

German International Humanitarian Law Committee

Germany

**Information Exchange System on
National Implementation of
International Humanitarian Law**

Questionnaire and Report

January 2014

**Establishment of an Information Exchange System on
National Implementation of International Humanitarian Law**

Draft Questionnaire

I. International humanitarian law as part of national law

1. Which treaties of International Humanitarian Law (IHL) have been signed and/or ratified by your country? – In particular:

	Signed	Ratified
1864 Convention for the Amelioration of the Condition of the Wounded in Armies in the Field		12 June 1906
1899 Hague Declaration 2 concerning Asphyxiating Gases	29 July 1899	04 Sept. 1900
1899 Hague Declaration 3 concerning Expanding Bullets	29 July 1899	04 Sept. 1900
1899 Hague Convention with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land	29 July 1899	04 Sept. 1900
1899 Hague Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 22 August 1864	29 July 1899	04 Sept. 1900
1904 Convention for the Exemption of Hospital Ships, in Time of War, from The Payment of all Dues and Taxes Imposed for the Benefit of the State. The Hague, 21 December 1904.	21 Dec. 1904	16 March 1907
1907 Convention (III) relative to the Opening of Hostilities. The Hague, 18 October 1907.	18 Oct. 1907	27 Nov. 1909
1907 Hague Convention IV Respecting the Laws and Customs of War on Land and Annex to the Convention: Regulations Respecting the Laws and Customs of War on Land	18 Oct. 1907	27 Nov. 1909
1907 Hague Convention V respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land	18 Oct. 1907	27 Nov. 1909
1907 Convention (VI) relating to the Status of Enemy Merchant Ships at the Outbreak of Hostilities. The Hague, 18 October 1907	18 Oct. 1907	27. Nov. 1909

1907 Hague Convention VII relating to the Conversion of Merchant Ships into War-Ships	18 Oct. 1907	27 Nov. 1909
1907 Hague Convention VIII relative to the Laying of Automatic Submarine Contact Mines	18 Oct. 1907	27 Nov. 1909
1907 Hague Convention IX concerning Bombardment by Naval Forces in Time of War. The Hague, 18 October 1907	18 Oct. 1907	27 Nov. 1909
1907 Convention (X) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention. The Hague, 18 October 1907.	18 Oct. 1907	27 Nov. 1909
1907 Hague Convention XI relative to certain Restrictions with regard to the Exercise of the Right of Capture in Naval War	18 Oct. 1907	27 Nov. 1909
1907 Hague Convention XIII concerning the Rights and Duties of Neutral Powers in Naval War. The Hague, 18 October 1907	18 Oct. 1907	27 Nov. 1909
1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare	17 June 1925	25 Apr. 1929
1936 London Procès-verbal relating to the Rules of Submarine Warfare set forth in Part IV of the Treaty of London of 22 April 1930		23 Nov. 1936
1948 UN Convention on the Prevention and Punishment of the Crime of Genocide		24 Nov. 1954
1949 Geneva Conventions I – IV		03 Sept. 1954
<ul style="list-style-type: none"> • 1977 Additional Protocol I and II to the Geneva Conventions of 1949 	12 Dec. 1977	14 Feb. 1991
<ul style="list-style-type: none"> • 2005 Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III) 	13 March 2006	17 June 2009
1951 Convention Relating to the Status of Refugees	19 Nov. 1951	01 Dec. 1953
1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and 1954 First Hague Protocol thereto	14 May 1954	11 Apr. 1967

<ul style="list-style-type: none"> • 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict 	17 May 1999	25 Nov. 2009
1966 International Covenant on Civil and Political Rights	9 Oct. 1968	17 Dec. 1973
<ul style="list-style-type: none"> • 1966 Optional Protocol to the International Covenant on Civil and Political Rights 		25 Aug. 1993
<ul style="list-style-type: none"> • 1989 Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of death penalty 	13 Feb. 1990	18 Aug. 1992
1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction	10 April 1972	28 Nov. 1972
1976 UN Convention on the prohibition of military or any hostile use of environmental modification techniques	18 May 1977	24 May 1983
1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects	10 Apr. 1981	25 Nov. 1992
1980 Protocols to the 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects <ul style="list-style-type: none"> • Protocol I on Non-Detectable Fragments • Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices • Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons 	10 Apr. 1981	25 Nov. 1992
<ul style="list-style-type: none"> • 1995 Protocol IV to the 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects on Blinding Laser Weapons 	13 Oct. 1995	27 June 1997

<ul style="list-style-type: none"> 1996 Amended Protocol II to the 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects 	03 May 1996	02 May 1997
<ul style="list-style-type: none"> 2001 Amendment to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (with Protocols I, II and III), Geneva 21 December 2001. Amendment article 1, 21 		26 Jan. 2005
<ul style="list-style-type: none"> 2003 Protocol on Explosive Remnants of War (Protocol V to the 1980 Convention) 	28 Nov. 2003	03 March 2005
1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	13 Oct. 1986	01 Oct. 1990
<ul style="list-style-type: none"> 1992 Amendments to articles 17 (7) and 18 (5) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹ 		08 Oct. 1996 Acceptance ²
<ul style="list-style-type: none"> 2002 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 	20 Sep. 2006	04 Dec 2008
1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries	20 Dec. 1990	
1989 Convention on the Rights of the Child	26 Jan. 1990	06 March 1992 (retraction of caveat: 15 July 2010)
<ul style="list-style-type: none"> 2000 Optional Protocol to the Convention on the Rights for the 	06 Sept. 2000	13 Dec. 2004

¹ This amendment has not come into force yet:

http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-a&chapter=4&lang=en

² Art. 2 (1) b) Vienna Convention on the Law of Treaties: ““ratification”, “acceptance”, “approval” and “accession” mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;” Art. 14 (2) VCLT: “The consent of a State to be bound by a treaty is expressed by acceptance orb approval under conditions similar to those which apply to ratification.”

Child on the Involvement of Children in Armed Conflict		
<ul style="list-style-type: none"> 2011 Optional Protocol to the Convention on the Rights of the Child on a communications procedure³ 	28 Feb. 2012	28 Feb. 2013
1992 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction	13 Jan. 1993	12 Aug. 1994
1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	03 Dec. 1997	23 July 1998
1998 Rome Statute of the International Criminal Court	10 Dec. 1998	11 Dec. 2000
<ul style="list-style-type: none"> 2002 Agreement on the Privileges and Immunities of the International Criminal Court 	14 July 2002	02 Sept. 2004
<ul style="list-style-type: none"> 2010 Amendment to article 8 of the Rome Statute of the International Criminal Court 		03 June 2013 Acceptance
<ul style="list-style-type: none"> 2010 Amendments on the crime of aggression to the Rome Statute of the International Criminal Court⁴ 		03 June 2013 Acceptance
2000 Convention against Transnational Organized Crime	12 Dec. 2000	14 June 2006
2001 Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime	03 Sep. 2002	
2008 Convention on Cluster Munitions	03 Dec. 2008	08 July 2009
2013 Arms Trade Treaty ⁵	03 June 2013	2 April 2014

³ The protocol has not come into force yet:
http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-11-d&chapter=4&lang=en.

⁴ The amendment has not come into force yet, for further details see: http://www.icc-cpi.int/en_menus/asp/crime%20of%20aggression/Pages/default.aspx.

⁵ This treaty has not come into force yet:
http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=XXVI-8&chapter=26&lang=en.

2. What is the status of the relevant IHL treaties in the light of the general status of international treaties in your national legal system? Can they be applied directly? Is there any legislation providing specifically for such application? Do any specific questions occur with regard to federalism?

Under the system of the German constitution, the *Grundgesetz* (GG, Basic Law) treaties which have been ratified by Germany after a parliamentary consent as required by Art. 59 para. 2 GG, have, after their entry into force at the international level, the same status as federal statutes. This means that the general rules relating to conflicting statutory provisions apply, i.e. the *lex specialis* and *lex posterior* rule. There is, however, a certain trend of the courts to consider international treaties as *lex specialis* where the later statute does not specifically address a problem regulated by the earlier treaty.

