



## INTERNATIONAL HUMANITARIAN LAW CENTRE – 10 YEARS' CONTRIBUTION TO ROMANIAN MILITARY EDUCATION

*Lieutenant-colonel Carmen ROTĂRESCU, PhD Candidate\**

**Abstract:** *The overall responsibilities and engagements expressly assumed by the Romanian state by the ratification of a great part of juridical instruments of International Humanitarian Law (treaties, protocols, additional acts, etc.) as well of the instruments issued from its member quality in some global or regional organizations (UN, NATO, OSCE or EU) permanently determine the Ministry of Defence to take measures to disseminate the International Human Law in order to provide its knowledge, respect and application by all the Armed Forces personnel. The International Humanitarian Law Centre, called IHLC, is a microstructure contributing to this initiative by achieving its own goals and entrusted missions.*

**Keywords:** *NATO; International Humanitarian Law; Ministry of Defence; engagements.*

2014 is for Romania an year plenty of important meaningful events: 10 years from the adhesion to NATO, 65 years from NATO creation, 25 years from the anticommunist revolution (1989), 60 years from the ratification<sup>1</sup> by the Romania of the 4<sup>th</sup> International Conventions on the protection of the war victims signed at Geneva on August 12, 1949, 100 years since the start of the World War I (1914) and 75 years since the start of the World War II (1939).

On 29.03.2004, Romania by handing in<sup>2</sup> the ratification instruments officially adhered to NATO, became member of this organization<sup>3</sup>. NATO adhesion was a crucial moment for Romanian, being considered one of the most important foreign affaires actions of Romania after the 1989 revolution.

In order to properly mark the adhesion to NATO, the Romanian authorities decided<sup>4</sup> the NATO day to be celebrated yearly in Romania in the first Sunday of April<sup>5</sup> since 2005.

\* "Carol I" National Defence University; e-mail: carmenrotarescu@yahoo.com



As NATO member state, Romania has done important, decisive and steady steps on the way to democratic transformations, strengthening the state of law, guaranteeing and respecting the fundamental human rights and freedoms, harmonizing the national law with the international law and becoming provider of security in the international arena.

Being aware that the NATO membership brings both rights and obligations, Romania actively and dynamically has become involved in achieving the main goal of the organization – the provision of its members' security using political and military means.

Romania fully involved where was requested, contributing to the implementation of Alliance's mandate both at conceptual and operational level, mainly participating in NATO operations.

It is now, a decade since the integration, the occasion to review the actions done by Romania, as NATO member state, in this field.

Analysing the main events celebrated this year, mentioned above, we can see some common elements: conflict, humanitarianism and security. This implicitly leads to the International Humanitarian Law or the Law of Armed Conflict (LOAC), terminology priori used within NATO.

*„Although they are different, humanism and security represent two closed approaches of contemporary world by sharing the common principle of “survival”. While security grounds on the use of the armed force as the last action, the International Humanitarian Law is the angler part of the actual system of international security because its disrespect makes impossible the safety of states and international community. Therefore we must hope the lessons from Rwanda, Somalia, Bosnia, Kosovo, Iraq and Afghanistan will define military actions equally conform to the UN Charter and the International Humanitarian Law because the humanitarianism cannot be subordinated to security as it is his grounding and the UN Charter cannot prevail the Geneva Conventions”<sup>6</sup>.*

International Humanitarian Law (IHL) is an ensemble of norms and customary and conventional principles applicable meant to settle minimum and compulsory behaviour standards of the parties involved, to limit the rights of parties to use means and methods during any armed conflict in order to avoid causing victims and excessive collateral damages, long and short consequences over the surrounding environment.

The consequences and horrors following the two great conflagrations asserted



the international community to adopt, in 1949, the Geneva Conventions together with the three Additional Protocols.

The concept Rules of Engagement (ROE) has been used in the NATO military operations since 1973. These rules were instituted because they were requested by the need to set norms able to foresee the multitude of situations when the lethal force can be used by militaries during peace, crisis and war time. The Romanian Armed Forces has used this concept since the 90's, mainly because of the involvement in operations out of the Romanian territory.

