. It is a list of areas for consultation and cooperation without a clear delineation of goals or legally binding commitments. Apart from cooperation on purely defence issues, this framework guides Ukraine in the development of the legislative basis and implementation of democratic civilian control of the military sector, cooperation on disarmament and arms control issues, combat against drug trafficking and terrorism, support to research activities and assistance in information technology programmes.¹⁴

As a tool to carrying out reforms, the NATO – Ukraine Action Plan was adopted in November 2002, setting long-term objectives in key areas and providing a framework for deepening and broadening the cooperation. Sharper focus on furthering integration as a goal was added by the document, setting out specific objectives covering political, economic, security, defence and military issues, as well as legal ones. The document emphasizes the need to improve reform efforts in economic and social issues even more than those of military capability, suggesting lagging progress in this area.

The Annual Target Plan supports the implementation of the Action Plan objectives, setting out Ukraine's own targets in reforms it wishes to pursue, both internally and in cooperation with NATO.

¹²James Sherr, "Edging erratically forward", NATO Review, Autumn 2003.

¹³ The Charter was signed at the NATO Madrid Summit, 9 July 1997. Charter on a Distinctive Partnership between North Atlantic Treaty Organization and Ukraine, <http://mfa.gov.ua/mfa/en/publication/content/1705.htm>.

¹⁴ Charter on a Distinctive Partnership between North Atlantic Treaty Organization and Ukraine.

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One of the major shortfalls of the NATO-Ukraine Action Plan and Annual Target Plans is that they are not based and developed on a strong analytical foundation for the substance of Ukraine's bid for NATO membership; the objectives to be achieved are disconnected from the unique challenges and opportunities offered by the cooperation with Ukraine.¹⁵ The first Annual Target Plan was criticized for being merely a list of activities rather than a reform programme with measurable objectives. Assumptions that the frameworks failed to set the incentives for systematic and substantial approach to implementation of reforms are being constantly voiced.¹⁶

Until 2004 the cooperation lacked energy, momentum and serious political commitment. Internally, the Ministry of Foreign Affairs failed to assume its coordination role, resulting in scattered and hasty results. After 2004 NATO accession turned into a key foreign policy goal, but the leadership lacked to translate political intent into concrete reforms due to political uncertainties. Ukrainian leaders currently fail to deliver a goal-based approach, having instead an event-driven system. Many implementation programmes like the Annual Target Plan remain focused in conducting events rather than achieving objectives.¹⁷

In order to manage the ongoing demands of Ukraine, NATO proposed to engage in an Intensified Dialogue on Ukraine's membership aspirations and related reforms.¹⁸ This dialogue does not guarantee an invitation to join the Alliance nor does it prejudice any future decision about the cooperation. The document provides necessary assistance and advice, yet made clear that the speed of reforms' fulfilment remains in Ukraine's hand.

The dialogue was a basis for a launch of a series of structured expert discussions. Staff talks give Ukrainian officials the opportunity to learn more about what could be expected from Ukraine as a potential member of the Alliance and also allow NATO officials to examine in greater details Ukrainian reform policy and capabilities.

To reflect this spirit of deepening cooperation, Ukraine has developed its first Annual National Programme¹⁹ which outlines the steps to be taken to accelerate the internal reform and alignment with Euro-Atlantic standards. The document is deemed to be more concrete than the previously employed Action Plan, offering a global vision of transformation efforts, effectively having the same dispositions and potential to boost transformation as a Membership Action Plan (MAP).

¹⁵ James Green, "NATO membership is a realistic goal if Ukraine shows courage and resolve", Geneva centre for the democratic control of armed forces, Working paper NO.135.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ The Intensified dialogue was launched at the NATO – Ukraine commission meeting of foreign ministers in Vilnius, Lithuania in April 2005.

¹⁹At the 3 December 2008 Foreign Ministerial meeting, it was decided to develop an Annual National Programme. The programme replaces the Annual Target Plan and puts overall reform goals, and specific actions and priorities more in the context of Ukraine's aspiration to join the Alliance. Annual National Programme 2009 was signed by the Ukrainian President on 7 August and it is composed of five chapters: 1) Political and Economic issues, 2) Defence and Military issues, 3) Resources, 4) Security issues, and 5) Legal issues. The Annual National Programme for 2010 was approved by the Cabinet of Ministers on 2 December 2009, and discussed at a NATO-Ukraine Commission on 17 December 2009 at NATO HQ. It needs to be signed by the President to come into effect.

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Combining a global vision of direction of endeavours together with a list of concrete actions, the programme allows for a new level of internal cooperation by engaging all ministries concerned during the elaboration stage and offers clear guidelines on efforts to be provided.