The international treaty is, thus, incorporated into the German legal system. Its direct application by German courts, however, requires that the content of a treaty provision, as reflected in its wording and purpose, is of a nature as to be capable of direct application. In other words, they must be “self-executing”. As a rule, there is no express statutory provision concerning this question. The Parliamentary consent empowering the Federal President (*Bundespräsident*) to ratify a treaty takes the form of a federal statute. This statute, together with the treaty in question, is published in the Federal Gazette (*Bundesgesetzblatt*) having force of law (*mit Gesetzeskraft*), without any particular mention of the problem of direct application. Provisions having a fundamental rights’ character which are formulated in a way that grants a direct entitlement to individuals are capable of direct application. On that basis, the Federal Administrative Court (*Bundesverwaltungsgericht*) has indeed held certain provisions of treaties dealing with the rights of refugees to be directly applicable. Art. 75 Additional Protocol I, for instance, is formulated in terms of unconditional prohibitions and duties. It is therefore self-executing. On the other hand, Art. 49 First Geneva Convention, relating to grave breaches, is worded “undertake to enact any legislation (...)”, meaning that an additional activity of the Government is necessary to make the rule operational. It is, thus, not directly applicable.

As to the question of federalism, the fact that a specific question is regulated in a treaty does not affect the distribution of legislative powers between the two levels of government. In other words, there is no general federal legislative power to implement international treaties. This means that if a treaty deals with questions where the federal level has no legislative powers, it is the *Länder* and not the federal level which are competent to adopt implementing legislation. Whether and to what extent this principle limits the direct internal application of a treaty concluded with the assent of the federal parliament as provided by Art. 59 para. 2 GG, as just discussed, is, however, a matter of controversy between the federal government and the *Länder*. The only principle which is uncontroversial is that additional implementing legislation follows the general rules on the distribution of legislative powers between the federal and the *Länder* level.

Most matters regulated by international humanitarian law, however, are matters relating to defence for which there is an exclusive federal power. Criminal law is a “concurrent” federal power which means that according to Art. 72 GG the *Länder* have the competency to implement laws as long and as far the German Federation has not used its legislative power. On the other hand, certain civilian aspects of international humanitarian law, such as matters relating to civilian medical units or civilian hospitals and cultural property, are not covered by a federal legislative power.

Thus, legislation on these questions remains within the sphere of powers of the *Länder* only.

It is in relation to execution that more important issues of federalism arise. The Federal Armed Forces (*Bundeswehr*) fall into the scope of federal administrative powers, but in the field of health, culture and education, the executive powers belong to the *Länder*. “Civil defence” is regulated by the (federal) *Zivilschutz- und Katastrophenhilfegesetz* (ZSKG, Civil Protection and Disaster Assistance Act), which is generally executed by the *Länder*. However, the German Federation can coordinate operations and render assistance. To ensure full implementation of obligations under international humanitarian law all competent federal and *Länder* authorities cooperate closely.

3. What is the legal status of international customary law in your legal system? Can rules of customary international law be applied by the courts? If yes, are there specific conditions / requirements / thresholds? Does national law in any way refer to customary international law concerning armed conflicts?

According to Art. 25 GG, “general rules” of international law are part of the internal law having a rank above the level of ordinary statutes, but lower than that of the Constitution. These rules can also be directly applied by courts provided that, as in the case of treaties, their content is of a nature that permits direct application. Universal customary law is regarded as part of these general rules. The practical effect of this constitutional rule for international humanitarian law is that IHL enjoys a rank above that of ordinary statutes, as it is, at least to a large extent, part of customary international law.

In cases of doubt as to whether a norm of international law is part of the federal law, pursuant to Art. 100 para. 2 GG it is for the Federal Constitutional Court (*Bundesverfassungsgericht*) to take a binding decision on the law in question. According to settled jurisprudence of this Court, the provision in Art. 25 GG is not restricted to *ius cogens* but includes customary international law and fundamental IHL provisions in particular.

There is no specific reference in German legislation to customary international law concerning armed conflict. However, the Joint Service Regulations 15/2 International Humanitarian Law in Armed Conflicts – Manual of 1 May 2013 (in the following referred to as Manual, *Zentrale Dienstvorschrift 15/2 Humanitäres Völkerrecht in bewaffneten Konflikten – Handbuch vom 1.Mai 2013*) (see below, paras. 11-18) make such references extensively.

II. National rules relating to a specific status of persons or units under international humanitarian law; protection of objects, restrictions on methods or means of warfare

In this section, different types of national rules are referred to. First, where appropriate, the direct application of international law rules is mentioned. Secondly, relevant national statutes are reported, such as laws specifically addressing the respective questions (e.g. ZSKG) or laws belonging to the field of criminal law *Ordnungswidrigkeitengesetz* (OWiG, Administrative Offences Act). Norms below the

level of a parliamentary statute (regulations) are also taken into account. Thirdly, military rule-making, described in more detail sub III, is also presented.

4. Are there rules determining which persons have combatant status? Rules concerning the composition of the armed forces? Rules concerning combatant status for police forces?

The organisation and administration of the Federal Armed Forces is based on a number of specific provisions of the Constitution. The major concern or regulatory purpose of these provisions is the parliamentary control over the use of the Federal Armed Forces, not the questions of their status under international law. However, since the four Geneva Conventions and the Additional Protocols are ratified by Germany, the rules defining which persons have combatant status (Art. 43, 44 AP I) are capable of direct application in Germany.

According to Art. 87a para. 1 GG, the numerical strength and the general organisational structure of the Federal Armed Forces have to be expressly included in the budget. The budget is adopted as a budget law by the parliament. The administration of the Federal Armed Forces is conducted by an administrative structure of its own. Its function is to administer matters pertaining to personnel and to the immediate supply of the material requirements of the Federal Armed Forces (Art. 87b para. 1 GG). Members of this administration are not combatants.

In Germany, there are no police forces designated to become part of the Federal Armed Forces upon the outbreak of an armed conflict.

On the level of the internal rules governing the behaviour of the Federal Armed Forces, the relevant Manual essentially adopts the rules contained in Additional Protocol I. Chapter 3 of the Manual (para. 307) defines those members of the Armed Forces as combatants who may take a direct part in hostilities.

5. Are there rules concerning the protected status of civilian hospitals and medical units? In particular rules concerning the right of hospitals and medical units to be marked by the distinctive emblem? Who is entitled to display this emblem?

As explained above in 2, Germany is bound by those IHL regulations capable of direct application. Thus, civilian hospitals and medical units enjoy the protection provided under IHL.

As the functioning of (civilian) hospitals is a matter of the legislative powers of the *Länder*, there is no federal legislation concerning their status and protection under IHL. Generally, under sec. 3 of the *Gesetz zur Änderung von Vorschriften über das Deutsche Rote Kreuz vom 5. Dezember 2008* (DRKG, Act Amending the Regulations on the German Red Cross of 5 December 2008), the right of the German Red Cross to use the distinctive emblem is acknowledged. However, civilian hospitals run by the *Länder* authorities (in contrast to those run by organisations like the German Red Cross), which have been certified according to Art. 18 para. 2 GC IV, can be marked with the distinctive emblem in times of armed conflict or even in times of peace, in the latter case with special governmental permission. These permissions are based on administrative regulations [see, for example, for the Land Berlin the

Ausführungsvorschriften vom 16. Juni 1986 zur Durchführung der Artikel 18 bis 20 des IV. Genfer Abkommens vom 12. August 1949 zum Schutze von Zivilpersonen in Kriegszeiten, adopted on the basis of the 'Provisions Executing Articles 18 to 20 of Geneva Convention IV']. Furthermore, hospitals run by the German Red Cross may be marked with the distinctive emblem in times of peace and in times of armed conflict according to Arts. 13 and 21 of the Rules for the Authorisation of the Use of the Red Cross and Red Crescent Emblem through National Societies of the International Red Cross/Red Crescent Conference of 1965 (as revised by the Council of Delegates of 1991).

