

Ivory Coast, National Interministerial Commission

N.B. As per the disclaimer ^[1], neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

[Source: *Journal Officiel de la République de Côte d'Ivoire*, November 14, 1996, p. 1042; original in French, unofficial translation; available on <http://www.icrc.org/ihl-nat> ^[2]

**DECREE No. 96-853 of 25 October 1996 setting up
the National Interministerial Commission for the
implementation
of international humanitarian law.**

THE PRESIDENT OF THE REPUBLIC,

[...]

DECREES:

Article 1: Establishment

A National Interministerial Commission responsible for the implementation of international humanitarian law is hereby established.

Article 2: Attributions

The Interministerial Commission shall:

- ensure respect for international humanitarian law and effective implementation thereof;
- study and prepare laws and implementation regulations in areas in which additions or amendments to national legislation may be required, and submit them to the Government;
- ensure the application of humanitarian law in Côte d'Ivoire;
- encourage the promotion, dissemination and teaching of this law.

Article 3: Organization

The Commission shall be presided over by the Minister of Justice and Public Freedoms.

The Vice-Presidency shall be filled by the National Red Cross Society, and the secretariat by the Ministry of Foreign Affairs.

Article 4: Composition

The Commission shall comprise:

- two representatives of each of the following ministries: Foreign Affairs, Justice and Public Freedoms, Defence, Interior and National Integration, Public Health, Economy

and Finance, and Higher Education;

- two representatives of the Bar;
- the regional representative of the International Committee of the Red Cross;
- the representative of the National Red Cross Society.

Article 5: Assistance

The assistance of the International Committee of the Red Cross (ICRC) may be sought to ensure the accomplishment of the tasks assigned to the Commission under the terms of Article 2 above.

Article 6: Operating procedures

A joint decree by the Ministry of Foreign Affairs and the Minister of Justice and Public Liberty shall set out the Commission's operating procedures and may set up subcommittees as necessary.

Article 7: Final provisions

The Ministers of Foreign Affairs, Justice and Public Liberty, Economy and Finance, Defence, Higher Education, Research and Technological Innovation, Interior and National Integration, and Public Health shall be responsible – in their respective areas of competence – for the execution of the present decree, which will be published in the Official Gazette of the Republic of Côte d'Ivoire.

Done in Abidjan, on October 25, 1996

Henri Konan Bédié

Discussion

1. Why is a National Interministerial Commission on the implementation of IHL necessary or useful? Is the establishment of such a commission prescribed by IHL?

2. Need States only concern themselves with IHL during times of armed conflict? If not, why not? What measures concerning IHL are most effectively implemented in peacetime? (GC I-IV, Arts 47 ^[3]-49 ^[4]/48 ^[5]-50 ^[6]/127 ^[7]-129 ^[8]/144 ^[9]-146 ^[10], respectively) Does this explain the variety of government ministers designated in Art. 7 above to execute the decree of the Ivory Coast Republic?

3. If a State has agreed to be bound by a treaty, what need is there for national implementation measures? Are national measures a requirement under the Geneva Conventions? Does the extent of obligations as regards implementation measures change if the State is also party to one or both of the Protocols? (GC I-IV, common Art. 1 ^[11]; P I, Art. 1(1) ^[12]; see also GC I, Arts 45 ^[13] and 48 ^[14]; GC II, Arts 46 ^[15] and 49 ^[16]; GC III, Art. 128 ^[17]; GC IV, Art. 145 ^[18]; P I, Art. 80 ^[19])

4. Do the Geneva Conventions mandate the performance of all tasks listed in Art. 2 and assigned to the Ivory Coast Republic's National Interministerial Commission? Do the Geneva Conventions specify the manner in which these tasks are to be accomplished?

5.
 - a. If national legislation is necessary, does this mean that no provisions of the Conventions are self-executing? What about the applicability of those provisions considered customary?

 - b. Which provisions in the Conventions specifically call upon States Parties to implement legislation? What particular legislation do the Conventions oblige a State

Party to provide? (GC I-IV, Arts 49 ^[4]/50 ^[6]/129 ^[8]/146 ^[10], respectively; 1954 Hague Convention on Cultural Property, Art. 28 [See Conventions on the Protection of Cultural Property ^[20]]) How specific are the demands of the Conventions? On which points do States Parties have broad discretion? May a State Party enact legislation extending beyond what the Conventions stipulate?

6. Will all national measures enacted to enforce the treaty be the same for every State Party? If not, why not?

7. Have most States Parties enacted national legislation or created national commissions like that of the Ivory Coast Republic? If many States Parties have not taken such action, what impact does this have on the practical application and effectiveness of IHL?

8. Are the role given to the ICRC in Art. 5 of the Ivory Coast Republic's decree and the National Red Cross Society's participation in the Commission consistent with the Statutes and Fundamental Principles of the Movement? What are the advantages and disadvantages of such participation? (GC I-III, Art. 9 ^[21]; GC IV, Art. 10 ^[22]; Statutes of the International Red Cross and Red Crescent Movement, Preamble and Arts 3 and 5; [See Document No. 31, Statutes of the International Red Cross and Red Crescent Movement ^[23]])

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[3]

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[20] <http://www.icrc.org/ihl.nsf/FULL/400>

[21]

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[23] <https://casebook.icrc.org/case-study/statutes-international-red-cross-and-red-crescent-movement>