Performance in the implementation of key reform goals is the prerequisite for attaining Euro-Atlantic standards. However well-crafted and clear on requirements, the objectives inscribed in the documents cannot be implemented in a vacuum; a solid institutional system is required. There lies the biggest internal challenge for Ukraine. The constitutional arrangements for implementation of international commitments are burdensome. In general the reforms need to be endorsed by a presidential decree after being accepted by Parliament. Taking into consideration the political situation, it is understandable why reforms are lagging.

Gradually, measures were taken to improve the coordination of implementation of activities. A presidential decree²⁰ enhanced cooperation between the executive authorities and Parliament with the focus on coordination and improvement of public information was adopted.²¹ To execute the Annual National Programme, a National Coordination centre was set up, gathering deputy ministers, enabling better identification of problems linked to implementation.

As the hostage of political infighting, coalition building and inflexible constitutional arrangements, the performance in political cooperation and reform issues are the weak points of Ukraine's transformation. Five key priority areas are being repeatedly pointed out as falling behind Euro-Atlantic standards: strengthening of the democratic institutions, enhancing political dialogue, improving inter-departmental coordination of implementation, intensifying defence and security sector reform, improving public information and managing social and economic consequences of the reform.²² Owing to the absence of a systematic and substantial approach needed to push through implementation of reforms, progress is lingering.²³

The penultimate step for Ukraine before joining the Alliance would be the Membership Action Plan (MAP). The Plan gives an unambiguous perspective about membership as the ultimate test of the country's readiness for accession. MAP serves as a roadmap that aims to create preconditions for membership; the process is open-ended, and receiving it does not guarantee an automatic invitation for membership.

²⁰ Presidential decree of 27 December 2005.

²¹ Grigoriy M. Perepelytsia, "NATO and Ukraine: At the crossroads," NATO Review, Summer 2007.

²² These issues are raised the most often as needing an improvement in communiqués of Meetings of the NATO – Ukraine Commission. See for example Chairman' statement, Meeting of the NATO – Ukraine Commission at the level of Foreign Ministers held at NATO Headquarters, Brussels, on 3 December 2009.
www.nato.int/cps/eu/natolive/news_59697.htm?selectedLocale=en.

²³ James Green, "NATO membership is a realistic goal if Ukraine shows courage and resolve", Geneva centre for the democratic control of armed forces, Working paper NO.135.

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The surge in relations initiated by the Orange Revolution derailed in 2006. After the formal request for MAP had been made,²⁴ the outraged opposition called the government to go back on the request and managed to cause a parliamentary crisis by blocking the assembly. The then Prime Minister Yanukovich expressed his position for a cooperation with NATO but not supporting a MAP. Yanukovich's refusal to apply for NATO MAP has been perceived as a major U-turn in Ukraine's foreign policy. Regardless of the possible damage such a decision inflicted on internal reforms, this position was considered as more realistic than the post-Orange romanticism with NATO.²⁵

Ukraine pursued cooperation without distinctly changing their membership perspective. NATO has put a MAP offer on hold until Ukraine is able to articulate a unified position. Disappointingly but predictably at the last NATO summit in Bucharest, MAP was not offered to Ukraine because of the opposition expressed by France and Germany as a sign of their fear not to alienate Russia. Nevertheless, Ukrainians took home a declaration by Alliance leaders that Ukraine will eventually join NATO.²⁶

Contrary to lagging improvements in the political arena, Ukraine displayed reasonable ability to transform its military capacities. Over the last few years military reform was trapped in political frictions, coalition forming and a demoralising financial climate; yet the armed forces have been the most reformist area of the agenda. NATO's cooperation with Ukraine in the defence sector is more extensive than with any other partner country, as a promising sign of Ukrainian efforts.²⁷

The goal of Euro-Atlantic integration blended in the military doctrine,²⁸ peace support operations, security and defence reform, military-to-military cooperation, armaments and civil emergency planning; all these areas fall under the umbrella of the military side of the cooperation.

Section III of the Charter on a Distinctive Partnership,²⁹ specifying the importance of Ukrainian participation in operations, including peacekeeping operations, reflects the most effective, practical and visible achievements to the extent that it largely outweighs any other area of cooperation.

Ukraine is the pre-eminent contributor to peacekeeping operations among the partner countries.³⁰ Its active contribution to Euro-Atlantic security by deploying troops together with NATO and partners mirrors the fact that this area occupies the highest political priority in the country, bearing a significant potential for future cooperation.

²⁴ President Yushenko requested a NATO MAP at the summit of southeastern European defence ministers on Kiev in October 2007.

²⁵ Arkady Moshes, "Ukraine Between a Multivector Foreign Policy and Euro-Atlantic integration Has It Made Its Choice?", PONARS Policy Memo No.426, December 2006.

²⁶ Europe Diplomacy & Defence, the Agence Europe Bulletin on ESDP and NATO, No. 119, 5 April 2008.