Furthermore, the German Red Cross agrees that the Federal Police (*Bundespolizei*), (previously named Federal Border Guard (*Bundesgrenzschutz*)) the medical service of the Federal Armed Forces, as well as the police of the *Länder*, use the distinctive emblem for marking their ambulances and ambulance services following Art. 22 of the Rules for the Authorisation of the Use of the Red Cross and Red Crescent Emblem through National Societies of the Red Cross/Red Crescent Conference under the following preconditions:

- The ambulances are only used for medical purposes and only used in times of peace,
- The medical services are provided free of charge,
- The Federal Police as well as the police of the *Länder* have to ensure impartiality and neutrality following the guiding principles of the International Red Cross and Red Crescent Movement and
- No marking of medical personnel is permitted.

6. Are there rules concerning the acquisition of the status of medical personnel protected under the Geneva Conventions and the Protocols? Who is entitled to such protection?

There is no national legislation concerning the acquisition of the status of medical personnel protected under the Conventions and the Protocols. However, as outlined in 2, international rules concerning the status of medical personnel can be directly applicable. This is the case for Art. 24, 25, 26 GC I, Art. 24, 36, 37 GC II, Art. 63 GC IV, Art. 8 lit. c, 22, 23 AP I.

The relevant internal rules of the Federal Armed Forces, the Manual (paras. 624-626), deal with the acquisition of the status of protected medical personnel and the entitlement to such protection on the basis of the Geneva Conventions and the Protocols. Medical military personnel are not combatants and shall be protected under all circumstances (para. 337 Manual). According to para. 625 Manual, protected medical personnel include:

- military or civil medical personnel of a party to the conflict,
- medical personnel assigned to civil defence organisation,
- medical personnel of the National Red Cross (Red Crescent, Red Lion and Sun) Societies and other voluntary national aid societies which are recognized and authorized by one of the parties to the conflict,
- medical personnel, medical units and transports.

Under sec. 2 para. 1 no. 1 DRKG, the German Red Cross has, as a voluntary aid society and pursuant to Art. 26 GC I and Art. 24 GC II, the task to support the medical personnel of the Federal Armed Forces.

7. Are there rules concerning the protection of civil defence units and personnel? Under which conditions may these units and personnel bear the distinctive emblem of civil defence?

“Civil defence” is regulated by the (federal) ZSKG which is generally executed by the *Länder*. However, the German Federation can coordinate operations and render assistance. The protection of civil defence units and their personnel is not explicitly mentioned in the ZSKG.

Sec. 3 para. 2 ZSKG highlights that the status of the German Red Cross and other voluntary aid organisations according to International Humanitarian Law remains unaffected by the ZSKG.

Thus, those international rules which are capable of direct application (see above 2.) are applicable and, therefore, the German Red Cross as well as organizations deployed in civil defence, their units and personnel enjoy protection according to Arts. 62 – 65 AP I. However, this protection is subject to sec. 3 para. 1 ZSKG which refers to Art. 63 GC IV and to Art. 61 AP I by stating that civil defence units and institutions must operate in accordance with these rules.

Art. 26 para. 1 ZSKG prescribes that it is in the power of the *Länder* to determine which organizations are entitled to contribute to civil defence under the ZSKG.

According to Art. 66 AP I, each party to the conflict shall endeavour to ensure that its civil defence organizations, their personnel, buildings and material are identifiable. To ensure protection, Germany has also ratified the “Regulations concerning identification” in Annex I (to Additional Protocol I) as amended on 30 November 1993 (*Gesetz vom 17. Juli 1997 zur Änderung des Anhangs I des Zusatzprotokolls I zu den Genfer Rotkreuz-Abkommen von 1949*, Federal Act of 17 July 1997 on the Amendment of Annex I to Protocol I Additional to the 1949 Geneva Conventions). Although Art. 66 para. 8 AP I demands that the High Contracting Parties take the measures necessary to supervise the display of the international distinctive emblem of civil defence and to prevent and repress any misuse thereof, there are no such provisions in German law. Sec. 125 para. 4 OWiG sanctions the improper use of emblems or names which, according to public international law, enjoy a status equal to that of the Red Cross; however, regarding its history, original purpose and the scope of the article, it cannot be argued that the distinctive emblem of civil defence falls within its protection.

8. What are the rules concerning the recognition and status of the National Red Cross/Red Crescent or other voluntary aid societies?

Until 2008, there was no national legislation for the recognition of the German Red Cross as a voluntary aid society. The recognition followed the requirements set out in Art. 26 GC I.

§ 3 Red Cross Law of 1937, which followed Art. 10 of the Geneva Convention of 1929 and recognized the German Red Cross as a voluntary aid society, ceased to be applicable after 1945. The German Red Cross then was recognised by administrative

order of the German Chancellor (Head of Government) in 1956 as a voluntary aid society. This recognition was reiterated as the National Red Cross Society of whole Germany in 1991 after the reunification of the Federal Republic of Germany and the German Democratic Republic.

Since the adoption of the of the DRKG in December 2008, the German Red Cross is formally recognized through a legislative parliamentary act and its legal status defined as the national society of the Red Cross on the territory of the Federal Republic and voluntary aid society of the German authorities in the humanitarian field (see sec. 1). Other recognized voluntary aid societies are the *Johanniter-Unfall-Hilfe e.V.* and the *Malteser Hilfsdienst e.V.* (see sec. 4).

9. What are the rules concerning the improper use / misuse of the emblem in times of peace? Is an improper use an administrative offence or a criminal act?

According to sec. 125 para. 1 of the OWiG the improper use of the emblem of the Red Cross constitutes a misdemeanour and is subject to a fine (sec. 125 para. 5 OWiG). Sec. 125 para. 2, 3 OWiG sanction the unauthorized use of the arms of the Swiss Confederation or a sign or designation constituting an imitation of either the emblem or the arms of the Swiss Confederation. Sec. 125 para. 4 OWiG sanctions the improper use of emblems or names which, according to public international law, enjoy a status equal to that of the Red Cross. Therefore, also the improper use of the Red Crescent is subject to a fine. These provisions are referred to in paras. 650 and 1523 Manual.

According to sec. 126 para. 1 OWiG, the unauthorised use of the professional uniform or professional emblem referring to the work of nursing or social welfare is also subject to a fine (sec. 126 para. 3 OWiG).

According to sec. 17 para. 1 OWiG, in the version amended by the *Gesetz zur Einführung des Euro in Rechtspflegegesetzen und in Gesetzen des Straf- und Ordnungswidrigkeitenrechts, zur Änderung der Mahnvordruckverordnungen sowie zur Änderung weiterer Gesetze* (RpflEuroEG, legislation on the introduction of the Euro in laws concerning the administration of justice and related matters), the level of the financial penalty shall be a minimum of five Euro and a maximum of one thousand Euro. The OWiG is applicable in times of peace as well as in times of war. Practical examples are the use of the emblem by organisations which are not recognised Red Cross or Red Crescent Societies, for example the Kurdish Red Crescent.

10. Is personnel engaged in relief operations specially protected? If so, how?

Neither the ZSGK nor disaster response acts of the *Länder* contain specific rules concerning either the protection of civil defence personnel and units or the protection of relief personnel. However, certain provisions of the Geneva Conventions and the Additional Protocols providing such protection, in particular Art.

143 Geneva Convention IV and Arts. 62 and 71 Additional Protocol I, are part of German law according to Art. 59 para. 2 of the GG and directly applicable (see above 2).

III. Military rule-making

11. Are there military manuals or other administrative rules relating to the behaviour of the military in case of armed conflicts?

Rules for the behaviour of the military in case of armed conflicts are laid down in the comprehensive Manual. Additional material (scripts, slides, casebooks, films etc.) is available for training purposes.

In 2012 the Federal Foreign Office, the Federal Ministry of Defence and the German Red Cross have jointly published the second edition English-German edition of "Documents on International Humanitarian Law" (xxvi. 1154 pp. with indices in both languages: ISBN 978-3-89665-564-6). This volume is widely distributed and used in national and international cooperation.

11.a Are there specific rules for non-international armed conflicts?

In non-international armed conflicts all parties are bound, as a minimum, by Art. 3 common to the 1949 Geneva Conventions and, if they are States Parties to it, also by the 1977 Additional Protocol II.

