

Model law concerning the use and protection of the emblem of the red cross or red crescent

I. GENERAL RULES

ARTICLE 1

Scope of protection

Having regard to:

- the Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977 [1], including Annex I to Additional Protocol I as regards the rules on identification of medical units and transports; [2]
 - the Regulations on the Use of the Emblem of the Red Cross or the Red Crescent by the National Societies, as adopted by the 20th International Conference of the Red Cross and Red Crescent, and subsequent amendments; [3]
 - the law (decree, or other instrument) of ... (date) recognizing the Red Cross (Red Crescent) of ..., [4]
- the following are protected by the present law:
- the emblem of the red cross or red crescent on a white ground; [5]
 - the designation "Red Cross" or "Red Crescent"; [6]
 - the distinctive signals for identifying medical units and transports.

ARTICLE 2

Protective use and indicative use

In time of armed conflict, the emblem used as a protective device is the visible sign of the protection conferred by the Geneva Conventions and their Additional Protocols on medical personnel and medical units and transports. The dimensions of the emblem shall therefore be as large as possible.

The emblem used as an indicative device shows that a person or an object is linked to a Red Cross or Red Crescent institution. The emblem shall be of a small size.

II. RULES ON THE USE OF THE EMBLEM

A. Protective use of the emblem [7]

ARTICLE 3

Use by the Medical Service of the armed forces

Under the control of the Ministry of Defence, the Medical Service of the armed forces of ... (name of the State) shall, both in peacetime and in time of armed conflict, use the emblem of the red cross (red crescent) [8] to mark its medical personnel, medical units and transports on the ground, at sea and in the air.

Medical personnel shall wear armlets and carry identity cards displaying the emblem. These armlets and identity cards shall be issued by ... (Ministry of Defence). [9]

Religious personnel attached to the armed forces shall be afforded the same protection as medical personnel and shall be identified in the same way.

ARTICLE 4

Use by hospitals and other civilian medical units

With the express authorization of the Ministry of Health [10] and under its control, civilian medical personnel, hospitals and other civilian medical units, as well as civilian medical transports, assigned in particular to the transport and treatment of the wounded, sick and shipwrecked, shall be marked by the emblem, used as a protective device, in time of armed conflict. [11]

Civilian medical personnel shall wear armlets and carry identity cards displaying the emblem. These armlets and identity cards shall be issued by ... (Ministry of Health). [12]

Civilian religious personnel attached to hospitals and other medical units shall be identified in the same way.

ARTICLE 5

Use by the Red Cross (Red Crescent) of ... [13]

The Red Cross (Red Crescent) of ... is authorized to place medical personnel and medical units and transports at the disposal of the Medical Service of the armed forces. Such personnel, units and transports shall be subject to military laws and regulations and may be authorized by the Ministry of Defence to display the emblem of the red cross (red crescent) [14] as a protective device.

Such personnel shall wear armlets and carry identity cards, in accordance with Article 3, para. 2, of the present law.

The National Society may be authorized to use the emblem as a protective device for its medical personnel and medical units in accordance with Article 4 of the present law.

B. Indicative use of the emblem [15]

ARTICLE 6

Use by the Red Cross (Red Crescent) of ...

The Red Cross (Red Crescent) of ... is authorized to use the emblem as an indicative device in order to show that a person or an object is linked to the National Society. The dimensions of the emblem shall be small, so as to avoid any confusion with the emblem employed as a protective device. [16]

The Red Cross (Red Crescent) of ... shall apply the "Regulations on the Use of the Emblem of the Red Cross or the Red Crescent by the National Societies". [17]

National Red Cross or Red Crescent Societies of other countries, present on the territory of ... (name of the State) with the consent of the Red Cross (Red Crescent) of ..., shall use the emblem under the same conditions.