²⁷ NATO – Ukraine Joint Working Group on Defence Reform. NATO Topics (2 March, 2009), <http://www.nato.int/issues/nato-ukraine/jwgdr.html>.

²⁸ Presidential decree of 15th April 2005.

²⁹ Areas for consultation and/or cooperation between NATO and Ukraine.

³⁰ Leonid Polyakov, "Ukrainian-NATO relations and new prospects for peacekeeping", the Royal Institute of International Affairs, p. 2.

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Ukraine's contribution ranges from involvement in NATO-led peace-keeping force in Bosnia and Herzegovina³¹, support of ISAF³² operation by providing clearances for forces deployed in Afghanistan.³³ Since March 2005 Ukraine has contributed to the NATO training mission in Iraq and 1600 Ukrainian troops were deployed in the country as part of the international stabilization force. The Ukrainian frigate URS Termopil was the first partner-country ship to be deployed in support of Operation Active Endeavour in 2007, followed by two additional frigates in 2007 and 2008. In June 2008 the North Atlantic Council adopted a political decision approving Ukraine's participation in NATO Response Force (NRF), making Ukraine the first partner country to contribute to NRF. Recently a rail transit agreement has been signed for ISAF, to facilitate the surface cargo.³⁴

All in all, Ukrainian forces have taken part in joint deployments with reasonable success, benefiting therefore from a rise in interoperability and training standards.

The Joint Working Group on Defence Reform (JWGDR), established in 1998, manages cooperation in the area of the defence and security sector, as a forum for discussion on expert level and a channel for expertise sharing and support from allied countries. In 2002 it was upgraded to annual consultations of the Defence Ministers' level. The group's subject of interest is evolving, with the emphasis on drawing a road map for defence reform by identifying the country's defence requirements and balancing these against available resources. The reform goes beyond the Ministry of Defence and Armed Forces to address all structures related to the security of the state. In addition, under the auspices of JWGDR, NATO experts assist in the National Security Sector Review, with major achievements in adopting a number of important conceptual documents in the sphere of reform of relevant ministries and agencies.

The military side has also taken the lead in developing the legal framework, enabling NATO and Ukraine to further develop operational cooperation, including the PfP Status of Forces Agreement.³⁵ By exempting participants from passport and visa regulation and immigration inspections it facilitates participation in PfP military exercises. Another key document is the agreement on Host Nation Support addressing the issue of the use of Ukrainian military assets and capabilities for NATO exercises and operations.³⁶

³¹ Currently the Ukrainian contribution to KFOR comprises the 1st peacekeeping battalion, which is a national part of the Ukrainian-Polish Battalion (UKRPOLBALT) and a national support element (181 military servicemen). In addition, 4 Ukrainian military officers are deployed to KFOR and Multi-National Task Force East Headquarters.

³² In 2010 Ukraine will increase its ISAF contingent to 30 personnel (15 January Presidential decree assigned 20 additional personnel), 7 C-IED experts, doctors and trainers for the NTM-A .

³³ Practical collaboration in this area in 2003-2006 was limited to providing airspace for ISAF airplanes over Ukrainian territory and for commercial air transportation of ISAF personnel and cargo with Ukrainian transport aircraft. Three Ukrainian Armed forces representative, military doctors are part of a joint Lithuanian-led provincial reconstruction team. A Ukrainian officer was deployed to ISAF HQ.

³⁴ April 2009.

³⁵ NATO-PfP SOFA was ratified on 19 May 2000.

³⁶ The Memorandum of Understanding was signed in July 2002 and entered into force in May 2004. NATO Press Articles – June 2004 (#36) at www.ls.kuleuven.be/cqj-bin/wa?A2=ind0406&L=natopres&P=6185.

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A Memorandum of Understanding (MOU) on Civil Emergency Planning and Disaster Preparedness³⁷ and an agreement to provide civilian training for retired Ukrainian army officers³⁸ enhance cooperation in civil-military issues. In addition a MOU regarding the use of strategic transport aviation of Ukraine in NATO operations and exercises was signed.³⁹ In October of 2005 Ukraine hosted a major exercise, the Joint Assistance 2005, including a simulated terrorist action at a chemical plant.

The restructuring of Ukrainian armed forces is another urgent item on the reform menu. Although slowly underway, hopes for substantial reforms have been largely dashed by the near-continuous political crisis faced by Ukraine since 2004.

After many years of military downsizing as well as political and financial neglect, the Orange revolution in 2004 provided the political impetus necessary to kick start radical military reform. Ukraine plunged into a strategy of military imitation by adopting the model for reform inspired by the US pattern.⁴⁰ In 2003 – 2004 armed forces went through qualitative and quantitative changes, resulting in better structure of the forces, a comprehensive defence review, more civilian expertise to the Ministry of Defence, force reduction, and more spending on military procurement, research and development.