Pursuant to Article 1, as amended in 2001, of the 1980 Conventional Weapons Convention ("CCW"), the Convention and its annexed Protocols—*i.e.* the 1980 Protocol I on Non-Detectable Fragments, the 1980 Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, the 1980 Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons and the 1995 Protocol IV on blinding Laser Weapons—shall apply to situations referred to in Article 3 common to the 1949 Geneva Conventions. Further, the 1996 Amended Protocol II and the 2003 Protocol V on Explosive Remnants of War to the 1980 CCW expressly apply in non-international armed conflicts.

It is arguable, whether the provisions of the 1997 Anti-Personnel Mines Convention constitute customary international law and thus might be considered applicable in non-international armed conflicts; according to its wording, the 1997 Convention is not directly applicable in these conflicts.

Furthermore, customary international humanitarian law contains several rules on means and methods of fighting as well as on protection which are applicable in international as well as non-international armed conflict.

12. What is the formal status of such rules? A government regulation, internal administrative rules without any external effect, or just information?

The above mentioned Manual and soldier's cards based on it have the formal status of a military order issued by the Federal German Ministry of Defence. They are of binding character and have to be carried out completely, conscientiously and immediately. As to the status of the IHL treaties, conventions etc. contained in the textbook, see above 2.

13. How do such rules deal with the following specific questions dealt with under II. above?

- Principle of proportionality

- Status (see above 2 and section II.)
- Distinction between civilian objects and military objects
- Protection of the civilian population against indiscriminate attacks
- Prohibited means and methods of warfare
- Objects enjoying specially protected status; in particular the natural environment

The primary source of rules dealing with the mentioned problems is the treaty-based and customary international law itself. The Manual intends to give the necessary interpretation. In detail:

- Principle of proportionality

As one of the basic elements of IHL the principle of proportionality penetrates all fields of military activity (e.g. choice of means and methods of warfare, protection of civilians and civil objects etc.). The soldier's card, summing up the principle of proportionality, reads as follows:

“Military objects shall not be engaged if the loss of civilian life and/or damage to civilian objects would be excessive in relation to the military advantage anticipated. The right of the Federal Armed Forces to choose means and methods of warfare is not unlimited. Only that amount and kind of force shall be used that is necessary to defeat the enemy. An enemy who has no longer means of defence or surrenders shall no longer be made the object of attack. Considerations of “military necessity” shall on no account justify a departure from the rules of international humanitarian law.”

- Status (see above section II.)

The Manual (para. 307 et seqq) contains a chapter dealing with “Armed forces, combatants and combatant status”:

Combatants are defined as persons who may take a direct part in the hostilities. The main group are the organised armed forces, groups and units, including militias and voluntary corps integrated. Further detailed information is given about the status of law enforcement agencies, of combatants in occupied territories and in wars of national liberation who, owing to the nature of the hostilities, cannot distinguish themselves from the civilian population, of levée en masse and of persons accompanying the armed forces. It is also mentioned that if combatants get detained, they do enjoy the prisoner of war status.

- Distinction between civilian objects and military objects

The permanent distinction between civilian objects and military objects is regarded as one of the core principles of IHL. The definition of “military objectives” relies on the definition given by Art. 52 Additional Protocol I. The relevant provisions in the Manual (paras. 401 et seqq., 1118, 1153, 1156–1157) state:

Attacks, i.e. any act of violence against the adversary, whether in offence or in defence, shall be limited exclusively to military objectives (para. 406 Manual). Civilian objects shall not be attacked. All objects which are not military objectives are civilian objects. (para. 408 Manual). An objective which is normally dedicated to civil purposes shall, in case of doubt, be assumed not to be used in a way to make an effective contribution to military action, and therefore be treated as a civilian object (para. 409 Manual).

The presence or movements of civilians shall not be misused to prevent military operations from being directed against certain buildings or areas. Such a misuse not only constitutes a war crime, moreover it does in fact not prohibit military attacks on those objectives (para. 415 Manual).

Attacks against military objectives shall be conducted with maximum precautions to protect the civilian population. Attacks which may affect the civilian population shall be preceded by an effective warning, unless circumstances do not permit (para. 416 Manual). These rules shall also apply to attacks by missiles and remotely controlled weapons (paras. 1118, 1153, 1156–1157 Manual).

- Protection of the civilian population against indiscriminate attacks

The protection of the civilian population enjoys high priority. The relevant provision of the Manual (para. 403) states:

The prohibition of indiscriminate attacks contains that neither the civilian population as such nor individuals must be attacked. Parties to the conflict may only direct their attacks against military targets. To the extent feasible, attacks against military objectives must be conducted with maximum care for the civilian population and individuals. Attacks which may affect the civilian population shall be preceded by an effective warning, unless circumstances do not permit such a warning. Attacks which do not distinguish between combatants or persons taking a direct part in hostilities and the not-participating civilian population or between civilian objects and military objectives, thus, are prohibited.

Considered as indiscriminate attacks are:

- Attacks which are not directed at a specific military objective,
- Attacks which employ a method or means of combat which cannot be directed at a specific military objective,
- Attacks which employ a method or means of combat the effects of which cannot be limited to the military objective,
- Attacks by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and
- Attacks which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

Indiscriminate attacks are punishable as war crimes.

The wording of the Manual as to the definition and prohibition of indiscriminate attacks closely follows the wording of Art. 51 para. 4 and para. 5 Additional Protocol I.

- Prohibited means and methods of warfare

The Manual (paras. 401, 437 - 490 et seqq.) contains a chapter dealing with “Methods and Means of Combat”. The core provisions read:

“The right to the parties to an armed conflict to choose means and methods of warfare is not unlimited. It is particularly prohibited to employ means or methods which are intended or of a nature:

- to cause superfluous injury or unnecessary suffering;

- to cause damage at military objectives and civilians or civilian objects without distinction;
- or to cause widespread, long-term and severe damage to the natural environment.”(para. 401 Manual)

In the test, development, procurement or initiation of new weapons, means or methods of combat, it shall be determined, whether these weapons, means and methods are compatible with the rules of international law. In particular, their use must – at all times or under certain circumstances – be compatible with the rules of international treaty law and customary international law alike. The agency responsible for this assessment in the Federal Armed Forces is the Ministry of Defence (Section International Legal Affairs) (para. 405 Manual).

Apart from these principles all relevant international instruments which ban or limit certain weapons are described as well as different aspects of “methods of warfare” (e.g. protection of civilian objects, protection of works and installations containing dangerous forces, ruses of war and prohibition of perfidy, psychological warfare and reprisals).

- Objects enjoying specially protected status; in particular the natural environment

The Manual (para. 418 et seqq.) describes in detail the protection of works and installations containing dangerous forces (namely dams, dykes and nuclear electrical generating stations) according to Art. 56 para. 1 Additional Protocol I, the protection of non-defended localities, safety zones, neutralised zones, objects indispensable to the survival of the civilian population, cultural property and civil defence organisations. The soldier’s card makes the soldiers familiar with the relevant distinctive emblems.

The rules with regard to the protection of the natural environment rely on Art. 35 para. 3, Art. 55 para. 1 Additional Protocol I and the 1977 ENMOD Convention. The Manual (para. 436) defines the term “widespread, long-term and severe damage to the natural environment” as follows:

- “widespread”: encompassing an area of several hundreds square kilometres;
- “long-term”: lasting for a period of months, approximately one season
- “severe damage”: inflicting serious or grave disruption or harm to human life, natural and economic resources or other goods.

Damage to the natural environment by means of warfare and severe manipulation of the environment as a weapon are likewise prohibited.

IV. Protection of cultural property

14. In addition to question 2, do specific problems relating to cultural property exist?

None.

15. How are cultural property sites enjoying protection under IHL determined and identified? Are they marked with the distinctive emblem? Does a national register of protected cultural property sites exist?

In Germany, the protection of cultural property is one of the elements of civil defence according to sec. 1 para. 2 no. 7 ZSKG. Regarding measures for the protection of cultural property, sec. 25 ZSKG refers to the *Gesetz zur Ausführung der Konvention vom 14. Mai 1954 zum Schutz von Kulturgut bei bewaffneten Konflikten* (KultgSchKonvAG, Federal Act Granting Assent to the Convention of 14 May 1954 for the Protection of Cultural Property in Times of Armed Conflict) of 11 April 1967, as amended by a federal act of 1971.

