



EUROPEAN UNION

OSCE Forum for Security Co-operation Vienna, 4 October 2023

EU Statement on International Humanitarian Law

Madam Chair, we thank the Canadian chairpersonship for selecting the topic of International Humanitarian Law for today's side event. We also thank the invited speakers for their stimulating presentations.

Your specific focus on the command responsibility as well as on gender-based violence is also very timely. As we said last week, there are many topics which this Forum should be discussing and this is certainly one of them. Unfortunately, as a result of Russia's war of aggression against Ukraine this issue has a drastic direct impact on the daily lives of citizens and is therefore particularly topical.

In another part of the OSCE area, the exodus of the Armenian population from Nagorno-Karabakh which has been taking place in dramatic humanitarian conditions reflects the importance of effective implementation of international humanitarian law. We reiterate our call on Azerbaijan to ensure the rights and security of the Karabakh Armenians. Forced displacement of the civilian population through military or other means is not acceptable.

All international actors must respect international humanitarian law. In this regard, we remind that Azerbaijan must comply with the interim measures issued by the European Court of Human Rights on 22 September to refrain from taking any measures which might entail breaches of their obligations under the Convention, notably Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment or punishment). Azerbaijan must also comply with the provisional measure of the International Court of Justice (22 February 2023) and ensure unimpeded movement of persons, vehicles and cargo along the Lachin Corridor.

It is in the common interest of all OSCE participating States to comply with international humanitarian law. In this context, the importance of compliance with the OSCE Code of Conduct on Politico-Military Aspects of Security cannot be emphasised enough. This key part of our existing OSCE acquis addresses amongst others the

issue of democratic control of the armed forces and emphasises the principles of international humanitarian law in the use of force. In view of today's discussion, we would in particular highlight paragraph 31 of the Code of Conduct on individual accountability and paragraph 34 on commanding in accordance with the provisions of international law.

More specifically, paragraph 31 holds armed forces personnel accountable for violations and abuses of international humanitarian law. In consenting to the Code of Conduct, participating States pledged to assume the responsibility to ensure that their armed forces personnel vested with command authority exercise it in accordance with relevant national and international law and are made aware that they can be held individually accountable under those laws for the unlawful exercise of such authority. The Code stipulates that no order contrary to national or international law may be given. The responsibility of superiors does not exempt subordinates from any of their individual responsibilities.

Furthermore, the Code's paragraph 34 specifies that each participating State will ensure that in peace time and in war, its armed forces are commanded, manned, trained and equipped in ways that are consistent with the provisions of international law and its respective obligations and commitments related to the use of armed forces in armed conflict.

Development of educational measures, involving training on international humanitarian law and international human rights law is crucial.

In 2021, the OSCE Office for Democratic Institutions and Human Rights together with the Geneva Center for Security Sector Governance published its compendium of standards, good practices and recommendations related to human rights of armed forces personnel. Specifically, Chapter 17 on the Role of Commanders and Individual Accountability and Chapter 18 on Discipline and Military Justice are important additions to the ongoing discussion on command responsibility, and demonstrations of the interlinkages between the OSCE's first and third dimension. Unfortunately, the reports of the missions established under the Moscow Mechanism published in 2022 found violations of international humanitarian law and international human rights law. These reports confirm clear patterns of serious violations committed by Russian forces. Therefore further work and information in this area is urgent and indispensable.

In fact, internal and external accountability represent two sides of the same coin. For example, it is important to establish stronger accountability mechanisms to address abuses such as sexual violence when it takes place within the armed forces, against military personnel, as well as when it is perpetrated by the members of the armed forces against civilians. Otherwise, the impunity of any sexual violence within armed forces risks feeding a culture that enables sexual violence to take place on the battlefield and in occupied areas.

As for ensuring accountability and command responsibility, each case of sexual and gender-based violence must be properly investigated and prosecuted with a victim-centered and trauma sensitive approach. We must make sure that conflict-related sexual violence is addressed and justice is done, bringing relief to the traumatised survivors and incentivising other survivors to report crimes.

We must harness the preventive power of the rule of law, make sure that all participating States have sound legal frameworks and are able and obliged to effectively carry out investigations, prosecutions and adjudications of cases.

The EU and its Members States reiterated in November 2022 that they would enhance their efforts to prevent and counter sexual and gender-based violence in order to ensure full accountability and to combat impunity, and would encourage all stakeholders to join this collective endeavour. In addition, they reiterated their steadfast commitment to uphold international human rights law and international humanitarian law, and to end impunity for international crimes, not least when rape is used as a weapon of war.

Madam Chair, we have certainly not exhausted the discussion on this topic. We look forward to possibly coming back to some of these matters during our regular Security Dialogue on Women, Peace and Security later this month.

Thank you for the opportunity to exchange perspectives on this important subject.

The Candidate Countries NORTH MACEDONIA*, MONTENEGRO*, ALBANIA* and BOSNIA AND HERZEGOVINA*, the EFTA countries ICELAND, LIECHTENSTEIN and

NORWAY, members of the European Economic Area, as well as ANDORRA and SAN MARINO align themselves with this statement.

* North Macedonia, Montenegro, Albania and Bosnia and Herzegovina continue to be part of the Stabilisation and Association Process.