Despite its efforts, the Ukrainian military remains a large but poorly trained and underfunded force. Ukraine has sought NATO's help to transform its massive conscript forces into smaller, more professional and more mobile armed forces, including efforts to strengthen democratic and civilian control of the forces. In light of Kiev's NATO ambitions, the military budget has been increased since 2005, but remains proportionally lower than the NATO prescribed two percent of GDP expenditure on military.⁴¹ In 2007, following the return to power of the Orange coalition, a new plan was created to transform armed forces from conscription based forces to a contract based army by the end of 2010, with a significant reduction of personnel.⁴² However, such a project is unlikely to be completed by the target date especially considering the major financial problems currently besetting the country.

The Ukrainian Air Force suffers from deficiencies in combat readiness. While improvement is apparent, reached through increase in pilots' proficiency and modernisation programmes, the Ukraine Air Forces lag behind NATO counterparts. With regard to their naval personnel, after the break-up of the Soviet Black Sea Fleet the Ukrainian Navy emerged as a small, reasonably effective force that is well suited for national purposes.

³⁷ Signed on 16 December of 1997.

³⁸ Signed on 11 October 1999.

³⁹ 07 June 2004.

⁴⁰ Deborah Sanders, "Ukraine's Military Reform: Building a Paradigm Army, the Journal of Slavic Military Studies", 21: 4, 599 – 614, 2008.

⁴¹ 1.07 percent of GDP spent on military.

⁴² It is anticipated that the reduction will be from 272,000 to 183,000 persons.

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In the area of doctrine development, strategy and training Ukraine saw moderate advancements. Introduction of the new military doctrine in 2002 brought change in the political section by greatly emphasizing the peacekeeping role, stating that the final aim of integration in the Euro-Atlantic area is obtaining full NATO membership and reaffirming the pledge not to build nuclear forces while reiterating the neutral status of the country.⁴³ In the training area, Ukrainian Naval Forces take part in Annual Sea Breeze exercises with NATO, although the exercises are random and on a too small a scale to trigger development of adequate skills.⁴⁴

With regard to the requirements of military-to-military cooperation, Ukraine has fulfilled some of the prerequisites for invitation to join the Alliance through its long-term cooperation under the framework of PfP and its contribution to NATO-led operations. Yet, there is a long way to go on military reform: improving capabilities and professionalism and reducing the size of its armed forces. Crucially, all these efforts will remain fruitless unless the country can stabilize its domestic political situation. Taken together, the benefits of a military-to-military cooperation and the defence reform produced a significant change in defence establishment. Yet, in recent years the questions holding back Ukraine's rapprochement with NATO appears to be political, not military.⁴⁵

Prospects for the future

The main goal of the ongoing cooperation between NATO and Ukraine is a more democratic, prosperous Ukraine with a modern, accountable security and defence sector. Ukraine needs to push the process forward to ensure practical implementation of reforms. NATO supports Ukraine in the achievement of the agenda but implementation is entirely up to Ukraine. More needs to be done to raise awareness among the Ukrainian public of the mutual benefits of the possible integration, especially to demonstrate how NATO transformed itself since the end of the Cold War, and to emphasize that the mutual interest is to face the security challenges together. Outdated obstacles, bureaucratic impediments and status quo assumptions have to be removed.

Although the unstable political context under which the reforms takes place is impeding substantial progress, success in peacekeeping and peace building operations prove that when there is a political will, there is a way to progress.

The Allies argue that for the moment Ukraine is not making the full use of the tools set up for transformation in the Annual National Programme. The Allies measure the progress in reforms through the prism of national standards, therefore the time when Ukraine reaches the Euro-Atlantic standards will depend on the positive attitude from NATO member states.

⁴³ According to key declarations of the present Ukrainian leadership concerning national security, NATO standards are to be introduced in all fields of the management bodies of the armed forces. In this context the White Book 2007 of the Ministry of Defence explicitly states that the optimization of the command and control bodies of the Armed Forces is taking into account of leading European and NATO armed forces standards. Ministry of Defence of Ukraine: White book 2007. Defence Policy of Ukraine, Kiev (2008), p.13.

⁴⁴ Source: Jane's Sentinel Country Risk Assessments, "Russia and the CIS", Issue Twenty-five – 2009.

⁴⁵ Celeste A. Wallander, "Challenges and Opportunities: A U.S. strategy on Ukraine", June 2005, www.csis.org.