Despite the exclusive legislative and executive powers of the *Länder* in the field of cultural issues, the responsibility regarding the protection of cultural property, to the extent it constitutes a matter of civil defence, is assigned to the Federal Ministry of the Interior (*Bundesministerium des Inneren*) in general and to the Federal Office of Civil Protection and Disaster Assistance (*Bundesamt für Bevölkerungsschutz und Katastrophenschutz*) in particular. The office is especially responsible for the marking of immovable cultural property, the photogrammetric record of these objects and the construction of refuge centres for such property.

In general, cultural property should be marked with the distinctive emblem according to Art. 16 and Art. 17 of the 1954 Hague Convention. The *Länder* execute such marking and report marked immovable cultural property objects in Germany to the Federal Office of Civil Protection and Disaster Assistance (buildings, architectural monuments, ensembles, etc.). A detailed report on the national implementation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols (1954 and 1999) is contained in the reply submitted by the Federal Government on September 16, 2013, to UNESCO (see Annex).

In sec. I:3.4–I:3.5 of this report, the Federal Government stated: “From the Federal Government’s perspective, use of the emblem would make the cultural property bearing it recognizable as such, thus ensuring transparency for the general public and for potential parties to an armed conflict. Furthermore, it would help foster general awareness of the value of, and the need to, protect the objects bearing the emblem (mandate from the 1999 Second Protocol). On the other hand, this recognizability could pose risks particularly in the event of an armed conflict. Use of the emblem could put cultural property at greater risk if it then becomes a deliberate target. In view of this, several *Länder*, including Hamburg and Brandenburg, have deliberately decided against using the emblem. Hesse and Rhineland-Palatinate also have reservations, not least due to recent incidents (in Mostar, Dubrovnik, Afghanistan, Mali), which they believe justify their skepticism. The Association of Regional Monument Conservationists in the Federal Republic of Germany [*Vereinigung der Landesdenkmalpfleger*] shares this view, as it informed the Federal Government in February 2013.”

The Federal Office of Civil Protection and Disaster Assistance has recorded all marked objects in a central data base. This list is constantly being communicated to the Federal Ministry of Defence which includes the recorded immovable cultural property objects in the operative maps; these maps are available to all military units upon request. The Federal Office of Civil Protection and Disaster Assistance published this list online (http://www.kulturgutschutz-deutschland.de/DE/3_Datenbank/3_datenbank_node.html). The aim is to make the list primarily available to civil protection personnel but it will also be open to the public.

16. Does your national legal and administrative system provide for measures regarding evacuation?

With regard to movable cultural property objects preservation, micro-filming is given the priority over evacuation. A comprehensive evacuation of the archive property would be impossible because adequate refuge centres are not sufficiently available and preservation microfilming is the only technically and economically feasible alternative. Preventive measures for safeguarding cultural property in Germany concentrate on recording archive and library property. The “Barbarastollen” in Oberried near Freiburg im Breisgau (Black Forest) has been enrolled (22 April 1978) in the International Register of Cultural Property under Special Protection according to Art. 8 para. 2 and para. 6 of the 1954 Hague Convention (the only such object in Germany). Since 1961 it has served as Central Refuge for the protection of micro-filmed archive and library property in accordance with Art. 2 of the 1954 Hague Convention. It is marked with the distinctive emblem repeated three times.

For the time being, only archive property placed on the highest level of urgency enjoys preservation microfilming, which is archive property that is original and important for structural context in Germany and constitutes consistent records. Presently, preservation microfilming of about 65% of the records of the Federation and the *Länder* has been accomplished. Private, municipal and ecclesiastical archives are only exceptionally included. GDR preserved micro-films have been duplicated until 2003. The micro-filming is supposed to be expanded on library property on the basis of an urgency classification in the near future.

Evacuation until recently could only be implemented by civil protection personnel. The Federal Office of Civil Protection and Disaster Assistances is thus working on establishing a task force, comprised of cultural property specialists. In case of an emergency, these specialists should assist and advise the civil protection personnel when evacuating.

17. Are there any criminal or disciplinary sanctions for the violation of such protection or for the improper use of the distinctive emblem?

Criminal sanctions relating to the protection of cultural property are part of the criminal regime adopted in the Federal Republic of Germany for the repression of breaches of IHL described sub 18. Criminal sanctions relating to the destruction of cultural property are contained of the provision relating to the protection of civilian objects in general. According to the *Völkerstrafgesetzbuch* (VStGB, Code of Crimes against International Law), attacks on civilian objects constitute the war crime of “use of prohibited methods of warfare” (Article 11). Art. 11 para. 1 No. 2 VStGB particularly states that any military attack, be it in an international or in a non-international armed conflict, against buildings of artistic or scientific importance or against historical monuments that are protected by International Humanitarian Law constitutes a war crime, the penalty being imprisonment not less than three years. The regulation thus also takes account of Art. 15 of the 1999 Second Protocol of the Hague Convention on the Protection of Cultural Property, in its core valid under customary law, which makes provision for the criminal liability for attacks on cultural property generally and places “cultural property under enhanced protection”. However, according to the legislative grounds of this provision, the perpetrator must be positively aware of the true character of the objects in question and not just consider as possible that the

buildings etc. are not military buildings but protected civilian objects, and he/she must intend to hit them.

In addition, certain crimes punishable under the general *Strafgesetzbuch* (StGB, Criminal Code) also apply to the destruction of cultural property irrespective of whether such offences are committed by military personnel or civilian persons. The destruction of cultural property could be qualified as criminal damage or damage to objects of public interest (*Sachbeschädigung*, sec. 303 and *gemeinschädliche Sachbeschädigung*, sec. 304 StGB, see Annex 4) and destruction of buildings (*Zerstörung von Bauwerken*, sec. 305). Penalties are prison up to three years or a monetary fine (sec. 304), prison up to five years or a fine (sec. 305) and prison up to two years or a fine (sec. 303), respectively. The offences of arson and severe arson (*Brandstiftung*, sec. 306 and *schwere Brandstiftung*, sec. 306a StGB, see Annex 4) and causing of explosions (*Herbeiführen einer Sprengstoffexplosion*, sec. 308) may also be relevant. Penalties are prison between one and ten years (sec. 306; in less severe cases between six months and five years), or prison sentence not below one year (sec. 306a and sec. 308), respectively.

Sec. 242 StGB prohibits theft. Sec. 243 StGB sanctions aggravated theft, i.e. especially serious cases of theft that typically occur if the offender steals property which is dedicated to religious worship or used for religious veneration from a church or other building or space used for the practice of religion or property of significance for science, art or history or for technical development which is located in a generally accessible collection or is publicly exhibited.

According to section 9 para. 1 VStGB, punishment is imposed on anyone who in connection with international or non-international armed conflict loots or, without being forced to by the requirements of the armed conflict, otherwise takes possession of property of the adverse party.

Pursuant to sec. 33 *Wehrstrafgesetz* [WehrStG; Military Criminal Code], punishment is imposed on anyone who in abuse of their command responsibility or official position has ordered a subordinate to commit an unlawful act, which is then committed by the latter. Unsuccessful incitement to commit an unlawful act is also punishable in accordance with sec. 34 WehrStG.

Sec. 4 para. 1 VStGB stipulates that a military commander who omits to prevent his/her subordinate from committing an offence under the Code is to be punished as a perpetrator of the offence committed by the subordinate. A person who exercises *de facto* command or leadership responsibility and supervision in a unit is deemed equivalent to a military commander here in accordance with sec. 4 para. 2 VStGB. Moreover, sec. 13 para. 1 VStGB stipulates that a military commander who intentionally or negligently omits to properly supervise a subordinate under his/her command or *de facto* supervision is to be punished for violation of the duty of supervision if the subordinate commits an offence under the Code, where the imminent commission of such an offence was discernible to the commander and he/she could have prevented it.

