



NEWS FLASH N° 21

(October 2014)

The Flanders Fields Conference of Military Law and the Law of War held in Ypres from 12 to 15 October 2014



The *International Society for Military Law and the Law of War* organised the Flanders Field Conference of Military Law and the Law of War in collaboration with the *International Committee of the Red Cross* and *The Royal Higher Institute for Defence*, and with the support of the *City of Ypres*, the *British Army Legal Services*, the *International Affairs at the University of Hamburg*, *Melbourne University School of Law* and the '*Centre d'Etude de Droit Militaire et de Droit de la Guerre*' (*Belgian Group of the International Society for Military Law and the Law of War*). The Conference was hosted in Ypres from 12 to 15 October 2014.

History, the law and commemoration of First World War were at the heart of this Conference. The program included presentations and panel discussions by academic speakers and experienced professionals on:

- Legal and policy issues associated with chemical weapons;
- Contemporary challenges of international humanitarian law in the conduct of hostilities;
- Contemporary challenges of international humanitarian law in the protection of specific groups in armed conflict;
- The evolution of the medical work on the battlefield;
- Humanitarian access; and
- Military justice in difficult circumstances.

A detailed report of this Conference will be published on the Society's website and in a subsequent instalment of the News Flash.

(Odile Vandenbossche)

Recent developments / Développements récents

Afghanistan signs Bilateral Security Agreement and Status of Forces Agreement

On 30 September 2014, the US and Afghanistan signed a Bilateral Security Agreement. This happened only a few days after the new Afghan President, Ashraf Ghani, and the new Chief Executive Officer, Abdullah Abdullah, were sworn in. The agreement provides the legal framework for American troops, about 9800 of them, to remain in Afghanistan beyond the end of this year to help train, advise and equip the Afghan military and police forces, and to target the remnants of Al Qaeda. According to U.S. President Barack Obama, this agreement will help advance the shared interests of the U.S. and Afghanistan and the long-term security of Afghanistan.

Alongside this agreement, NATO and Afghanistan also agreed on a Status of Forces Agreement, which permits a small NATO force to remain in Afghanistan past the end of the year, when the ISAF mission will come to an end, to carry out the NATO Resolute Support mission.

For more information, please visit:

<http://www.defense.gov/news/newsarticle.aspx?id=123294>

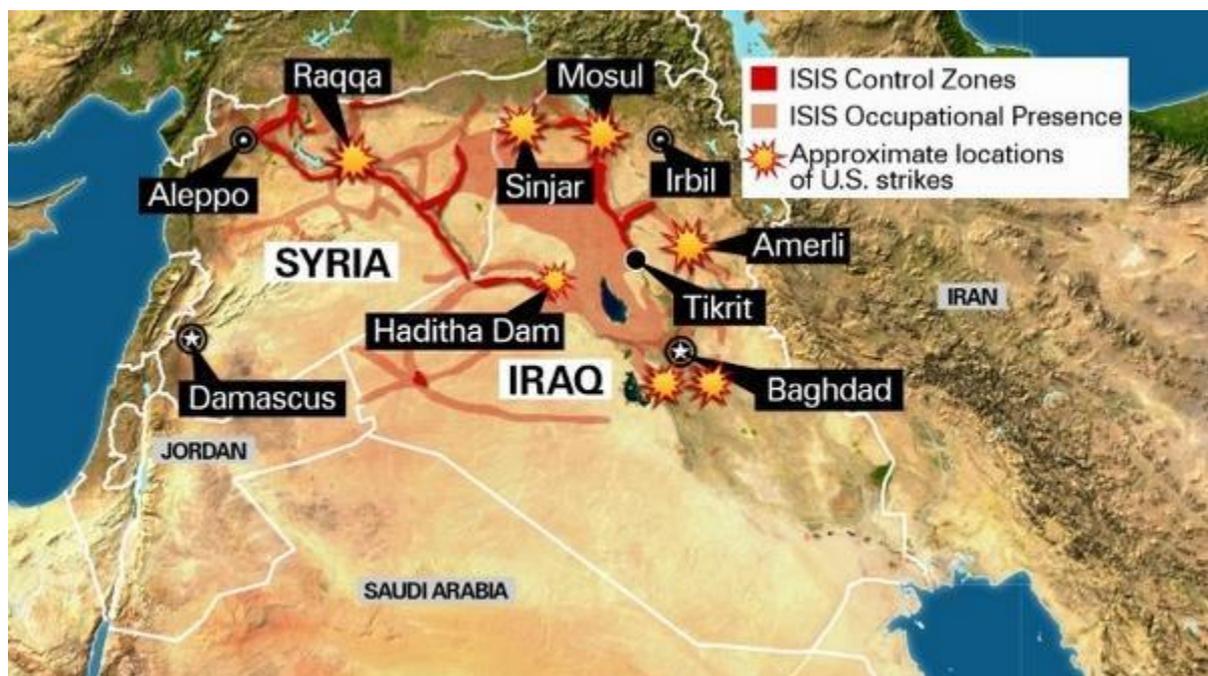
http://www.nato.int/cps/en/natohq/news_113393.htm

(Ware Vercamer)

Iraq/Syria - Fight against the Islamic State

Since the beginning of the year, Islamic State (in Iraq and the Levant) (IS(IL)) - a radical Islamic group - has captured large parts of northern and western Iraq, gained access to substantial amounts of weapons, financial and natural resources and consolidated control over extended territory in both Iraq and Syria.