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Although progress achieved in the defence sector through the NATO partnership framework has been substantial and there is no doubt that Ukraine has embarked on a transformation course, so far the process seems like a chain of ad hoc successes rather than a systematic transformation approach. As for NATO, there is no way to achieve Ukrainian membership in the foreseeable future. The cooperation is in a state of flux conditioned by several factors: the lack of support from the population, Russia's opposition, financial obstacles and failure to fulfil Euro-Atlantic standards. Concerns are currently voiced about unpredictable consequences the results of the presidential elections could have on Ukraine's Euro-Atlantic path and on the effect they can have on the visibility of successes of cooperation. Nowadays NATO faces a double-barrelled challenge when dealing with Ukraine: how to insist on reforms while offering encouraging acknowledgement. For now NATO offers an umbrella for reforms while downplaying the question of the end goal.

For the time being, no radical breakthroughs in relations can be expected. Ukraine's principal focus shall remain on the stabilization of its domestic political situation, resolution of constitutional obstacles to cooperation with NATO and discreet pursuit of reforms while waiting for better times, at least in the relation between NATO and Russia.

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() As for Part I of the article published in the NATO Legal Gazette # 21, this article seeks to describe the structure and dynamics of the legal framework for Ukraine's possible integration into the Euro-Atlantic area. The views expressed in this article are conclusions reached by the author as part of an independent academic project and do not reflect any official position or views of either NATO, EU, or Ukrainian authorities. In the spirit of academic freedom and free exchange of ideas, this article is included to illustrate the complexities and difficulties that can arise when the EU and NATO engage bordering nations across a broad spectrum of legal, economic, social, military and political issues.*

Book Review: *Unlawful Attacks in Combat Situations*, by Hector Olasolo¹

Mr. Vincent Roobaert, Assistant Legal Adviser, NC3A²

Until recently, the legal literature on means and methods of warfare was scarce or limited to theoretical overviews in military law manuals or humanitarian law treaties. The lack of attention to this topic did not mean, unfortunately, that the application of these rules was to be taken for granted. As the events in the former Yugoslavia showed, violations of the rules on means and methods of warfare were repeated and resulted in many civilian casualties. At the same time, the increased mediatisation of warfare has brought the horrors of war home. It has resulted in higher scrutiny of military operations by civil society and less tolerance for civilian casualties. Unlawful attacks have also led to increased investigations at the national or international levels, for example by the International Criminal Tribunal for the former Yugoslavia (ICTY).

Based on his experience as an ICTY lawyer, the ICTY case-law and the establishment of the International Criminal Court, Mr. Olasolo's book, *Unlawful Attacks in Combat Situations From the ICTY's Case Law to the Rome Statute*, Brill Publishing, 2008, takes a new look at the topic of unlawful attacks. His book covers everything one should know about this topic. The author is obviously influenced by his practice at the International Tribunal and covers the topic as a criminal lawyer would: starting with the objective and subjective elements of the crimes up to the jurisdiction and sentencing. Nevertheless, the author remains pragmatic and agrees that one should not conclude to the existence of a war crime as soon as a particular attack causes civilian casualties. The legality of a particular attack should be examined on a case by case basis, taking all the circumstantial elements into account. The author therefore distances itself from the zero civilian casualty discourse which would set up such a high standard that it would make the law unworkable in practice.

This book should therefore appeal to the readers interested in war crimes but also readers who want to ensure that their conduct will not lead to prosecution, such as operational lawyers and military commanders.

The book is mainly divided into two parts. The first one covers elements of the crime. The second deals with the accused.

The book starts with an overview of the principle of distinction and its evolution before and after the adoption of the two Additional Protocols to the Geneva Conventions. The following chapters review the concept of armed conflict which is a prerequisite for war crime incriminations.

After examining these prerequisites, the author turns to the objective elements (*actus reus*) of the crimes. The analysis is done based on the theory but the author also addresses practical issues that may be encountered when applying various notions such as military objective or proportionality. For example, the author extensively covers the concept of direct participation in hostilities. The next chapter looks at the *mens rea* associated with these incriminations. Finally, grounds for justification and excuses are also addressed.

¹H. Olasolo, *Unlawful Attacks in Combat Situations, From the ICTY's case-law to the Rome Statute*, Martinus Nijhoff Publishers, 2008, 292 pages (ISBN-13 978 90 04 16200 6).

² This review does not reflect the views of NATO, NC3A or the NATO Member States.

Book Review: Unlawful Attacks in Combat Situations by Hector Olasolo

As one can see from the summary of the book, Mr. Olasolo's coverage of the topic is influenced by his work at the ICTY and his intended audience seems to be primarily those that will have to bring or defend cases before tribunals. However, his very structured and comprehensive coverage of the topic, together with practical examples, ensures that readers that are not involved in international criminal justice on a daily basis, such as operational lawyers, will find reading the book very worthwhile. This is one of the first comprehensive overviews of this topic. It greatly benefits from the author's experience at the ICTY and as a delegate to the preparatory commission of the Rome Statute. Reading it is therefore recommended to anyone involved in armed conflict law and targeting in particular.