According to sec. 23 *Gesetz über die Rechtsstellung der Soldaten* [SG; Soldiers Act], a soldier commits a disciplinary offence if he/she breaches any of his duties. Sec. 10 para. 4 SG proscribes giving an order that violates rules of international law, including the 1954 Hague Convention (see *infra* 19). Sec. 11 para. 2 SG forbids soldiers to follow orders which constitute a crime under domestic law, such as the above mentioned offences. Giving an order in violation of international law or following an order although it constitutes a crime is therefore a breach of duty. Such a breach can

be punished with simple disciplinary measures ordered by the superior, e.g. reprimand, fine or disciplinary arrest (sec. 22 *Wehrdisziplinarordnung* [WDO; Military Disciplinary Code]), or disciplinary measures ordered by a court, e.g. a cut in salary, demotion or discharge from service (sec. 58 WDO).

There is no special provision under German Law regarding the improper use of the distinctive emblem for the protection of cultural property.

V. Criminal and disciplinary sanctions

18. What would be the basis for the prosecution and punishment of war crimes/grave breaches of the Geneva Conventions? General criminal law, a provision referring to violations of the laws of war in a general way? Specific legislation relating to specific crimes committed in connection with an armed conflict? Are the specific questions (cf. section III. para. 13 above) of

- Principle of proportionality
- Status
- Distinction between civilian objects and military objectives
- Protection of the civilian population against indiscriminate attacks
- Prohibited means and methods of warfare
- Objects enjoying specially protected status; In particular the natural environment comprised?

After ratification of the Rome Statute of the International Criminal Court (ICC Statute), on 26 June 2002 German Parliament adopted the VStGB, i.e. a federal act providing for the punishment of violations of the laws of war, in particular the grave breaches of the Conventions, genocide and crimes against humanity. The conceptual work for the Draft of the VStGB had been well advanced when the preparations for a further development of IHL had started, which had been to become the Additional Protocols of 1977. In this situation, the work on the VStGB had been suspended in order to be able to fully reflect any new development in that legislation. During the debate on the ratification of the Protocols, and after ratification had finally been achieved, that work on the implementation of IHL had, however, not been resumed. The Protocols had apparently been ratified on the (to say the least: problematic) assumption that general criminal law was sufficient to enable German courts to fulfil the obligation which the Conventions and the Protocols impose upon Germany to prosecute and punish grave breaches. That attitude had changed, however, when the ratification of the ICC Statute had been prepared. After a thorough legal debate, German Parliament adopted the *Gesetz zur Einführung des Völkerstrafgesetzbuches vom 26. Juni 2002* (Act to Introduce the Code of Crimes against International Law on 26 June 2002). Article 1 of this act comprises the VStGB. According to Article 8 of the Act, it entered into force on 30 June 2002. It is one of the declared purposes of the VStGB to enable German courts to punish any behaviour which is also punishable under the Rome Statute of the ICC.

After signing on 10 Dec. 1998, Germany ratified the *IStGH-Statut* (Rome Statute) pursuant to the assent of the federal parliament, having force of law (see above 2), on 8 Dec. 2000. The Rome Statute has thereby been incorporated into the domestic German legal system. On Dec. 2, 2000, German Parliament amended Art. 16 para. 2 GG enabling German authorities to hand over German nationals to

international courts. On 21 June 2002, German parliament adopted the *Gesetz über Zusammenarbeit mit dem Internationalen Strafgerichtshof* (IStGH-Gesetz, Law on Cooperation with the International Criminal Court). Its provisions refer in particular to the co-operation between German authorities and the ICC, extradition of persons to the ICC, execution of ICC decisions, legal assistance to the ICC and its Prosecutor and permission of procedural measures of ICC authorities on German territory. On 3 June 2013 Germany accepted the Amendment to article 8 of the Rome Statute of the International Criminal Court and the Amendments on the crime of aggression to the Rome Statute of the International Criminal Court.

VStGB does not introduce the provisions laid down in the Rome Statute literally into German law but in a way adapted to German requirements of legal clarity and certainty (Art. 103 para. 2 GG). Although there is always the risk that this autonomous definition, inadvertently, is not exactly congruous to the international norm, this difficulty can be overcome by an interpretation which takes due account of the international norm.

The provision on genocide (sec. 6 VStGB) is formulated on the basis of Article II of the Genocide Convention. Crimes against humanity (sec. 7 VStGB) are only those committed “within the framework of a widespread or systematic attack directed against any civilian population”, thus repeating the wording of Art. 7 Rome Statute. War crimes (sec. 8 VStGB) are those committed “in connection with an international or non-international armed conflict”. This definition of the scope of application of the term “war crime” is consistent with the German approach (see above 11. a)), not to impose less stringent restraints on behaviour in the situations of a non-international armed conflict than in that of an international one. It goes beyond Art. 8 of the Rome Statute, but is in conformity with the interpretation the ICTY has given to Art. 3 of its Statute.

This question is not the only one where the VStGB goes beyond the Rome Statute. In contrast to the latter, it includes several prohibitions not included in the Rome Statute, in particular grave breaches defined in Additional Protocol I of 1977 and the 1999 Second Protocol Additional to the Hague Convention on the Protection of Cultural Property.

As to the specific points raised in the question, the provisions of the VStGB contain the following:

- Regarding the principle of proportionality, the German VStGB stipulates as war crime:
 - To carry out an attack by military means definitely anticipating that the attack will cause death or injury to civilians or damage to civilian objects on a scale out of proportion to the concrete and direct overall military advantage anticipated (sec. 11, para.1, no. 3 VStGB).
 - This clearly is inspired by the wording of the relevant provision in Art. 51 para. 5 lit. b) Protocol II.
- The code does not contain any general provision concerning the status of persons or units. In the provision on “War Crimes against Persons” (sec. 8), the term “person who is to be protected under international humanitarian law” is used. That term is defined by reference to the respective norms of international law (sec. 8 para. 6). The notion covers the following categories:

- in an international armed conflict: persons protected for the purpose of the Geneva Conventions and Additional Protocol I to the Geneva Conventions, namely the wounded and sick, shipwrecked, prisoners of war and civilians;
 - in an armed conflict not of an international character: the wounded, sick and shipwrecked as well as persons taking no direct part in hostilities who are in the power of the adverse party;
 - in an international armed conflict and in an armed conflict not of an international character: members of the armed forces and fighters of the adverse party, respectively, both of whom have laid down their arms or have no other means of defence.
- The principle of distinction is sanctioned by the provision on “war crimes consisting in the use of prohibited methods of warfare” (sec. 11 VStGB). The prohibited acts include the following:
 - To direct an attack by military means against the civilian population as such or against individual civilians not taking direct part in the hostilities (sec.11, para.1, no.1 VStGB);
 - To direct an attack by military means against civilian objects as long as these objects are protected as such by international humanitarian law, namely buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the wounded and sick are collected, or against undefended towns, villages, dwellings or buildings, or demilitarised zones as well as works and installations containing dangerous forces (sec. 11, para. 1, no. 2 VStGB);

The wording of this provision is obviously inspired both by Additional Protocol I (Art. 51 para. 3) and the Hague Regulations (Arts. 25 and 27). It is based on the assumption that a number of norms protecting specific objects are an expression or a variation of the general protection of civilian objects.

In this perspective, the provision also takes account of Art. 15 of the 1999 Second Protocol to the Hague Convention for the Protection of Cultural Property, at least as far as its core content is concerned, as part of customary law.