The rules goal is to limit the number of victims and material damages related to the direct military actions and also to avoid compromising the armed forces involved in operations. Thus, the annex to the Operation Plan which lists the ROE contains the IHL norms and principles which should be respected. These rules contribute to reducing the time needed for decision making and to solving controversial or ambiguous situations in order to protect military personnel, acting under military orders, from the responsibility of the effects of their actions.

The overall responsibilities and obligations assumed by the Romania through the ratification of majority of International Humanitarian Law juridical instruments (treaties, conventions, protocols, additional acts, etc.) as well the ones resulted from its quality of member of global or regional organizations (UN, NATO, OSCE or EU) permanently assert to the Ministry of Defense to use means to disseminate International Humanitarian Law and to force all military personnel to respect and apply these rules.

Knowing, respecting and applying the International Humanitarian Law norms and principles and Rules of Engagement represent fundamental obligation of armed forces personnel<sup>7</sup>, particularly that personnel conducting, planning and executing operations. The norms of humanitarian law are an important criteria in making decisions regarding the options for courses of action, in order to maintain a balance between the principles of military necessity and those of humanity.

In order to avoid the gaps and provide the respect of juridical instruments of International Humanitarian Law and national law<sup>8</sup> during the execution of missions and operations executed by the armed forces out of Romanian territory, the training of armed forces personnel in IHL and ROE became a priority for the Ministry of Defence.

The International Humanitarian Law is an important part of military training. Because of the implications these specific provisions have in planning military



actions, the training in this field gained priority.

The International Humanitarian Law discipline is an integrant part of military education and training.

It is not enough to know to handle the equipment, it also necessary to know when and how the soldiers have the right to use it. Acts as *submission to reprisals, civilians' mutilation, killing the surrender militaries and torturing prisoners* never lead to victories. They rather lead to the disciplinary, civil or even criminal responsibility.

The Romanian military personnel know "violence always breeds violence". Violence normally leads only to the escalation of conflict, not to cease fire or peace. They also know that conducting military action in accordance with the international humanitarian standards is essential to successfully fulfilling the mandate they have from either national or NATO authorities. The disrespect of IHL norms can jeopardize the reputation of the armed forces, regardless of their commanding authority.

This is probably the reason why no Romanian military was accused or blamed for the infringement of IHL norms and principles, Rules of Engagement or committing war crimes, crimes against humanity, genocides or aggression crimes, while participating in operations outside the Romanian territory under UN, OSCE, EU or NATO.

This fact shows that Romanian military personnel know and apply the standards<sup>9</sup>, directives, resolutions<sup>10</sup> of NATO and the training on the international law and rules of engagement is guaranteed. They have a level of professionalism which allows them to participate in the planning and execution of military actions in a multinational framework regardless the geographical area, the civilization conditions, applying the norms and principles of International Humanitarian Law and political engagements assumed by Romania as North-Atlantic Alliance member.

To these results strongly contributed the International Humanitarian Law Centre (IHLC), the unique education organization in Ministry of Defence in this field, showing the fact that the Centre permanently achieved to a high degree its goals and assigned missions.

The Centre was established on December 6, 1993. Starting to 01.05.2012, the Centre was subordinated to the "Carol I" National Defense University and redeployed from Ploiesti garrison to Bucharest.

The Centre's goal is to provide Romanian Armed with training on respecting,



applying and promoting International Humanitarian Law and Rules of Engagement concept.

IHLC is running the IHL Trainers Course, a unique course by its curriculum and objectives. IHLC also participates in the production of reference documents needed to implement the humanitarian law in different post-graduate courses, either for leaders, or addressing to the war correspondents/journalists, or to jurists from the defense sector. These courses are considered post-graduate and they provide the possibility to promote the graduates as colonels.

Another important activity of the Centre is the production of the documents needed to accept and implement STANAG 2449 – 2<sup>nd</sup> edition (March 2013), which establishes the framework for IHL training in to the Ministry of Defense. About this activity, IHLC participated with viable proposals based on its experience in organizing and conducting a high standard training and education on International Humanitarian Law and Rules of Engagement.