C. International Red Cross and Red Crescent organizations

ARTICLE 7

Use by the international organizations of the International Red Cross and Red Crescent Movement

The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies may make use of the emblem at any time and for all their activities. [18]

III. CONTROL AND PENALTIES

ARTICLE 8

Control measures

The authorities of ... (name of the State) shall at all times ensure strict compliance with the rules governing the use of the emblem of the red cross or red crescent, the name "Red Cross" or "Red Crescent" and the distinctive signals. They shall exercise strict control over the persons authorized to use the said emblem, name and signals. [19]

They shall take every appropriate step to prevent misuse, in particular by disseminating the rules in question as widely as possible among the armed forces [20], the police forces, the authorities and the civilian population. [21]

ARTICLE 9

Role of the Red Cross (Red Crescent) of ...

The Red Cross (Red Crescent) of ... shall cooperate with the authorities in their efforts to prevent and repress any misuse [22]. It shall be entitled to inform ... (competent authority) of such misuse and to participate in the relevant criminal, civil or administrative proceedings.

ARTICLE 10

Misuse of the emblem [23]

Anyone who, wilfully and without entitlement, has made use of the emblem of the red cross or red crescent, the words "Red Cross" or "Red Crescent", a distinctive signal or any other sign, designation or signal which constitutes an imitation thereof or which might lead to confusion, irrespective of the aim of such use;

anyone who, in particular, has displayed the said emblem or words on signs, posters, announcements, leaflets or commercial documents, or has affixed them to goods or packaging, or has sold, offered for sale or placed in circulation goods thus marked;

shall be punished by imprisonment for a period of ... (days or months) and/or by payment of a fine of ... (amount in local currency). [24]

If the offence is committed in the management of a corporate body (commercial firm, association, etc.), the punishment shall apply to the persons who committed the offence or ordered the offence to be committed.

ARTICLE 11

Misuse of the emblem used as protective device in wartime [25]

Anyone who has wilfully committed, or has given the order to commit, acts resulting in the death of, or causing serious injury to the body or health of an adversary by making perfidious use of the red cross or red crescent emblem or a distinctive signal, has committed a war crime and shall be punished by imprisonment for a period of ... years. [26]

Perfidious use means appealing to the good faith of the adversary, with the intention to deceive him and make him believe that he was entitled to receive or was obliged to confer the protection provided for by the rules of international humanitarian law.

Anyone who, wilfully and without entitlement, has used the red cross or red crescent emblem or a distinctive signal, or any other sign or signal which constitutes an imitation thereof or which might lead to confusion, shall be punished by imprisonment for a period of ... (months or years).

ARTICLE 12

Misuse of the white cross on a red ground

Owing to the confusion which may arise between the arms of Switzerland and the emblem of the red cross, the use of the white cross on a red ground or of any other sign constituting an imitation thereof, whether as a trademark or commercial mark or as a component of such marks, or for a purpose contrary to fair trade, or in circumstances likely to wound Swiss national sentiment, is likewise prohibited at all times; offenders shall be punished by payment of a fine of ... (amount in local currency).

ARTICLE 13

Interim measures

The authorities of ... (name of the State) [27] shall take the necessary interim measures. They may in particular order the seizure of objects and material marked in violation of the present law, demand the removal of the emblem of the red cross or red crescent and of the words "Red Cross" or "Red Crescent" at the cost of the instigator of the offence, and order the destruction of the instruments used for their reproduction.

ARTICLE 14

Registration of associations, trade names and trademarks

The registration of associations and trade names, and the filing of trademarks, commercial marks and industrial models and designs making use of the emblem of the red cross or red crescent or the designation "Red Cross" or "Red Crescent" in violation of the present law shall be refused.

IV. APPLICATION AND ENTRY INTO FORCE

ARTICLE 15

Application of the present law

The ... (Ministry of Defence, Ministry of Health) is responsible for the application of the present law. [28]

ARTICLE 16

Entry into force

The present law shall enter into force on ... (date of promulgation, etc.).