In recent hostilities, IS confronts *inter alia* the Iraqi Government and a US-led coalition supporting the Iraqi Government.



United Nations

On 30 July 2014, the UN Security Council adopted Resolution 2169 (2014). In this Resolution, the Security Council expressed its “grave concern at the current security situation in Iraq as a result of a large-scale offensive carried out by terrorist groups, in particular [IS], involving a steep escalation of attacks, heavy human casualties including children, the displacement of more than one million Iraqi civilians and the threats against all religious and ethnic groups”. The Security Council notes that “the advance of [IS] on Iraq’s sovereign territory is a major threat to Iraq’s future”. The Council also “[emphasizes] the need to continue efforts to promote international and regional cooperation aimed at supporting Iraq and to prevent terrorist groups included on the sanctions list established by the Committee pursuant to resolutions 1267 (1999) and 1989 (2011), in particular ISIL, from using the territories of Iraq and neighbouring States to carry out violence or other illicit acts to destabilized Iraq and

the region". As a result, the UN Security Council decided to extend the mandate of the UN Assistance Mission for Iraq (UNAMI) until 31 July 2015.

On 15 August 2014, the UN Security Council adopted Resolution 2170 (2014) condemning gross, widespread abuse of human rights and violations of international humanitarian law by extremist groups in Iraq and Syria. The Security Council *inter alia* called on Member States to take national measures to prevent fighters from traveling from their soil to join the groups, and imposed sanctions on named individuals.

Through Presidential Statement S/PRST/2014/19 of 19 September 2014 the UN Security Council strongly condemned attacks by IS and urged Member States to assist the Iraqi Government's efforts to combat militants and implement its new political agenda.

On 2 October 2014, the UN Assistance Mission for Iraq (UNAMI) Human Rights Office reported a "staggering array" of gross human rights abuses and "acts of violence of an increasingly sectarian nature" committed by IS over a period of nine weeks. The *Report on the Protection of Civilians in Armed Conflict in Iraq: 6 July - 10 September 2010* also cites a number of violations committed by Iraqi Security Forces (ISF) and associated forces battling IS. "The UN human rights officers describe serious violations of international humanitarian law and gross abuses of human rights that have been perpetrated by IS and associated armed groups, 'with an apparent systematic and widespread character'". The UN High Commissioner for Human Rights stated that many of these acts may amount to war crimes or crimes against humanity. In that view, the UN High Commissioner for Human Rights recommended that the Iraqi Government considers acceding to the Rome Statute of the ICC.

On the same date, the Special Representative of the UN Secretary-General for Iraq reiterated the UN's call to help Iraqi leaders to "act in unity to restore control over areas that have been taken over by ISIL".

International Coalition

Since 8 August 2014 - and after a request by the Iraqi Government - the U.S. has operated in Iraq in support of the Iraqi Government in its fight against IS. The U.S. was therefore the first country to support the Iraqi Government in its fight against IS.

The U.S. President has authorized U.S. Central Command to work with partner nations to conduct targeted airstrikes in Iraq and Syria as part of the comprehensive

strategy to degrade and defeat IS. As a result, the U.S. Government called on the international community to join them in the fight against IS through the establishment of an international coalition. A vast number of countries approved plans to support the Iraqi Government and the U.S. in the conflict opposing them to IS. As a result, a U.S.-led coalition is now operating in Iraq in support of the Iraqi Government. The coalition includes - but is not limited to - Australia, Belgium, Canada, Denmark, France, The Netherlands, and the U.K. The intervening countries mostly carry out air strikes on the Iraqi territory.

Intervention on Syrian territory

As stated above, IS is also operating in Syria. In order to defeat IS totally, the U.S. took the initiative to combat IS also within the Syrian territory. In a Statement President Obama reaffirmed that “as part of this campaign the United States would take action against targets in both Iraq and Syria so that these terrorists can’t find safe haven anywhere”. As a result, on 23 September 2014, the U.S. launched its first air strikes against IS in Syria. The U.S. was supported by Arab partners Bahrain, Jordan, Qatar, Saudi Arabia, and the United Arab Emirates. European Governments have so far ruled out launching air strikes in Syria.

As opposed to the Iraqi Government, the Syrian authorities did not request the help of the international community to combat IS on its territory. Since there is no UN Security Council Resolution authorizing recourse to force on the Syrian territory, nor an official request by the Syrian Government, some leaders chose to refrain from intervening on the Syrian territory, possibly considering that this would be an infringement on its sovereignty. Syria’s Deputy Foreign Minister Faisal Mekdad warned against attacking IS bases in Syrian territory: “Any unilateral action beyond the scope of UN Security Council Resolution 2170 will be interpreted as an act of aggression against an independent State”.

