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Home > Application

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IHL contains specific legal provisions and criteria determining situations to which it applies, as well as the extent of the personal, temporal and geographical scopes of application. To determine whether IHL applies to any given situation, an objective assessment has to be conducted in line with those legal provisions and criteria, based on facts on the ground in the circumstances prevailing at the time.

## OUTLINE

Chapter 2. III. 1. Situations of application <sup>[1]</sup>

Chapter 2. III. 2. Personal scope of application <sup>[2]</sup>

Chapter 2. III. 3. Temporal scope of application <sup>[3]</sup>

Chapter 2. III. 4. Geographical scope of application <sup>[4]</sup>

## LEGAL SOURCE

**Application of the Conventions and Protocols**

GCI, 2 <sup>[5]</sup> (see ICRC updated Commentary <sup>[6]</sup>)

GCI, 5 <sup>[7]</sup> (see ICRC updated Commentary <sup>[8]</sup>)

GCII, 2 <sup>[9]</sup> (see ICRC updated Commentary <sup>[10]</sup>)

GCII, 4 <sup>[11]</sup> (see ICRC updated Commentary <sup>[12]</sup>)

GCIII, 2 <sup>[13]</sup>

GCIII, 5 <sup>[14]</sup>

GCIV, 2 <sup>[15]</sup>

GCIV, 6 <sup>[16]</sup>

PI, 1 <sup>[17]</sup>

PI, 3 <sup>[18]</sup>

PII, 1 <sup>[19]</sup>

PII, 2 <sup>[20]</sup>

## CASES

**Situations of application :**

International Law Commission, Articles on State Responsibility [Part A., Art 8 and Commentary <sup>[21]</sup>]

ICTY, The Prosecutor v. Tadic <sup>[22]</sup> [Part A., paras 67-70 <sup>[23]</sup> and 96 <sup>[24]</sup>; Part E., paras 37-100 <sup>[25]</sup>]

ICTY, The Prosecutor v. Boskoski <sup>[26]</sup>

ICTR, The Prosecutor v. Jean-Paul Akayesu [Part A., para. 601] <sup>[27]</sup>

Belgium and Brazil, Explanations of Vote on Protocol II [Part B.] <sup>[28]</sup>

United States, United States v. Noriega [Part B. II. A.] <sup>[29]</sup>

United States, Status and Treatment of Detainees Held in Guantanamo Naval Base <sup>[30]</sup> [Part I <sup>[31]</sup> and Part II <sup>[32]</sup>]

South Africa, Sagarius and Others <sup>[33]</sup>

South Africa, S. v. Petane <sup>[34]</sup>

ICRC, The Challenges of Contemporary Armed Conflicts <sup>[35]</sup>

United States, The September 11 2001 Attacks <sup>[36]</sup>

United States, Hamdan v. Rumsfeld <sup>[37]</sup>

Iran, Victim of Cyber warfare <sup>[38]</sup>

South Sudan: Medical Care Under Fire <sup>[39]</sup>

ICRC, International Humanitarian Law and the challenges of contemporary armed conflicts in 2015 [paras 33 <sup>[40]</sup>, 45 <sup>[41]</sup>, 50 <sup>[42]</sup>, 52 <sup>[43]</sup>, 97 <sup>[44]</sup>, 101 <sup>[45]</sup>, 105 <sup>[46]</sup>]

Israel/Palestine, Operation Protective Edge (Gaza, 13 June - 26 August 2014) <sup>[47]</sup>

Colombia Peace Agreement <sup>[48]</sup>

Somalia/Kenya, Al-Shabab Attacks <sup>[49]</sup>

US, Combatant Immunity and Recognition of belligerency <sup>[50]</sup>

**Personal scope of application :**

ICTY, The Prosecutor v. Tadic <sup>[22]</sup> [Part A., para. 81 <sup>[51]</sup>; Part C., paras 163-169 <sup>[52]</sup> ]

ICTR, The Prosecutor v. Jean-Paul Akayesu <sup>[53]</sup> [Part A., para. 629 <sup>[54]</sup>; Part B., paras 425-446 <sup>[55]</sup>]

ICTY, The Prosecutor v. Mrksic and Sljivancanin [Part B., paras 71-74] <sup>[56]</sup>

US, Combatant Immunity and Recognition of belligerency <sup>[50]</sup>

### Temporal scope of application :

The Prosecutor v. Tadic <sup>[22]</sup> [Part A., paras 67-6 <sup>[23]</sup>; Part E., para. 100 <sup>[57]</sup>; Part E. <sup>[58]</sup>]

ICTY, The Prosecutor v. Boskoski [Paras 239-291] <sup>[59]</sup>

ICJ/Israel, Separation Wall/Security Fence in the Occupied Palestinian Territory [Part A., para. 125] <sup>[60]</sup>

### Geographical scope of application :

ICTR, The Prosecutor v. Jean-Paul Akayesu [Part A., para. 635] <sup>[61]</sup>

United Kingdom, The Case of Serdar Mohammed (Court of Appeal and Supreme Court Judgments) <sup>[62]</sup>

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THAHZIB-LIE Bahia & SWAAK-GOLDMAN Olivia, "Determining the Threshold for the Application of International Humanitarian Law", in LIJNZAAD Liesbeth, VAN SAMBEEK Johanna & THAHZIB-LIE Bahia (eds), *Making the Voice of Humanity Heard*, Leiden/Boston, M. Nijhoff, 2004, pp. 239-253

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pp. 69-94

## Further reading

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[3] [https://casebook.icrc.org/law/fundamentals-ihl#b\\_iii\\_3](https://casebook.icrc.org/law/fundamentals-ihl#b_iii_3)

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[13]

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[14]



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[15]

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[16]

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[17]

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[18]

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[19]

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[20]

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[32] <https://casebook.icrc.org/case-study/united-states-status-and-treatment-detainees-held-guantanamo-naval-base#chapter2>

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- [45] <https://casebook.icrc.org/case-study/icrc-international-humanitarian-law-and-challenges-contemporary-armed-conflicts-2015#challenges-2015-para101>
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- [55] [https://casebook.icrc.org/case-study/ictr-prosecutor-v-jean-paul-akayesu#part\\_b\\_para\\_425](https://casebook.icrc.org/case-study/ictr-prosecutor-v-jean-paul-akayesu#part_b_para_425)
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- [58] <https://casebook.icrc.org/case-study/icty-prosecutor-v-tadic#chapter20>
- [59] [https://casebook.icrc.org/case-study/icty-prosecutor-v-boskoski#para\\_239](https://casebook.icrc.org/case-study/icty-prosecutor-v-boskoski#para_239)
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