Notes :

1. To make it easier to find these treaties, it is advisable to indicate their precise location in the official compendium of laws and treaties. Their text is also reproduced in the Treaty Series of the United Nations: Vol. 75 (1950), pp. 31-417, and Vol. 1125 (1979), pp. 3-699.
2. This Annex was revised on 30 November 1993 and its amended version came into force on 1 March 1994. It was reproduced in the IRRC, No. 298, January-February 1994, pp. 29-41.
3. The current Regulations were adopted by the 20th International Conference of the Red Cross in 1965 and revised by the Council of Delegates in 1991, then submitted to the States party to the Geneva Conventions before coming into force on 31 July 1992. The Regulations are reproduced in the IRRC, No. 289, July-August 1992, pp. 339-362.
4. As a voluntary relief society, auxiliary to the public authorities in the humanitarian sphere. Wherever the present law refers to the "Red Cross (Red Crescent) of ...", "Red Cross of ..." or "Red Crescent of ..." should be specified. The official name as it appears in the law or instrument of recognition should be used.
5. It is important that national legislation in all cases protect both the emblem of the red cross and that of the red crescent, as well as the names "Red Cross" and "Red Crescent".
6. When reference is made to the emblem, the term "red cross" or "red crescent" is generally in lower case while the designation "Red Cross" or "Red Crescent" with initial capitals is reserved for Red Cross or Red Crescent institutions. This rule helps to avoid confusion.
7. In order to confer optimum protection, the dimensions of the emblem used to mark medical units and transports shall be as large as possible. The distinctive signals provided for in Annex I to Protocol I shall also be used.

8. The emblem to be used should be indicated here.

9. Pursuant to Article 40 of the First Geneva Convention, armlets are to be worn on the left arm and shall be water-resistant the identity card shall bear the holder's photograph. States can model the identity card on the example attached to this Convention. The authority within the Ministry of Defence which is to issue armlets and identity cards must be clearly specified.

10. It is very important to indicate clearly the authority which is competent to grant such authorization and monitor the use of the emblem. This authority shall work together with the Ministry of Defence, which may, if necessary, give advice and assistance.

11. See Articles 18 to 22 of the Fourth Geneva Convention, and Articles 8 and 18 of Protocol I. Article 8 in particular defines the expressions "*medical personnel*", "*medical units*" and "*medical transports*". Hospitals and other civilian medical units should be marked by the emblem only during times of armed conflict. Marking them in peacetime risks causing confusion with property belonging to the National Society.

12. As regards armlets and identity cards for *civilian* medical personnel, Article 20 of the Fourth Geneva Convention and Article 18, para. 3, of Protocol I provide for their use in occupied territory and in areas where fighting is taking place or is likely to take place. It is, however, recommended that armlets and identity cards be widely distributed during times of armed conflict. A model of an identity card for civilian medical and religious personnel is given in Annex I to Protocol I. The authority which is to issue the armlets and identity cards should be specified (for example a Department of the Ministry of Health).

13. Pursuant to Article 27 of the First Geneva Convention, a National Society of a neutral country may also place its medical personnel and medical units and transports at the disposal of the Medical Service of the armed forces of a State which is party to an armed conflict.

Articles 26 and 27 of the First Geneva Convention also provide for the possibility that other *voluntary aid societies* recognized by the authorities may be permitted, in time of war, to place medical personnel and medical units and transports at the disposal of the Medical Service of the armed forces of their country or of a State which is party to an armed conflict. Like the personnel of National Societies, such personnel shall then be *subject to military laws and regulations and shall be assigned exclusively to medical tasks*. These aid societies may be authorized to display the emblem. Such cases are rare, however. If such an authorization has been granted, or is to be granted, it might be useful to mention this in the present law.

Furthermore, Article 9, para. 2, subpara. c), of Protocol I provides for the possibility of an *impartial international humanitarian organization* placing medical personnel and medical units and transports at the disposal of a State which is party to an international armed conflict. Such personnel shall then be placed under the control of this Party to the conflict and subject to the same conditions as National Societies and other voluntary aid societies. They shall in particular be subject to military laws and regulations.