The training activities on IHL and ROE undergone by IHLC were highly appreciated by both the participants and the beneficiaries.

In order to provide a common basis of training for all the military, the Centre personnel produced or contributed to the elaboration of different documents, studies, articles, manuals, instructions, legislation, etc. in the field of IHL and ROE. Also, in order to support the military in operations outside the Romanian territory, we periodically produce documents that update the information bulletin "Juridical actualities – military law and International Humanitarian Law".

IHLC was involved in cultural-educative and scientific activities designed for the knowledge and application of international humanitarian standards in the process of education, training and military operations.

Based on Governmental Decision no. 420/2006 regarding the organization of National Commission for International Humanitarian Law (NCIHL) and other programmatic documents, the Centre received the task to perform as the permanent Secretariat of the National Commission for International Humanitarian Law. The contribution to the optimal organization of the work of the Commission, which included the presentation of many viable proposals, the creativity and initiative shown by IHLC personnel as the permanent Secretariat were rewarded by the NCIHL presidents and members with special thanks and appreciations.

Ten years after the Romanian's integration in NATO, but at its 21<sup>st</sup> anniversary, despite the fact that the available manpower is very limited, International Humanitarian Law Centre proves a highly professional capability to promote humanitarian law in the Romanian Armed Forces.





## REFERENCES

<sup>1</sup> Decree no. 183/ since 14.05. 1954, entered into force on 21.05.1954.

<sup>2</sup> To the US Department of State, depository state of the North-Atlantic Treaty Organization.

<sup>3</sup> The ceremony of rising the Romanian flag took place on April 2, 2004, to the NATO Headquarter in Brussels (Belgium).

<sup>4</sup> By Law no. 390 since 28.09. 2004.

<sup>5</sup> In conformity with art.1 line 2 from Law no. 390/2004, this day is "public celebration dedicated to European and Euro-Atlantic democracy and spirit".

<sup>6</sup> Ion Dragoman, Claudia Militaru, *Studii de Drept Internațional Umanitar*, Editura Lumina Lex, București, 2003, p.31

<sup>7</sup> In art.1 common to the fourth Geneva Convention (1949) and in art.1 from Protocol I Additional to these Conventions is mentioned the fact that the party states oblige "to respect and to do respected" their provisions. Therefore, not only the military personnel but also the civil personnel in the Ministry of Defence and even the entire population of the country must know, respect and apply correspondingly.

<sup>8</sup> Law no. 121 since June 15, 2011 on the participation of the armed forces to the missions and operations outside the Romanian territory:

art. 11 (3) „The armed forces participating into missions and operations outside the Romanian state territory executes orders from the commandant of the force it is subordinated to in conformity with the agreements settled to the effectuation of authority transfer with the respect of the international law and rules of engagement provisions.

art. 12 (1) When a Romanian military receives an order from the hierarchical superior authorities of the mission or operation that counteracts to the international humanitarian law, rules of engagement or habits of war, they refuse this order execution.

(2) When it comes the case provisioned in line (1), the Romanian military informs the Romanian superior hierarchical authorities and follows their instructions".

<sup>9</sup> STANAG 2449- 1<sup>st</sup> edition /2004 implemented by the Disposition of Chief of Major Staff no. 101/2008 –on the IHL training.

STANAG 2449 – 2<sup>nd</sup> edition/ March 2013.

<sup>10</sup> Resolution no. 287 adopted by NATO since 15.XI.1999 on the respect and guarantee of International Humanitarian Law.

## BIBLIOGRAPHY

Gasser Hans-Peter, *International Humanitarian Law – An introduction*, in HAUG (Hans), *Humanity for all*, Henry Dunant Institute, 1993.

Dragoman Ion; Militaru, Claudia, *7 studii de drept internațional umanitar*, Editura Lumina Lex, București, 2003.

<http://www.unap.ro.ro/unitati/cdiu/index.html>