Foreign Fighters

The conflict at hand reveals the issue of *Foreign Fighters*. IS has reunited an unprecedented flow of foreign terrorist fighters. This issue was also specifically addressed by the UN Security Council High-Level Summit on 24 September 2014. At the Summit, the UN Security Council adopted Resolution 2178 (2014). Under the Resolution, Member States shall “prevent and suppress the recruiting, organizing, transporting or equipping of individuals who travel to a State other than their State of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, and the financing of their travel and of their activities...”.

Additionally, the Resolution underscored “the particular and urgent need to implement this resolution with respect to those foreign terrorist fighters *who are associated with ISIL...* [emphasis added].

For more information, please visit:

United Nations Assistance Mission for Iraq (UNAMI) Human Rights Office, *Report on the Protection of Civilians in Armed Conflict in Iraq: 6 July – 10 September 2014*:

http://www.ohchr.org/Documents/Countries/IQ/UNAMI_OHCHR_POC_Report_FINAL_6July_10September2014.pdf

UN News Centre:

<http://www.un.org/News/dh/pdf/english/2014/02102014.pdf>

http://www.un.org/apps/news/story.asp?NewsID=48824#.VDUqAWd_uSo

UN Security Council Resolution

[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2169\(2014\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2169(2014))

[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2170%20\(2014\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2170%20(2014))

[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2178%20\(2014\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2178%20(2014))

The New York Times, Middle East, *A visual guide to the crisis in Iraq and Syria*:

http://www.nytimes.com/interactive/2014/06/12/world/middleeast/the-iraq-isis-conflict-in-maps-photos-and-video.html?_r=0

Le Monde, *La coalition internationale contre l’Etat islamique se precise*

http://www.lemonde.fr/proche-orient/article/2014/09/09/les-participants-a-la-coalition-internationale-contre-l-etat-islamique_4484668_3218.html

U.S. Department of Defence

http://www.defense.gov/home/features/2014/0814_iraq/

Just Security, *News Roundup and Notes: September 23, 2014*

<http://justsecurity.org/15365/news-roundup-notes-september-23-2014/>

The White House, Washington, 23 September 2014, *Statement by the President on Airstrikes in Syria*

<http://www.whitehouse.gov/the-press-office/2014/09/23/statement-president-airstrikes-syria>

(Odile Vandenbossche)

Ukraine

OHCHR report on the Human Rights situation in Ukraine

On 17 August 2014, the Office of the High Commissioner for Human Rights (OHCHR) produced a new report on the human rights situation in Ukraine, which covers the period from 16 July 2014 until 17 August 2014. The report documents a

wide array of serious human rights abuses, committed primarily by the armed groups, but it also displays violations committed by the Ukrainian forces.

According to the report, the Ukrainian Parliament approved three laws that would significantly expand the powers of law enforcement bodies in relation to the Government's security operation in the east, which appear to be in conflict with international human rights norms and standards. OHCHR concluded in this context that, while in times of emergency certain guarantees might be limited and law and order must be restored, the Ukrainian Government must, nevertheless, at all times respect its obligations under international law. In relation to the crash of the Malaysian Airlines flight MH17 of 17 July 2014, which killed all 298 passengers on board, the report stated that armed groups have obstructed the international investigation. This despite an order by the President of Ukraine to implement a 40 kilometres ceasefire zone around the crash site, which is under the control of armed groups. Sporadic fighting made it impossible for international investigators to properly conduct their search, which had to be suspended on 6 August. Therefore, OHCHR called on the parties involved that access to the areas affected by the hostilities - including the crash site of MH17 - must be guaranteed for international organisations and independent investigators.

The Office of the High Commissioner for Human Rights concluded *inter alia* that effective control of the state border between Ukraine and the Russian Federation is a priority, and that accountability for violations, an end to impunity and the full respect and guarantee of all human rights must be ensured. According to the report, the root causes of the current crisis are due to the systematic and structural curtailment of basic human rights, especially the weaknesses of rule of law institutions and widespread corruption.

In addition to their earlier reports, OHCHR made *inter alia* the following recommendations to all parties involved:

- Urgently put an end to fighting and violence in the eastern regions of Ukraine;
- Targeting civilians and civilian infrastructure are violations of international humanitarian law, and more must be done to protect them;
- All violations of international law, including war crimes, must be fully investigated; perpetrators must be promptly brought to justice and victims provided with remedies and reparations;
- Legislative reforms should comply with international norms and standards and Ukraine's obligations under human rights treaties.

To the authorities in Crimea and the *de facto* governing authority of the Russian Federation, OHCHR recommended that the UN General Assembly resolution 68/262 ("Territorial integrity of Ukraine", 2014) be implemented and that measures be taken to protect the rights of persons affected by the changing institutional and legal framework.

For more information on the UN Human Rights Monitoring Mission in Ukraine and their earlier reports, see News Flash No. 17.

