



GCSP
Geneva Centre for
Security Policy

International Society for
Military Law and the Law of War



Société Internationale de Droit
Militaire et de Droit de la Guerre



Schweizerische Eidgenossenschaft
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XII Seminar for Legal Advisors of the Armed Forces

Geneva, Switzerland – 18-21 June 2019

Co-organized with the Geneva Centre for Security Policy (GCSP)

With the support of the Swiss Federal Department of Defence, Civil Protection and Sport (DDPS), the Swiss Federal Department of Foreign Affairs (FDFA) and the Swiss Group of the ISMLLW

PROGRAM

THE LAW OF ARMED NON-STATE ACTORS 70 YEARS AFTER THE GENEVA CONVENTIONS

TUESDAY 18 June

13:00 – 18:00 Registration of Participants at the Geneva Centre for Security Policy (GCSP)
Maison de la paix, Petal 4

13:30 – 15:30 **Meeting of the ISMLLW Managing Board**

16:00 – 18:00 **Meeting of the ISMLLW Board of Directors**

18:00 – 21:00 **Opening reception**

Maison de la paix, Petal 2 hall and terrace

WEDNESDAY 19 June

Maison de la paix, Petal 2, Auditorium Ivan Pictet B

09:30 – 09:30 **Welcome coffee and registration**

09:30 – 10:15 **Opening ceremony**

Prof Dr Wolff Heintschel von Heinegg, *Professor of Public Law, Europa-Universität Viadrina and President, International Society for Military Law and the Law of War (ISMLLW)*

Amb Christian Dussey, *Director, Geneva Centre for Security Policy (GCSP)*

Amb Valentin Zellweger, *Permanent Representative of Switzerland to the United Nations Office and to the other International Organisations in Geneva*

10:15 – 10:30 **Keynote speech**

Brig Gen Markus Mäder, *Director, International Relations Defence, Armed Forces Staff, Swiss Federal Department of Defence, Civil Protection and Sport (DDPS)*

10:30 – 12:00 **1st Working session**

70 Years of International Law Applied to Non-State Armed Groups: From Common Article 3 to the Equivalence of IAC and NIAC Law?

Topics

- Continuous Combat Function, Unlawful Combatants, Terrorists and Freedom Fighters: Who are the Members of Non-State Armed Groups Today?

- Human Rights Obligations of Non-State Armed Groups in Non-International Armed Conflicts: Can Non-State Actors Violate International Law?
- Upsides and Downsides of the Expansion of NIAC Law: Is the Equivalence Between IHL of IAC and NIAC a Desirable Outcome?

Speakers

Dr Cordula Droege, *Chief Legal Officer and Head of the Legal Division, International Committee of the Red Cross (ICRC)*

Prof Dr Wolff Heintschel von Heinegg, *Professor of Public Law, Europa-Universität Viadrina and President, International Society for Military Law and the Law of War (ISMLLW)*

Prof Marco Sassoli, *Director, Geneva Academy of International Humanitarian Law and Human Rights, and Professor of International Law, University of Geneva*

Chair

TBD

12:00 – 13:30 **Lunch break**

13:30 – 15:00 **2nd Working session**

Losing Clarity on the Use of Force: From Targeted Strikes to Permanent War

Topics

- Unwilling or Unable: New Normative Framework or Dangerous Breach of the *Jus Ad Bellum*?
- Hybrid Warfare: The Use of Non-State Armed Groups in Combination with Unconventional Methods of Warfare
- New Issues in Targeting: Does Hague Law Need Novel Interpretation?

Speakers

Prof Dr Tom Ruys, *Professor of International Law, Ghent University*

Mr Steven Hill, *Director of the Office of Legal Affairs, NATO Headquarters*

Dr Stuart Casey-Maslen, *Honorary Professor, University of Pretoria and Associate Fellow, Geneva Centre for Security Policy (GCSP)*

Chair

TBD

15:30 – 17:00 **3rd Working session**

Somewhere between Peace and War: Military Legal Advisers dealing with Volatile Legal Environments

Topics

- Law Enforcement and Hostilities: How legal regimes interplay
- Practical measures to prepare troops for ambivalent legal situations
- Better safe than sorry? Being legally on the safe side considering operational necessities and own forces' security

Speakers

Prof Robert Kolb, *Specialist Officer and Professor of International Law, University of Geneva*

Lt Col Nathan J. Bankson, *Chief, Strategic Engagements, National Security Law Division, Office of The Judge Advocate General, U.S. Army*

Lt Col Eric H. Pouw, *Legal Adviser, Armed Forces of the Netherlands*

Chair

Maj, Dr Mirco Anderegg, *Deputy Head Operational Law Section, Swiss Armed Forces, and President of the Swiss Group of the International Society for Military Law and the Law of War (ISMLLW)*

THURSDAY 20 June

Maison de la paix, Petal 2, Auditorium Ivan Pictet B

09:00 – 10:30 **4th Working session**

Three Questions on Detention in Non-International Armed Conflicts: Legal Basis, Grounds for Detention and Procedural Safeguards