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NATO/PfP STATUS OF FORCES AGREEMENT –

EXPERT TEAM VISIT TO BOSNIA-HERZEGOVINA; MOSTAR, 02 – 04 DECEMBER 2009

Mrs. Mette Hartov, Assistant Legal Adviser, HQ SACT

Mr. Lewis Bumgardner, Legal Adviser, ACT/SEE

In 2007 HQ SACT LEGAL co-chaired a seminar in Bosnia-Herzegovina (BiH) on NATO / PfP Status of Forces Agreements (PfP SOFA) together with the Estonian Ministry of Defence, initiated and arranged by NATO Headquarters Sarajevo's Politico-Military Advisory Section (PMAS NHQSa). In December 2009, the seminar was followed up by a 3-day expert team's visit engaging BiH experts in further discussions on the topic of status of forces and international military headquarters under the PfP SOFA and its additional protocols. This event was also arranged on the initiative of PMAS NHQSa. The event was opened by Mr. Zoran Sajinovic (Assistant Minister of Defence for International Cooperation), and was attended by the Commander of the NATO Headquarters Sarajevo, Brigadier General Bullard (USA M), who provided the closing remarks. The expert team comprised Mr. Sherrod Bumgardner, SEE Legal Advisor; and Mrs. Mette Hartov, HQ SACT Legal Office, supported by PMAS NHQSa Legal Advisor, Mr. Will Thomas, and his staff.

The 2007 seminar was very well received and the BiH participants were very impressive in their understanding of the context and enthusiastic and engaging approach. Clearly, significant developments have taken place in BiH since 2007 relative to the PfP SOFA, ranging from bilateral interactions with various NATO Nations, with HQ SACT Legal hosting of an international exercise, and the signing, ratification, and implementation of the PfP SOFA, the additional protocol, and the further additional protocol

It is evident that BiH has made considerable efforts to plan the effective implementation of the PfP SOFA, and all the participants showed both determination and resourcefulness in how the task is being dealt with. Hopefully the activities and the relationships with the NATO Legal Community help to provide inspiration but the process receives a particular and invaluable support from NHQSa PMAS, which is perceived as an essential partner in the coordination of efforts; a partnership that clearly is based on mutual respect and appreciation. It was a great privilege to be part of that relationship and to reengage with BiH colleagues in the very scenic and historic site of Mostar.

The aim of the expert team visit was to fold the practical experience of BiH into further discussions with the BiH participants, promote talks amongst the BiH participants in support of the ongoing efforts to fully put the PfP SOFA into practice, and thus provide assistance through discussions and dialogue. The programme provided for briefings by the expert team and by the BiH Ministry of Defence, and for group discussions supported by the expert team and thematic games provided specifically to encourage the discussions. Amongst them, the participants represented the majority of the BiH authorities presently involved in the implementation of the PfP SOFA demonstrating that BiH has fully recognised that implementation of the PfP SOFA is not a task for the defence authorities alone. The discussions around the table were very motivated and addressed both practical aspects and legal theory, and thus provided a good reflection of the advanced perception of the agreements within BiH. The discussions also proved that the BiH participants understand the reciprocal nature of the PfP SOFA; a PfP SOFA Nation (just as a NATO SOFA Nation) has to consider itself in the function as a receiving State as well as in the role of the sending State; the understanding of interests and responsibilities have to be balanced accordingly, and different actions are required in respect of implementation (issue travel orders to the members of BiH armed forces as a sending State and recognise travel orders of other sending States when their personnel travel to or through BiH on official duty).

**NATO/PfP STATUS OF FORCES AGREEMENT –
EXPERT TEAM VISIT TO BOSNIA-HERZEGOVINA; MOSTAR, 02 – 04 DECEMBER 2009**

With the intent to assist BiH in the work process rather than teaching (or preaching) the subject, the programme was based on several practical exercises – the SOFA Tree Game being one, and a new “reversed” SOFA Tree Game inviting the participants to shoot questions back at the expert team. The team was not to give directions as to how BiH will implement the agreements; that is a choice resting with BiH, however the team would be ready to discuss and assist in the endeavours. Hopefully this approach assisted BiH in the ongoing efforts to find permanent solutions for the implementation and institutionalising of the PfP SOFA.

Having observed and been part of the discussions with BiH during the event it was evident to the team members that there is a good internal understanding of the tasks and challenges ahead, and – as always – the team discovered new aspects of the NATO / PfP SOFA. The BiH participants had a good grip of the possible ways to endeavour the challenges ahead and make the PfP SOFA operational; training, inter-agency coordination, clear guidelines based on analysis and legislative initiatives (as required), and dissemination of information, being identified as the main tools. Clearly, insight, comprehension and inter-ministerial coordination are very important steps in the implementation of the PfP SOFA and its additional protocols – along with the NATO practice that complements the SOFA. More work lies ahead to execute the many practical aspects entailed in the PfP SOFA, but how this is approached is the choice of BiH. Fortunately, experience is accessible to support this venture, and the authors look forward to remain in touch with our colleagues and friends in BiH and to follow the progress.