Reinstatement of the Ukrainian military prosecution service

On 22 August 2014, Ukrainian President Poroshenko signed a bill to reinstate the military prosecution service (Bill N°. 4446a), after it was approved by the Supreme Rada of Ukraine on 14 August 2014. This law establishes a Military Prosecutor's Office within the General Prosecution Office of Ukraine, headed by a Deputy Prosecutor General of Ukraine who will also be the Chief Military Prosecutor. He/she can be authorised to perform other duties by the Prosecutor General. Included in this bill is the procedure for forming, staffing and equipping military prosecutor's offices and rendering social protection to their staff members with the status of military personnel. According to this law, the military prosecutor's office will be able to perform the functions of general prosecutors in exceptional circumstances, which are unspecified.

Special meeting of the European Council on Ukraine

On 30 August 2014, a special meeting of the European Council took place. During this meeting, the EU condemned the increasing inflow of fighters and weapons from the territory of the Russian Federation into Eastern Ukraine, as well as the aggression by Russian armed forces on Ukrainian soil. It also called upon the Russian Federation to immediately withdraw all its military assets and forces from Ukraine.

Ceasefire

On 5 September 2014, an agreement on a *ceasefire* and on *launching a political process* to resolve the crisis in Ukraine was announced. The agreement consists of twelve items, including *inter alia* the liberation of hostages and the adoption of a new law providing a special status for the regions of Donetsk and Luhansk in the south-east of Ukraine. This law was approved by the Ukrainian parliament on 16 September 2014, is limited to a time-period of three years and includes *inter alia* the right to their own language for the Russian-speaking population in Donetsk and Luhansk and the right to establish their own independent police forces/militia. With regard to the

immediate and bilateral ceasefire, this was the first required step of the protocol and the Organization for Security and Co-operation in Europe (OSCE) will be responsible for the monitoring and verification of the ceasefire regime observance by the conflicting sides. President Poroshenko emphasized that “the truce has been achieved on the basis of the peace plan - Respect for the sovereignty and integrity of Ukraine”.

The UN Secretary-General called for its full implementation and hopes that the cessation of hostilities will further allow the United Nations and partners to deliver critical humanitarian assistance to those affected by the fighting. Furthermore, he called on the entire international community “to rally behind these agreements to serve the interests of sustainable peace based on a solution that leads to full respect of Ukraine’s territorial integrity and sovereignty”. The Secretary-General reiterated that there is no military solution to the crisis in Ukraine.

Despite this truce, deadly attacks persist in Ukraine, including rockets fire onto an elementary school and public bus on 1 October 2014, and the death of a Swiss Red Cross worker in consequence of shelling in Donetsk on 3 October 2014.

Preliminary report on the crash of Malaysian Airlines flight MH17

On 9 September 2014, a preliminary report of the investigation into the crash of the Malaysian Airlines flight MH17 of 17 July 2014, by the Dutch Safety Board was released. The report revealed there are no indications that the MH17 crash was caused by a technical fault or by actions of the crew, as the aircraft was in an airworthy condition and the crew was properly licensed and no human error had been reported. The preliminary report stated that the aircraft split into pieces in the air probably as the result of structural damage caused by a large number of high-energy objects that penetrated the aircraft from outside, leading to an in-flight break up. This is only a preliminary report in an ongoing investigation and more research will be necessary to determine the cause with greater precision. The UN Under-Secretary General for Political Affairs Jeffrey Feltman, updated the UN Security Council on the developments related to the investigation of the incident on 19 September 2014 and hereby stated that adverse security conditions are hampering full access to the crash site.

For more information, please visit:

Interfax Ukraine, *Poroshenko signs bill to reinstate military prosecution service:*

<http://en.interfax.com.ua/news/general/219510.html>

Novostimira, *Poroshenko signed a law on the resumption of the military prosecutor’s offices:*

<http://www.novostimira.com.ua/news-eng-121591.html>

NPR, *In major test of fresh cease-fire Ukraine checkpoint is destroyed:*

<http://www.npr.org/blogs/thetwo-way/2014/09/07/346493436/in-major-test-of-fresh-cease-fire-ukraine-checkpoint-is-destroyed>

News Flash 17:

<http://ismllw.org/NEWS/NEWS-FLASH-17.pdf>

Report on the human rights situation in Ukraine:

<http://www.ohchr.org/Documents/Countries/UA/UkraineReport28August2014.pdf>

UN News Centre:

<http://www.un.org/apps/news/story.asp?NewsID=48648#.VA2Pi1a0ZTA>

http://www.un.org/apps/news/story.asp?NewsID=48751#.VB_z21a0ZTA

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14975&LangID=E>

Statement attributable to the Spokesman for the Secretary-General:

<http://www.un.org/sg/statements/index.asp?nid=7970>

Protocol on the results of consultations of the Trilateral Contact Group, signed in Minsk, 5 September 2014:

<http://www.osce.org/home/123257>

http://www.liveleak.com/view?i=91e_1410100704

Newsroom OSCE:

<http://www.osce.org/cio/123245>

Preliminary Report MH17 crash:

<http://www.onderzoeksraad.nl/en/onderzoek/2049/investigation-crash-mh17-17-july-2014/preliminary-report/1562/preliminary-report-points-towards-external-cause-of-mh17-crash#fasen>

