

Bosnia and Herzegovina, Using Uniforms of Peacekeepers

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: Martin, H., *Financial Times*, May 31, 1995]

UN Troops Put on Alert for Serb Infiltrators

Troops on the ground in Sarajevo are on heightened alert because of the threat of Serb infiltration into their camps.

In taking nearly 400 UN hostages, the Serbs have also managed to secure 21 armoured

personnel carriers, six light tanks and three armoured cars.

Serbs, dressed in stolen French uniforms and flack jackets, took over a UN-controlled bridge in the heart of Sarajevo on Saturday; now the motto is: trust no one. All UN soldiers are on amber alert, donning flack jackets and helmets and blocking the main gates of their various bases with armoured personnel carriers.

In the leafy grounds of the UN headquarters, the Danish guards were taking extra security measures because of the Serb threat. Lt Tomas Malling, who is in charge of the guards, said: “Of course it’s a worry to us and we’re checking vehicles very carefully”. [...]

At the French main base, a young guard on the gate claims that “everybody is quite relaxed” as he nervously searches your bag and scrutinises your face. One captain said: “We were sent here as peacekeepers. What has been done is scandalous but that doesn’t mean we feel angry enough to become aggressive.” [...]

Another said the UN should withdraw. “Then we should come back and take the Serbs out, because they are the enemy now.” A colleague added: “If we are peacekeepers let’s be peacekeepers. But if we are peacemakers, let’s turn nasty.”

Discussion

1.

- a. Is IHL applicable to these events? Is the UN a Party to the Conventions and Protocols? Can the UN conceivably be a party to an international armed conflict in the sense of Art. 2 common to the Conventions? Can the UN forces be considered for purposes of the applicability of IHL as armed forces of the troop-contributing States (which are Parties to the Conventions), and can any hostilities be considered an armed conflict between those States and the party responsible for the opposing forces? [See Belgium, Belgian Soldiers in Somalia

[21]

- b. If IHL is applicable to these events, does the law of international or of non-international armed conflict apply?
 - c. Would IHL prohibit UN soldiers from disguising themselves in Serb uniforms? At least for the purpose of maintaining peace?
- 2.
- a. Under IHL, may a belligerent never wear the uniform of the enemy? (P I, Art. 39^[31]) [See also United States Military Court in Germany, Trial of Skorzeny and Others^[4]]
 - b. Is the wearing of peacekeepers' uniforms by members of Bosnian Serb armed forces prohibited under IHL? Even if peacekeepers are not bound by IHL? Even if there is no armed conflict between the peacekeepers and the Bosnian Serb forces? (P I, Arts 37^[5] and 38^[6])
 - c. Did the wearing of French uniforms and flack jackets by the Serbs when taking over a UN-controlled bridge violate IHL? Is it a war crime? (P I, Arts 37^[5], 38(2)^[6] and 39^[31])
 - d. Are the answers different if UN soldiers are no longer considered by a belligerent party as peacekeepers but as enemies? (P I, Art. 39^[31])
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