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Mostar, BiH – 4 December 2009

Spotlight



**Mr. Peter Olson,
Legal Adviser to
the NATO
Secretary
General**



Name: Peter Olson

Service/Nationality: International Staff, USA.

Job Title: Legal Adviser to the Secretary General.

Primary legal focus of effort: General NATO policy and headquarters issues.

Likes: Skilful, thoughtful use of language.

Dislikes: Unnecessary formality.

When in Brussels, everyone should: Appreciate this city's extraordinary sense of the absurd.

Best NATO experience: Ask me in three years!

My one recommendation for the NATO Legal Community: Work unrelentingly on communication and on breaking down bureaucratic barriers – both among ourselves and throughout the Organization.

Olson.peter@hq.nato.int

Spotlight



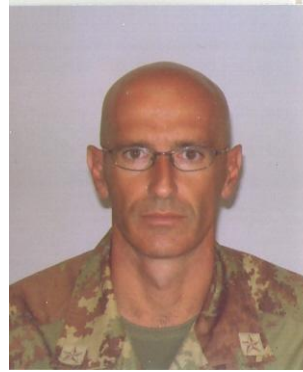
Major Roberto

Mascia,

Asst Legal

Adviser JFC

Brunssum



Name: Roberto Mascia

Rank/Service/Nationality: Major, Army, Italy.

Job title: HQ Joint Forces Command Brunssum Assistant Legal Adviser.

Primary legal focus of effort: Operational Law.

Likes: Family, reliable friends, outdoor sports, travel, dogs.

Dislikes: cloudy, rainy and boring days.

When in Brunssum, everyone should: visit Maastricht, especially its beautiful historic centre.

Best NATO experience: The current challenging and interesting assignment.

My one recommendation for the NATO Legal Community: try to share the information, the opinions and the experiences as much as possible.

masciar@jfcbs.nato.int

Spotlight



CAPT Benoit

Boutillie,

Asst Legal

Adviser JFC

Brunssum



Name: Benoit Boutillie

Rank/Service/Nationality: Lieutenant, French Navy.

Job title: HQ Joint Forces Command Assistant Legal Adviser.

Primary legal focus of effort: Operational Law and exercise training.

Likes: Burgundy, Impressionism, literature, my daughter's smiles, fishing.

Dislikes: Traditions.

When in Brunssum, everyone should: bring some rays of sunlight.

Best NATO experience: the current one.

My one recommendation for the NATO Legal Community:
"One for all, all for law"

boutillieb@fcbs.nato.int

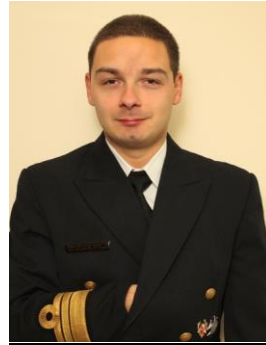
Spotlight



CDR Godziewicz

Legal Adviser,

JFTC



Name: Wiesław GOŹDZIEWICZ

Rank/Service/Nationality: CDR(OF-4)/N/Polish.

Job title: Joint Force Training Centre Legal Adviser.

Primary legal focus of effort: Law of armed conflict and RoE's.

Likes: Music, history, reading, diving, sailing and many more.

Dislikes: Tropical heat.

When in Bydgoszcz, everyone should: Slow down, relax and walk around The Old Town .

Best NATO experience: Negotiating the AGS PMoU.

My one recommendation for the NATO Legal Community: To keep in touch.

Wieslaw.godziewicz@jftc.nato.int

Spotlight



**Ms. Nicoline
Swinkels, Intern**



Name: Nicoline Petra Swinkels

Rank/Service/Nationality: Civilian / NLD.

Job title: Intern at SHAPE/ACT-SEE Legal Offices.

Primary legal focus of effort: International Public Law.

Likes: My Family, City Trips, Books and Art.

Dislikes: The collapse of the Dutch government on the disagreement over the commitment to Afghanistan.

When in Mons, everyone should: realise that *Mons est désignée capitale européenne de la culture en 2015*, enjoy the beautiful city center and have a drink in the local Jazz bar.

Best NATO experience: Being confronted with law on many different levels and meeting interesting people.

My one recommendation for the NATO Legal Community: Share information, keep the conversation going and avoid bureaucracy.

Nicoline.swinkels@shape.nato.int



HAIL

&

FAREWELL

Hail

NATO HQ : Mr. Peter Olson (USA) joined in February 2010.