Statement by Ukrainian President Petro Poroshenko:

<http://www.president.gov.ua/en/news/31175.html>

(Ware Vercamer)

The Wales Summit Declaration

On 4 and 5 September 2014, NATO held a summit in Wales. In the subsequent Wales Summit Declaration, NATO condemned Russia's escalating and illegal military intervention in Ukraine and demanded that Russia stops and withdraws its forces from inside Ukraine and alongside the border. It stated that the actions of Russia are a violation of Ukraine's sovereignty and territorial integrity and that this is a serious breach of international law and a major challenge to the Euro-Atlantic security. Additionally, NATO does not recognize the illegal and illegitimate 'annexation' of Crimea. With regard to the crash of MH17, it was stated in the Declaration that, following UN Security Council Resolution 2166 (2014), immediate, safe and unrestricted access to the crash site should be granted.

Moreover, NATO decided on its Readiness Action Plan, this to ensure that the Alliance is ready to respond swiftly and firmly to new security challenges. This plan provides a coherent and comprehensive package of necessary assurance and adaptation measures to respond to these challenges, including *inter alia* the enhancement of the responsiveness of the NATO Response Force, the establishment of a Very High Readiness Joint Task Force and continuous air, land, and maritime presence and meaningful military activity in the eastern part of the Alliance.

Various goals have been set in the Wales Summit Declaration to reverse the trend of declining defence budgets. NATO Member States currently meeting the NATO guideline to spend a minimum of 2 % of their GDP on defence will aim to continue to do so. Likewise, Member States spending more than 20 % of their defence budgets on major equipment will continue to do so. Member States whose current proportion of GDP spent on defence is below this level will halt any decline in defence expenditure; aim to increase defence expenditure in real terms as GDP grows; and aim to move towards the 2 % guideline within a decade. Countries who currently spend less than 20 % of their annual defence spending on major new equipment will aim, within a decade, to increase their annual investments to 20 % or more of total defence expenditures.

NATO further declared that Cyber defence is part of NATO's core tasks of collective defence and that it can lead to the invocation of Art. 5 of the North Atlantic Treaty. According to NATO, a cyber attack can reach the threshold that threatens the national and Euro-Atlantic prosperity, security and stability and the impact could be as harmful to modern societies as a conventional attack. The North Atlantic Council will decide whether a cyber attack leads to the invocation of this article or not, and this on a case-by-case basis. It was already stated in Rule 13 of the Tallinn Manual that "a State that is the target of a cyber operation that rises to the level of an armed attack may exercise its inherent right of self-defence". According to the International Group of Experts of the Tallinn Manual, whether a cyber operation constitutes an armed attack depends on its scale and effects and some cyber operations may be sufficiently grave to warrant classifying them as an armed attack within the meaning of the UN Charter.

For more information, please visit:

Wales Summit Declaration:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/351406/Wales_Summit_Declaration.pdf

<https://www.gov.uk/government/publications/nato-summit-2014-wales-summit-declaration/the-wales-declaration-on-the-transatlantic-bond>
http://www.nato.int/cps/en/natohq/official_texts_112964.htm

Tallinn Manual:

<http://www.ccdcoe.org/tallinn-manual.html>

(Ware Vercamer)

Cambodia

On 29 September 2014, the two Khmer Rouge leaders, Nuon Chea and Khieu Samphan, who received life sentences for their crimes against humanity by the Extraordinary Chambers in the Courts of Cambodia, have filed for appeal. For more information on the sentences, see News Flash 20. The second phase of the trial started on 17 October 2014 and will have a broader scope, including forced marriage, rape, purges and genocide.

For more information, please visit:

Notice of appeals:

http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/2014-09-29%2016:58/E313_1_1_EN.PDF

News Flash 20:

<http://ismllw.org/NEWS/NEWS-FLASH-20.pdf>

(Ware Vercamer)

Arms Trade Treaty set to enter into force

On 25 September 2014, the Arms Trade Treaty (ATT) reached the threshold of 50 ratifications to enter into force during a joint ceremony held as part of the 2014 Treaty Event. This is less than 2 years after its adoption by the UN General Assembly on 2 April 2013. Because of this achievement, the treaty will enter into force on 24 December 2014. At this point 121 States have signed the treaty and 53 States have ratified it.

The ATT will regulate the international trade in conventional arms, from small arms and light weapons to battle tanks, combat aircrafts, missile launchers and warships by setting global standards in order to prevent the diversion of these weapons.

For more information on the Arms Trade Treaty, see News Flash 9 and 12.