14. I.e., always the same emblem as that used by the Medical Service of the armed forces (see Article 26 of the First Geneva Convention). With the consent of the competent authority, the National Society may, in time of peace, use the emblem to mark units and transports whose assignment to medical purposes in the event of armed conflict has already been decided (Article 13 of the Regulations on the Use of the Emblem).

15. Pursuant to Article 44, para. 4, of the First Geneva Convention, the emblem may be used, as *an exceptional measure* and in peacetime only, as an indicative device for marking vehicles, used as ambulances by third parties (not forming part of the International Red Cross and Red Crescent Movement), and aid stations exclusively assigned to the purpose of giving treatment free of charge to the wounded or sick. Express consent for displaying the emblem must, however, be given by the National Society, which shall control the use thereof. Such use is not recommended, however, because it increases the risk of confusion and might lead to misuse. The term "aid station" by analogy also covers boxes and kits containing first-aid supplies and used, for example, in shops or factories.

The *United Nations Convention of 8 November 1968 on road signs and signals* provides for road signs displaying the emblem to mark hospitals and first-aid stations. As these signs are not in

conformity with the rules on the use of the emblem, it is advised to employ alternative signs, for example the letter "H" on a blue ground to indicate hospitals.

16. The emblem may not, for example, be placed on an armlet or the roof of a building. In peacetime, and as an exceptional measure, the emblem may be of large dimensions, in particular during events where it is important for the National Society's first-aid workers to be identified quickly.

17. These Regulations enable the National Society to give consent, in a highly restrictive manner, for third parties to use the name of the Red Cross or the Red Crescent and the emblem within the context of its fundraising activities (Article 23, "sponsorship").

18. Article 44, para. 3, of the First Geneva Convention.

19. It is recommended that responsibilities be clearly set down, either in the present law or in an implementing regulation or decree.

20. Within the context of the dissemination of international humanitarian law.

21. In particular among members of the medical and paramedical professions, and among non-governmental organizations, which must be encouraged to use other distinctive signs.

22. The National Societies have a very important role to play in this regard. The Statutes of the International Red Cross and Red Crescent Movement stipulate expressly that the National Societies shall "*also cooperate with their government to ensure respect for international humanitarian law and to protect the red cross and red crescent emblems*" (Article 3, para. 2).

23. This type of misuse should be repressed both in peacetime and in time of armed conflict. Even though violations of the emblem used as an indicative device are less serious than those described in Article 11 below, they must be taken seriously and rigorously repressed. Indeed, the emblem will be better respected during an armed conflict if it has been protected effectively in peacetime. Such effectiveness derives in particular from the severity of any penalties imposed. Consequently, it is recommended that the punishment imposed should be imprisonment and/or a heavy fine, likely to serve as a deterrent.

24. In order to maintain the deterrent effect of the fine, it is essential to review the amounts periodically so as to take account of the depreciation of the local currency. This remark also applies to Articles 11 and 12. It could therefore be considered whether it might not be appropriate to set the amounts of the fines by means other than the present law, for example in an implementing regulation. A National Committee for the implementation of international humanitarian law could then review the amounts as required.

25. This is the most serious type of misuse, for in this case the emblem is of large dimensions and is employed for its primary purpose, which is to protect persons and objects in time of war. This Article should be brought into line with penal legislation (for example the Military Penal Code), which generally provides for the prosecution of violations of international humanitarian law, and in particular the Geneva Conventions and their Additional Protocols.

26. By virtue of Article 85, para. 3, subparagraph f), of Protocol I, perfidious use of the emblem is a grave breach of this Protocol and is regarded as a *war crime* (Article 85, para. 5). Such misuse is therefore particularly serious and must be subject to very severe penalties.

27. Indicate the competent authority (courts, administrative authorities, etc.).

28. It is particularly important to specify precisely which authority has ultimate responsibility for applying this law. Close cooperation between the Ministries directly concerned, generally the Ministries of Defence and Health, would be advisable. A National Committee for the implementation of international humanitarian law could play a useful role in this respect.