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 [1]
- Chapter 2. III. 2. Personal scope of application [2]
- Chapter 2. III. 3. Temporal scope of application [3]

### LEGAL SOURCE

Application of the Conventions and Protocols
GCI, 2 [5] (see ICRC updated Commentary [6])
GCI, 5 [7] (see ICRC updated Commentary [8])
GCII, 2 [9] (see ICRC updated Commentary [10])
GCII, 4 [11] (see ICRC updated Commentary [12])
GCIII, 2 [13]
GCIII, 5 [14]
GCIV, 2 [15]
GCIV, 6 [16]
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PI, 3 [18]
PII, 1 [19]
PII, 2 [20]

CASES

Situations of application:
International Law Commission, Articles on State Responsibility [Part A., Art 8 and Commentary [21]]


ICTY, The Prosecutor v. Boskoski [26]

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

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

United States, United States v. Noriega [Part B. II. A.] [29]

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

South Africa, Sagarius and Others [33]

South Africa, S. v. Petane [34]

ICRC, The Challenges of Contemporary Armed Conflicts [35]

United States, The September 11 2001 Attacks [36]

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

Colombia Peace Agreement [48]

Personal scope of application:

ICTY, The Prosecutor v. Tadic [22] [Part A., para. 81 [49]; Part C., paras 163-169 [50]]

ICTR, The Prosecutor v. Jean-Paul Akayesu [51] [Part A., para. 629 [52]; Part B., paras 425-446 [53]]

ICTY, The Prosecutor v. Mrksic and Sljivancanin [Part B., paras 71-74] [54]

Temporal scope of application:

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ICTY, The Prosecutor v. Boskoski [Paras 239-291] [57]
Geographical scope of application:

ICTR, The Prosecutor v. Jean-Paul Akayesu [Part A., para. 635] [59]

United Kingdom, The Case of Serdar Mohammed (Court of Appeal and Supreme Court Judgments) [60]

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**Further reading**

MEYROWITZ Henri, “Une révolution inaperçue : l’article 49(2) du Protocole additionnel I aux Conventions de Genève de 1949”, in *Oesterreichische Zeitschrift für öffentliches Recht und Völkerrecht*.