For more information, please visit:

<http://www.un.org/disarmament/ATT/>

Text of the Arms Trade Treaty:

<https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

News Flash:

<http://ismllw.org/NEWS/NEWS-FLASH-9.pdf>

<http://ismllw.org/NEWS/NEWS-FLASH-12.pdf>

UN News Centre:

<http://www.un.org/apps/news/story.asp?NewsId=48856#.VCUWzla0ZTA>

(Ware Vercamer)

New ICC investigation into the situation in the Central African Republic

On 24 September 2014 the *Prosecutor of the International Criminal Court (ICC)*, Fatou Bensouda, announced that she is opening a second investigation into the situation in the Central African Republic (CAR) with respect to crimes allegedly committed since 1 August 2012. According to the available information, both the Séléka and the anti-Balaka groups have committed crimes against humanity and war crimes including murder, acts of rape and sexual slavery, torture, forced displacement, pillaging, attacks against humanitarian missions and the recruitment and use of children under 15 in hostilities. The ICC Prosecutor stated “the referral by the CAR authorities demonstrates a commitment to fight impunity for mass crimes and to bring justice to the victims”. This announcement follows the opening of a new preliminary examination in February 2014 and the referral of the situation by the transitional government to the Office of the ICC Prosecutor, requesting that she investigates the alleged crimes falling within ICC jurisdiction; and is unrelated to the situation previously referred to the ICC by CAR authorities in December 2014.

For more information, please visit:

ICC Press Releases:

http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1043.aspx

http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/otp-statement-07-02-2014.aspx

UN News Centre:

<http://www.un.org/apps/news/story.asp?NewsId=48811#.VCPdxVa0ZTB>

<http://www.un.org/apps/news/story.asp?NewsID=47104#.VCPg2la0ZTA>

(Ware Vercamer)

OPCW-UN Missions mandate ends in Syria

On 30 September 2014, the joint mission of the Organization for the Prohibition of Chemical Weapons (OPCW) and the UN on the elimination of Syrian chemical weapons (OPCW-UN) completed its mandate and came to a close. For more information on the OPCW-UN mission, see News Flash 14 & 15.

The OPCW mission in Syria will continue to deal with the destruction of chemical weapon production facilities and clarification of certain aspects of the Syrian initial declaration. The OPCW has therefore signed an agreement with the UN Office for Project Services (UNOPS) on the provision of safety, security and logistical support for the OPCW's continuing operations.

For more information, please visit:

<https://www.opcw.org/news/article/opcw-un-joint-mission-draws-to-a-close/>

<http://www.un.org/apps/news/story.asp?NewsID=48971#.VC1BQFa0ZTA>

<http://opcw.unmissions.org>

News Flash:

<http://ismlw.org/NEWS/NEWS-FLASH-15.pdf>

<http://ismlw.org/NEWS/NEWS-FLASH-14.pdf>

(Ware Vercamer)

Peace and National Partnership Agreement in Yemen

On 20 September 2014, the *United Nations Envoy in Yemen*, Jamal Benomar, announced that a deal had been reached to resolve the crisis in Yemen, as the past few months have been marked by violence and unrest in some parts of the country. This deal follows intense consultations with all the political parties and is based on the outcomes of the National Dialogue Conference (part of the Gulf Cooperation Council Initiative, UN Security Council Resolution 2051, 2012). This *Peace and National Partnership Agreement* between the Yemeni Government and Shia Houthi rebels, brokered by the UN Envoy in Yemen, was signed in Sanaa on 21 September 2014. Included in this agreement are an immediate ceasefire, the appointment of a new prime minister within three days following the entry into force of this agreement and the appointment of a new government within a month. Additionally, all armed groups that were in the city taking over government buildings had to leave. The UN Secretary-General called on the Yemeni political leaders to ensure that the forces over which they exercise control or influence cease all violent acts, and disengage from the conflict. In order to maintain social cohesion in the country, the government adopted this policy of political reconciliation and signed a new security annex. Furthermore, the foreign minister of Yemen, Jamal Abdullah Al-Sallal, stated

in his speech to the UN Assembly that all parties must adhere to the aims of the peace and national stability accord, while stressing that the international community must also continue to support the country.

Despite the ceasefire, Houthi rebels raided the houses of a powerful military commander and his allies in Sanaa and held their positions around key government offices and army bases, only one day after the signing of the peace agreement. Later on, the Houthi rebels took over most of Sanaa as they man checkpoints and control almost all state buildings. The UN Envoy, Jamal Benomar, warned in an interview to the Associated Press that "this takeover of Sanaa by the Houthis will widely reverberate in Yemen and the region" and with regard to the peace agreement he stated "this peace agreement must be implemented, otherwise the prospect of the disintegration of Yemen as we know it will become real".

On 23 September 2014, the Un Security Council called for the full and immediate implementation of the peace deal, furthermore the Council asked for an immediate end to all attacks and threats, the rapid formation of a new government and that all parties turn over their medium and heavy weapons to legitimate State security bodies. According to the Council, President Abd Rabbu Mansour Hadi is the legitimate authority based on election results and the council calls on all parties and political actors to keep the country on track to stability and security.

On 7 October 2014, president Abd Rabbu Mansour Hadi appointed his chief of staff, Ahmed Awad bin Mubarak, as the country's new premier, the Houthi rebels however rejected the new prime minister just hours after his appointment.