NCSA : OR-7 Sophie Gosset (FRA) joined in March 2010.

SHAPE/ACT-SEE : Mr. Ian Clark (GBR – intern) joined on May 4 2010.

Farewell

SHAPE : OR-8 Fabrice Braccio (BEL) left on May 4 2010.

GENERAL INTEREST/NATO IN THE NEWS

- The Military Medical Center of Excellence was formally opened in Budapest, Hungary in December 2009. More information on :

http://www.hm.gov.hu/news/hazai_hirek/comeds_atadas

- List of suggested books on the European Union :

<http://www.foreignaffairs.com/features/readinglists/what-to-read-on-the-european-union>

- The Yearbook of International Humanitarian Law (YBIHL) invites submissions of manuscripts on international humanitarian law. Sponsored by the TMC Asser Institute in the Hague, the YBIHL is published by Cambridge University Press. The YBIHL is recognized globally as the premier publication in the field of international humanitarian law. The General Editor is Professor Michael Schmitt of Durham University. The Yearbook is advised by an Editorial Board comprised of distinguished jurists, scholars and practitioners. More information on:

<http://www.dur.ac.uk/law/>

- Useful link to the A-Z Guide to Afghanistan Assistance 2010. This free publication can be downloaded online:

<http://www.areu.org.af>

- If you're interested in NATO historical documents, please visit:

<http://www.aco.nato.int/page209264641.aspx>

- The book on Customary International Humanitarian Law by Jean-Marie Henckaerts and Louise Doswald-Beck can be found at the following links:

Volume I

[http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/pcustom/\\$File/Customary-International-Humanitarian-Law-I-icrc-eng.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/pcustom/$File/Customary-International-Humanitarian-Law-I-icrc-eng.pdf)

Volume II

[http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/pcustom/\\$File/Customary-International-Humanitarian-Law-II-icrc-eng.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/pcustom/$File/Customary-International-Humanitarian-Law-II-icrc-eng.pdf)

GENERAL INTEREST/NATO IN THE NEWS

"Doubt is not a pleasant condition, but certainty is absurd"

Voltaire

- Link to an article published by Ms. Laurie Blank, Director of the International Humanitarian Law Clinic at Emory University on the application of the IHL in the Goldstone Report:

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1584724
- Launch of the HPCR(Humanitarian Policy and Conflict Research) Manual on International Law Applicable to Air and Missile Warfare:

<http://www.ihlresearch.org/amw/>
- Newest version of the State Department's 2008 Digest of United States Practice in International Law can be downloaded at the following link:

<http://www.state.gov/s/l/2008/index.htm>
- Article on Multi-Tasking and Legal Writing by Ms. Anne Enquist, Seattle University School of Law :

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1536242
- Austria's explosive sniffing dog joined NATO forces in Norway's Operation Cold Response exercises.

<http://abcnews.go.com/International/parachuting-dog/story?id=10115524>
- Five billets (3 JAGs and 2 enlisted paralegals) have been added to the Afghan National Police Legal Affairs (NTM-A) as a Legal Mobile Training Team. If you are interested in one of these positions, please contact Capt Kevin Brew (Kevin.M.Brew@afghan.swa.army.mil) or John.P.Carrell@afghan.swa.army.mil for further information.

UPCOMING EVENTS

- The 5th Annual Legal Conference initially scheduled the week of April 19, 2010 which could not take place because of the disruption in air traffic caused by the Eyjafjallajökull volcano eruption has been postponed to the week of September 27, 2010. Information about the conference can be found at:

<http://www.aco.nato.int/page33220390.aspx>

- The next Legal Adviser's Course will be held at the NATO School from 17 to 21 May 2010. Iteration of the course will occur 25 to 29 October 2010.

For more information on courses and workshops, please visit

<http://www.natoschool.nato.int>

- The 2010 Conference on Cyber Conflict will be held 16-18 June in Tallinn, Estonia. It will be preceded by a one-day training seminar on June 15. For more information, please go to:

<http://www.ccdcoe.org/conference2010>

- The Faculty of Law of the Pázmány Catholic University in cooperation with the Ministry of Defence of the Republic of Hungary presents a post-graduate 2-semester course on International Humanitarian Law in the English language as of September 2010 in Budapest. The course is aimed at legal experts who are dealing with international humanitarian law practice, such as ministry experts, military lawyers, judges, prosecutors, advocates, experts of international organisations, NGOs or national red cross/red crescent societies. First semester starts in September. Registration deadline is 30 June 2010. For more information, please contact deak@jak.ppke.hu or mbruckner@jak.ppke.hu or visit <http://www.jak.ppke.hu/ihl/>

*"Many things have
fallen only to rise
higher"*

Seneca

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