- With regard to the subjective element of the crime, under the VStGB – in so far broader than Art. 30 Rome-Statute – *dolus eventualis* is generally sufficient for the commission of the crime. However, *dolus eventualis* is not sufficient but intent or *dolus directus* are required for those offences which imply an intentional commission as for example through the words “directed against the civilian population as such” in sec. 11 para. 1 no. 1 VStGB.
- As to prohibited means of warfare, the Code follows a traditional and conventional approach. The means the use of which constitutes a war crime are poison and poisoned weapons (Hague Regulations, Art. 23; sec. 12, para.1, no. 1 VStGB), expanding bullets (Hague Declaration IV 3; sec. 12, para. 1, no. 3 VStGB) as well as chemical and biological weapons (Geneva Protocol of 1925, sec. 12, para. 1, no. 2 VStGB).
- As to the protection of the environment, the Code follows the approach of the Rome Statute which combines the rule of the protection of the environment

(Arts. 35 para. 3, 55 Additional Protocol I) with the proportionality principle. It is defined as a war crime

- To carry out by military means an attack definitely anticipating that the attack will cause widespread, long-term and severe damage to the natural environment on a scale out of proportion to the concrete and direct overall military advantage anticipated. (sec. 11, para. 1 no. 3 VStGB)
- Provisions regarding objects enjoying specially protected status are included in the above mentioned sections (works and installations containing dangerous forces (sec. 11, para. 1, no. 2 VStGB), cultural properties are implicitly included in sec.11 para. 1 no. 2 VStGB and the protection of the environment is found in sec. 11 para. 1 no. 3 VStGB.

19. Is the respect of international humanitarian law an official duty the violation of which can entail disciplinary sanctions?

The elementary duties of all civil servants include loyalty to the Constitution; in particular the executive is bound by law and justice according to Art. 20 para. 3 GG. Part of this loyalty is the respect for human rights which are guaranteed by the GG. Furthermore, insofar as international humanitarian law is part of German law on the basis either of Art. 59 para. 2 or Art. 25 GG (see above), it binds all public servants. This also applies to every single soldier. A breach of this law constitutes, thus, a breach of service duties.

Respect of international humanitarian law also belongs to the official duties enshrined in the catalogue of soldier's duties and rights in Sections 6-36 SG. Section 10 para. 4 reads:

“The superior may give orders only for official purposes and only in conformity with the rules of international law, the laws [of the State], and the service regulations.”

The corresponding rule for subordinates (sec. 11 para. 2) forbids obeying an order leading to a violation of criminal law. This includes the prohibition to obey orders constituting grave breaches of international humanitarian law. According to Art. 23 para. 1 SG, any violation committed culpably by soldiers constitutes a breach of duty.

According to sec. 15 para. 1 *Wehrdisziplinarordnung* (WDO, Military Discipline Act) breaches of duty (sec. 23 SG) may be sanctioned – if committed with intent and knowledge or by negligence – by simple disciplinary measures (*einfache Disziplinarmaßnahmen*) to be taken by the disciplinary superior (sec. 22 WDO) or by court disciplinary measures (*gerichtliche Disziplinarmaßnahmen*) to be taken by a military service court (*Truppendienstgericht* – Art. 68 et seq. WDO), and the Federal Administrative Court (Art. 68, 80 WDO).

Simple disciplinary measures are defined in sec. 22 et seqq. WDO, court disciplinary measures in sec. 58 et seqq.

20. What are the conditions for the extradition of a person, who is accused of having committed war crimes, to another State? Is it possible to transfer such a person to an international criminal court?

Pursuant to the *Gesetz über internationale Rechtshilfe in Strafsachen* (IRG, Act on International Legal Assistance in Criminal Matters) of 23 Dec. 1982, last amended by

the *Gesetz zur Umsetzung des Rahmenbeschlusses über den Europäischen Haftbefehl und die Übergabeverfahren zwischen den Mitgliedstaaten der Europäischen Union* (EuHbG, European Warrant Act) of 20 July 2006 the Federal Republic of Germany can extradite persons accused of or convicted for crimes in another country to the relevant requesting extradition (sec. 2 para. 1 IRG), subject to certain conditions (in particular sec. 3-12 IRG).

However, dual criminality is no longer a requirement for extradition between member states of the European Union in respect of certain major offences which are listed in Article 2 of EuHbG of 2002 (EU Council Framework Decision 2002/584/JHA of 13 June 2002) such as a murder committed abroad, terrorism, illicit trafficking in weapons, munitions and explosives and crimes within the jurisdiction of the International Criminal Court.

If the act for which extradition is requested is subject to death penalty according to the law of the requesting state, the extradition is permitted only if the requesting state gives assurance that the death penalty will not be pronounced or executed (sec. 8 IRG). Persons accused of war crimes may also be handed over to an international criminal court (sec. 63a IRG).

In its amended version from the year 2000, Article 16 para. 2 GG states that „no German may be extradited to a foreign country. A different regulation to cover extradition to a Member State of the European Union or to an international court of law may be laid down by law, provided that constitutional principles are observed.“ A different regulation on this note is the above-mentioned EuHbG. The act is based on the above mentioned decision taken by the Council of the European Union on 13 June 2002 which requires member states to extradite also their own nationals to other member states for criminal prosecution. In a ruling handed down in July 2005, the German Constitutional Court declared a first version of the EuHbG of the Federal Republic unconstitutional and repealed it. The amended bill from June 2006 takes into account the objections raised by the Court and currently applicable.

According to the *Gesetz über die Zusammenarbeit mit dem Internationalen Strafgerichtshof für das ehemalige Jugoslawien* (Jugoslawien-Strafgerichtshof-Gesetz, Law on the Co-operation with the International Criminal Tribunal for Former Yugoslavia) of 13 April 1995, non-German nationals can be transferred to the ICTY by German authorities (sec. 3 of the Act). In order to implement obligations resulting from the Statute of the International Criminal Court, a law on its execution was adopted by the German Parliament on 21 June 2002. In this law on the execution of the ICC-Statute the IStGH-Gesetz was comprised. The IStGH-Gesetz on cooperation provides, inter alia, for the extradition of persons (sections 2 ff.). It entered into force on 1 July 2002. With regard to German nationals, Art. 16 para. 2 GG provides that they may also be handed over to international courts.

VI. Dissemination

21. Which institutions are involved in dissemination?

Effective implementation depends upon dissemination of international humanitarian law. It is the necessary tool for education and furthering a greater acceptance of the principles of international humanitarian law as an achievement of the social and cultural development of mankind. Observance of international humanitarian law, therefore, can only be expected if all authorities, the Federal Armed Forces and the general public are made familiar with its contents. Being a State Party to the

1949 Geneva Conventions and the 1977 Additional Protocols thereto, the Federal Republic of Germany is obliged to disseminate the provisions of these treaties as widely as possible (Art. 47 GC I, Art. 48 GC II, Art. 127 para. I GC III, Art. 144 para. I GC IV, Art. 83 para. I AP I and Art. 19 AP II).

First of all, dissemination of international humanitarian law relates to the Federal Armed Forces. The Federal Armed Forces provide a widespread system of disseminating international humanitarian law. According to Art. 33 para. 2 of the SG, all soldiers of the Federal Armed Forces have to receive instruction concerning their rights and duties under the international law in times of peace and war (paras. 1502–1503 in conjunction with paras. 153–155 Manual). The principles of international humanitarian law are taught to soldiers of all ranks, and especially to those who are going to serve in international missions abroad. This instruction is intended not only to disseminate knowledge, but also and primarily to develop an awareness of what is right and what is wrong in every situation. The general principles and essential features of IHL are an integral part of the soldiers' basic training. The knowledge is deepened in the course of the yearly training programme. The instruction is given in the military units by senior officers. Instruction, lectures and training of IHL are also part of the different military courses which are elements of the qualification to become a military superior. They are adapted to the respective level of qualification (NCO, Officer, Staff Officer, General Staff Officer). The instruction is given by law teachers (most of them experienced former legal advisers) of the different Federal Armed Forces schools and academies. Finally, the Centre for Leadership Development and Civic Education (*Zentrum Innere Führung*) in Koblenz offers different specialised courses on IHL for members of the legal branch and for staff officers.