For more information, please visit:

Yemennow, *Yemen: the Peace and National Partnership Agreement*:

<http://yemennow.net/news264990.html>

Al Jazeera, *Yemen Houthi raids*:

<http://america.aljazeera.com/articles/2014/9/22/yemen-houthi-raids.html>

Al Jazeera, *Yemen rebels reject new prime minister*:

<http://www.aljazeera.com/news/middleeast/2014/10/yemen-rebels-reject-new-prime-minister-2014107165014952535.html>

National Dialogue Conference:

<http://www.ndc.ye/default.aspx>

UNSC Resolution 2051:

[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2051\(2012\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2051(2012))

UN News Centre:

<http://www.un.org/apps/news/story.asp?NewsID=48764#.VCAGIla0ZTB>

<http://www.un.org/sg/statements/index.asp?nid=8014>

http://www.un.org/apps/news/story.asp?NewsID=48772#.VCE_3Va0ZTA
<http://www.un.org/apps/news/story.asp?NewsID=48805#.VCKu0la0ZTA>
<http://www.un.org/apps/news/story.asp?NewsID=48956#.VCp8iVa0ZTA>

(Ware Vercamer)

Blanket ban on trade unions within the French armed forces is contrary to the European Convention on Human Rights

On 2 October 2014, the European Court of Human Rights (ECtHR) issued two judgments concerning the absolute prohibition on trade unions within the French armed forces. In the first case, *Matelly v. France* (Application no. 10609/10), the ECtHR found a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights. Although it is possible under this article for the State to impose lawful restrictions in respect to members of armed forces, these restrictions must be construed strictly and must be confined to the exercise of these rights. In this regard, the Court found that the blanket ban on forming or joining a trade union encroached on the very essence of this freedom, and was as such prohibited by the Convention. In particular, the Court found that the order of the French authorities to Mr. Matelly to resign from an association of which he was a member was a violation of art. 11 as the grounds for this decision were neither relevant nor sufficient and that this decision amounted to an absolute prohibition on military personnel joining a trade-union-like occupational group, formed to defend their occupational and non-pecuniary interests. Moreover did the Court find the decision of the French authorities not proportionate and therefore it had not been necessary in a democratic society.

In the second case, *ADEFDROMIL v. France* (Application no. 32191/09), the Court concluded, unanimously, that there had been a violation of Article 11 of the Convention on the account of the blanket ban, which prohibited military personnel from forming or joining a trade union.

For more information, please visit:

Judgments ECtHR:

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-146695>

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-146700>

(Ware Vercamer)

UNMEER

On 18 September 2014, the UN Security Council decided with resolution 2177 (2014), in its first emergency meeting on a public health crisis, that an emergency health mission, the United Nations Mission for Ebola Emergency Response (*UNMEER*), will be deployed to combat Ebola. Additionally, the UN Security Council declared that the outbreak of Ebola is a threat to peace and security.

On 19 September 2014, a resolution (A/69/L.2) was adopted by the General Assembly signalling the approval for UNMEER, which was officially established one day later. The advance teams arrived in West Africa on 22 September 2014.

For more information, please visit:

<http://www.un.org/News/Press/docs/2014/sc11566.doc.htm>

<http://www.un.org/apps/news/story.asp?NewsID=48760#.VCAAZla0ZTA>

<http://www.un.org/News/Press/docs/2014/ga11552.doc.htm>

http://www.un.org/apps/news/story.asp?NewsID=48774#.VCE_ZVa0ZTA

(Ware Vercamer)

Upcoming Events / Événements futurs

Belgium:

The *University of Ghent*, in partnership with the *Vrije Universiteit Brussel*, the *Université catholique de Louvain – Mons*, and the *Université libre de Bruxelles*, will be hosting an **international two-day conference on the occasion of the twentieth anniversary of the entry into force of the UN Convention on the Law of the Sea from 13 to 14 November 2014**. The conference will pause at the success of the Montego Bay Convention in governing the use of the oceans and it will look ahead and examine to what extent the Convention is properly equipped to withstand the various challenges ahead, including inter alia, competing territorial and maritime claims in the South and East China Seas and in the Arctic, the fight against piracy, future exploitation of the deep sea bed, ocean pollution, the increased recourse to the UNCLOS dispute settlement regime, etc.

A keynote lecture will tackle the United States position vis-à-vis the Convention and there will be four different panels, which will address the importance of UNCLOS for:

- The maintenance of international peace and security;

- The global economy;
- The protection of the marine environment; and
- The Convention's compulsory dispute settlement mechanism.

For additional information, please visit: <https://ugent.be/re/internationaal-publiekrecht/en/research/conferences/unclos.htm>

Colombia

The *International Society for Military Law and the Law of War*, the *General Secretariat of the Conference of American Armies*, the *Pontificia Universidad Javeriana* and the *Superior Military Tribunal of Brazil* will be holding an **International Conference**, which will be hosted at the Military Club in **Bogotá, Colombia from 19 to 22 November 2014**.

The central theme of the conference will be "*Transitional Law and Beyond*" and the programme will include presentations and panel discussions by academic speakers and experienced professionals on:

- Military Jurisdiction;
- The Soldier as a Victim of Armed Conflicts;
- Law and Post-Conflict Situations;
- Responsibilities of the State to the Members of the Armed Forces.