Topics

- The Legal Basis for Deprivation of Liberty during Non-International Armed Conflicts: Is the Question Still Open?
- Grounds for Detention and Procedural Safeguards: Challenges in Non-International Armed Conflicts
- Detention by Non-State Armed Groups: Does the Same Legal Framework of State Armed Forces Apply?
- Guaranteeing Humane Treatment to Detainees in Non-International Armed Conflicts: The Bedrock of Common Article 3 and the Detailed Safeguards of Additional Protocol II

Speakers

Ms Jelena Pejic, *Senior Legal Adviser, International Committee of the Red Cross (ICRC)*

Brig Gen Darren Stewart (TBC), *Head of Operational Law, U.K. Army*

TBD

Chair

TBD

11:00 – 12:30 **5th Working session**

Making Justice in Non-International Armed Conflicts: Missing Link or Overlapping Jurisdiction?

Topics

- Ensuring Accountability of State Armed Forces Through Military Justice
- Best Practices for Investigations in Situations of Armed Conflict: The Gap between Law and Policy
- The Exercise of Criminal Jurisdiction by Armed Non-state Actors in NIAC: Benefits or Simply Risks?

Speakers

Col David Anthonyshyn (TBC), *Deputy Director of Public Prosecutions, Canadian Armed Forces*

Prof Noam Lubell, *Professor in the School of Law, University of Essex*

Mr Alessandro Mario Amoroso, *Programme Officer, Security and Law Programme, Geneva Centre for Security Policy (GCSP)*

Chair

TBD

12:30 – 12:45 **LAWFAS presentation**

12:45 – 14:00 **Lunch break**

14:00 – 17:30 **Excursion**
Visit of the International Red Cross and Red Crescent Museum and walking tour of Geneva Old Town

18:00 – 22:00 **Official dinner**
Café Restaurant du Parc des Bastions

FRIDAY 21 June

Maison de la paix, Petal 2, Auditorium Ivan Pictet B

09:00 – 10:30 **6th Working session**
The Evolution of Peace Operations: From Buffer Force between States to Robust Mandates and Active Protection of Civilians against Non-State Armed Groups

Topics

- The Contribution of the Leuven Manual to the International Law of Peace Operations: Where is the Law Still Unclear?
- Keeping the Peace with Robust Mandates: The Risk of Peace Forces Becoming a Party to the Armed Conflict
- The Security of Peace Forces Involved in Robust Peace Operations: Legal and Operational Dangers

Speakers

Mr Alfons Vanheusden, *Senior Legal Advisor, Belgian Ministry of Defence and Assistant Secretary-General of the International Society for Military Law and the Law of War (ISMILLW)*

Dr Tristan Ferraro (TBC), *Senior Legal Adviser, International Committee of the Red Cross (ICRC)*

Maj Gen (ret) Adrian Foster, *Former Deputy Military Adviser, UN Department of Peacekeeping Operations (DPKO) and Alumnus, Geneva Centre for Security Policy (GCSP)*

Chair

Mr Ralph Mamiya, *Executive-in-Residence Fellow, Geneva Centre for Security Policy (GCSP) and Non-resident Advisor, International Peace Institute*

11:00 – 12:30 **7th Working session**
Bringing Private Military and Security Companies under International Law: Do We Need Clear Hard Law or New Soft Law?

Topics

- The Impact of Private Military and Security Companies on Contemporary Armed Conflicts: Where Do They Fit and Which Legal Framework Applies to Them?
- The Risk of Direct Participation in Hostilities by Private Military and Security Companies under Existing Law
- The Importance of the Montreux Document with Regard to Private Military and Security Companies

Speakers

Col Gail A. Curley, *Staff Judge Advocate, U.S. Army Europe*

Amb Daniel Klingele, *Deputy Director, Directorate of International Law, Swiss Federal Department of Foreign Affairs (FDFA)*

Mr Tobias Vestner, *Head, Security and Law Programme, Geneva Centre for Security Policy (GCSP)*

Chair

TBD

12:30 – 14:00 **Lunch break**14:00 – 15:30 **8th Working session****Future Challenges in Non-International Armed Conflicts: Conducting Operations in Complex Environments****Topics**

- Conduct of Hostilities in Urban Environments: How Does the Law Change?
- Counter-Terrorism Operations: Stretching the Law Home and Abroad
- Ensuring Compliance with International Humanitarian Law by Non-State Armed Groups

Speakers

Maj Ben Wahlhaus (TBC), *Legal Adviser, International Law Department of the Military Advocate General's Corps, Israel Defense Forces*

Prof Gloria Gaggioli, *Swiss National Science Foundation (SNF) Professor, Faculty of Law, University of Geneva*

Mr Hichem Khadhraoui, *Director of Operations, Geneva Call*

Chair

TBD

15:30 – 16:00 **Closing Ceremony**

Brig Gen Aart Jan de Haan, *Head, Military Legal Services of the Armed Forces, Ministry of Defence of the Netherlands*

Mr Tobias Vestner, *Head, Security and Law Programme, Geneva Centre for Security Policy (GCSP)*

Col Carl Marchand, *Head, Laws of Armed Conflicts Section, Swiss Federal Department of Defence, Civil Protection and Sport (DDPS)*