For additional information on this conference see the *Society's* website. The extended **deadline for registrations is 10 November 2014!**

Czech Republic

The **20th Congress of the *International Society for Military Law and the Law of War*** will take place in **Prague (Czech Republic) from 14 through 18 April 2015**.

Part of the plenary session of this Congress will deal with **Challenges in the Implementation of International Humanitarian Law**. This topic will be prepared on the basis of the national responses to a specific questionnaire inspired by a workshop hosted by the *Society* in Brussels on 23 September 2013. The questionnaire is built around five aspects:

- Imperfect implementation of IHL;
- Progress through international criminal law;
- Lessons learned from other areas of law;
- Specific responsibilities for States not directly involved in an ongoing armed conflict; and
- Non-State actors.

More information about the 20th Congress will be published on the website of *Society*.

Ciardi Prize / Prix Ciardi

The Italian PROF. GIUSEPPE CIARDI FOUNDATION will award its scientific prize in 2015 for the overall amount of 1.500 €.

The prize is intended to reward a substantial and original study dealing with military law, the law of war or any subject connected with or related to the aforementioned fields.

The submitted works must have been published after 1 January 2012 and must be written in English, French, German, Italian or Spanish.

The Jury will be presided over by Doctor Giovanna Ciardi. The four other members have been designated in equal number both by the *International Society for the Military Law and the Law of War* and the Italian Group of said *Society*.

The submitted works need to be sent in three copies, by postal mail, before 1 November 2014 as follows: a) two copies to FONDAZIONE PROF. GIUSEPPE CIARDI, Presidente Dott.ssa Giovanna Ciardi, c/o Gruppo Italiano della Società di Diritto Militare e della Guerra, Via degli Acquasparta, 2 - 00186 ROMA ITALIA; b) one copy to INTERNATIONAL SOCIETY FOR MILITARY LAW AND THE LAW OF WAR/SOCIETE INTERNATIONALE DE DROIT MILITAIRE ET DE DROIT DE LA GUERRE, Avenue de la Renaissance 30 - 1000 BRUSSELS/BRUXELLES, BELGIUM/BELGIQUE - General Secretariat/Secrétariat général.

All submissions must indicate the author of the work (full name; postal and e-mail addresses; phone and fax numbers).

The *International Society for Military Law and the Law of War*, in order to increase the number of scientific works to be considered for the award, may submit a list of works, based *inter alia* on both the book reviews published in *the Military Law and the Law of War Review/Revue de Droit Militaire et de Droit de la Guerre*, and the articles published in the said journal, after having sought the consent of the authors. The above lists must be submitted by mail with one copy of each work before 1 December 2014, with all necessary information regarding the author, to FONDAZIONE PROF. GIUSEPPE CIARDI, Presidente Dott.ssa Giovanna Ciardi, c/o Gruppo Italiano della Società di Diritto Militare e della Guerra, Via degli Acquasparta, 2 - 00186 ROMA ITALIA. Appropriate consideration will be given in order to comply with both the principle of impartiality and the separation of duties between designated members of the Jury and the members reviewing and/or acting as proponents of works eligible for the award.

The Jury has the faculty to award a second prize for the amount of 500 €. In this case, the winner of the first prize will be awarded 1.000 €. Other works may receive a special mention for exceptional scientific worth.

The proclamation of the winner(s) will take place at the XXth Congress of the *International Society for Military Law and the Law of War*, to be held in the city of Prague.

(Prof. Giuseppe Ciardi Foundation)

Publications of Interest/ Publications intéressantes

W. BOOTHBY, *Conflict law: the influence of new weapons technology, human rights and emerging actors*, The Hague, T.M.C. Asser Press, 464 p., 2014.

For more information, please visit:

<http://catalogue.ppl.nl/DB=1/SET=2/TTL=1/SHW?FRST=1>

O. HERMAN, *Rise of the drones: a study on the legality of drone targeted killings of suspected terrorists*, KU Leuven, Faculty of Law, 2013-2014.

For more information, please visit:

<http://catalogue.ppl.nl/DB=1/SET=2/TTL=1/CMD?ACT=SRCHA&IKT=1016&SRT=YO P&TRM=%2C+Rise+of+the+drones%3A+a+study+on+the+legality+of+drone+targeted+killings+of+suspected+terrorists>

A. O. PETROV, *Non-State Actors and*

Law of Armed Conflict Revisited: Enforcing International Law through Domestic Engagement, *Journal of conflict & security law*, vol. 19, pp. 279 – 316, 2014.

For more information, please visit:

<http://www.peacepalacelibrary.nl/plinklet/?sid=recacq&ppn=38119728X>

D. WEDDERBURN-MAXWELL, *Classic distinctions and modern conflicts in international humanitarian law: exploring the struggles and consequences of maintaining the original distinctions in international humanitarian law between peace and war and international and internal conflict*, Lund University, 2014.

For more information, please visit:

<http://catalogue.ppl.nl/DB=1/SET=3/TTL=1/CMD?ACT=SRCHA&IKT=1016&SRT=YO P&TRM=WEDDERBURN-MAXWELL>

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