In addition to the Federal Armed Forces, the voluntary aid societies are traditionally involved in disseminating international humanitarian law in Germany (see for example Art. 1 para. 2 and Art. 2 of the Statute of the German Red Cross). To begin with the German Red Cross, this society has a longstanding expertise in this field. The German Red Cross, thus, provides a wide range of information not only to its volunteer and staff members, but also to the general public. The dissemination of international humanitarian law is laid down as the first statutory task of the German Red Cross. To fulfil its duty, the society set up a system of dissemination officers at all levels. Together with the Federal Ministry of Defence and the Institute for International Law of Peace and Armed Conflict (*Institut für Friedenssicherungsrecht und Humanitäres Völkerrecht der Ruhr-Universität Bochum*, IFHV) and in addition to joint dissemination activities, finally, the society regularly organises a joint conference in order to strengthen the dialogue between the legal advisers of the Federal Armed Forces and the dissemination officers of the German Red Cross. In cooperation with the IFHV, the German Red Cross publishes quarterly a journal on humanitarian law (*Humanitäres Völkerrecht Informationsschriften*) to support these advisors and dissemination officers. On the bilingual, English-German, publication “Dokumente zum humanitären Völkerrecht | Documents on International Humanitarian Law” (second edition; ISBN 978-3-89665-564-6), reference is made to 11 *supra*.

According to the federal structure of the German Red Cross, each component association and within each component association each level has its own body being responsible for co-ordination and dissemination in order to facilitate and improve implementation of IHL. This system comprises the Volunteer Legal Advisor to the Headquarter (on the federal level, *Bundskonventionsbeauftragter*), nineteen Volunteer Legal Advisors on the level of the component associations

(*Landeskonventionsbeauftragte*), and about 300 Volunteer Legal Advisors (dissemination officers) at the local level (*Kreis- und Bezirkskonventionsbeauftragte*):

- The Volunteer Legal Advisor to the Headquarter is a high-ranking public international lawyer, who
 - advises the Headquarter of German Red Cross and departments of the Federal government in IHL,
 - co-ordinates and supports the work of the 19 Volunteer Legal Advisors at the component association level,
 - disseminates the positions of the German Red Cross on IHL at the national and international level.
- The 19 Volunteer Legal Advisors at the level of component associations are lawyers or of an equal qualification, who
 - advise the component association of the German Red Cross,
 - co-ordinate and support the Volunteer Legal Advisors at the local level by organising seminars,
 - co-ordinate with administrative and scientific institutions involved in humanitarian law, teaching especially young lawyers and members of the German Red Cross in IHL.
- The Volunteer Legal Advisors at the local level
 - advise the local level of the German Red Cross,
 - secure education of active Red Cross Members,
 - each personnel involved in civil defence, e.g. medical personnel.

In addition to the German Red Cross, the *Johanniter-Unfall-Hilfe* also takes care of disseminating the principles of international humanitarian law. To fulfil this task, the *Johanniter-Unfall-Hilfe*, being the largest entity of the German Order of St. John, has established the position of a dissemination officer on the federal and some regional levels and has organised several seminars and conferences so far. When the national entities of the Order of St. John in Germany, the Netherlands, Sweden and the United Kingdom agreed to co-operate under the name of Johanniter International in 2001, the representatives also had in mind strengthening the dissemination of humanitarian principles.

In addition to the voluntary aid societies, the universities take part in the dissemination of international humanitarian law in Germany. However, only a few universities play an active role in disseminating humanitarian principles. Most German universities do not teach special courses in international humanitarian law. The best-known institution for the teaching of and research on international humanitarian law in Germany is the IFHV. The IFHV's twofold and comprehensive objective of dealing with questions of both the maintenance of peace and armed conflict takes into account the growing relationship between these areas of international relations which has appeared in recent years both *in vitro et in vivo*. Moreover, the institute functions as a consulting body of the German Red Cross and its dissemination officers. It takes part in providing material for the instruction of staff members in the field of international humanitarian law and in organising seminars and conferences. The Max Planck Institute for Comparative Public Law and International Law in Heidelberg has also done important research in the field of IHL.

Furthermore, the *Europa-Universität Viadrina* offers a LLM in “International Human Rights and Humanitarian Law”.

The Federal Foreign Office as well as the Federal Ministry of the Interior, in particular its governmental disaster relief organisation (*Technisches Hilfswerk*), its Federal Office of Civil Protection and Disaster Assistance and its Academy for Crisis Management, Emergency Planning and Civil Protection (*Akademie für Krisenmanagement Notfallplanung und Zivilschutz*), are also involved in dissemination activities. These institutions undertake certain dissemination activities, especially in the context of the protection of cultural property.

Since January 2004, the Federal Ministry of Defence irregularly releases a newsletter called “Information on International Law”. These newsletters appear in the intranet of the Federal Armed Forces and the intranet of a task force which is concerned with dissemination of International Humanitarian Law.

With the development of the regime of international criminal law, the establishment of the International Criminal Court in 2002 and the subsequent adoption of the VStGB, there has been a renewed interest in the principles of international humanitarian law. Armed conflicts are still characterised by violations of international humanitarian law and, therefore, demand its enforcement. In this regard, there is no dogmatic separation between international law and criminal law. A still small but growing number of experts is dealing with international criminal legal matters in Germany. Due to the increasing emphasis which the civil society lays on the investigation and prosecution of grave breaches of international humanitarian law, it must be clear that this development can be a chance for a better dissemination and, therefore, a better implementation of international humanitarian law.

22. Are specific dissemination practices for specific target groups (armed forces, civilian administration, voluntary aid societies, students at various levels in various fields, the population at large, civil defence organisations, journalists, medical personnel, religious personnel) identified?

The German Red Cross is preparing young lawyers in international humanitarian law since the 1950s by organising seminars and conferences. The society has, for instance, established a series of periodical conferences on the regional level. In addition, starting in 1993, the German Red Cross, together with the International Committee of the Red Cross (ICRC) and the IFHV, has organised a summer course on IHL aiming at the target group of law students and young lawyers from all parts of Germany and some other European countries, which, in August 2013 took place for the 19th time. Both endeavours cover a variety of relevant IHL issues ranging from the history and concept of IHL to the Rome Statute.

The aspect of finding new Red Cross dissemination officers has become of crucial importance for upholding and further developing the system of dissemination officers within the German Red Cross. Special concepts, programmes and curricula have been drafted and implemented for this purpose; the process of further discussion, refinement and implementation is under way. The activities of the German Red Cross Youth (*Jugendrotkreuz*) that cover in particular promotion of social commitment, commitment to public health and environment, activities for peace and international understanding and acceptance of political responsibilities are important in this regard. Moreover, the German Red Cross Youth provides adequate material to include classes on basic principles of IHL in school’s curricula.

VII. Other means and aspects of national implementation

23. What other measures have been taken with regard to the establishment of an internal system to monitor observance of IHL by the armed forces? What is the role of legal advisers and qualified personnel?

Every superior has to ensure that his subordinates are aware of their duties and rights under international law. He is supported in these tasks by Legal Advisors. The superior is obliged to prevent and, where necessary, to suppress, or to report to competent authorities, breaches of international law. A superior is criminally responsible for the violation of these obligations, especially in case of an armed conflict. (para. 150, 153 – 155, 1506 Manual).

When a disciplinary superior learns (e.g. by reports, own observation, complaints etc.) about incidents giving rise to a suspicion that international humanitarian law has been violated by his subordinates, he has to ascertain the facts and examine the question whether disciplinary measures are to be taken. If the disciplinary offence constitutes a criminal offence, he is obliged to transfer the case to the appropriate prosecution authority when criminal prosecution seems to be indicated. (para. 1525 Manual)

Fully qualified lawyers are assigned as Legal Advisors to every military commander at the division level and above. They have to perform the following tasks (see para. 153 Manual):

- To advise in all questions concerning international humanitarian law, in particular the application of the Geneva Convention, their Additional Protocols and international criminal law,
- To advise in all question of military law,
- To legally examine military orders and instructions,
- To conduct legal training.

Legal Advisors have immediate access to the commanding officer and the right to report directly (para. 154 Manual). The Disciplinary Attorney for the Federal Armed Forces (*Wehrdisziplinaranwalt*) conducts in a case of a severe disciplinary offence (including breaches of international law) the investigation and brings the charge before the military disciplinary court (para. 155 Manual).

24. What other executive measures have been taken, in particular with respect to tracing?

The Federal German Government has authorised the German Red Cross as early as 1958 and 1966 to carry out tracing activities relating to:

- investigations and searching for persons missing from the Second World War until present armed conflicts,
- family reunification, especially for Eastern and South-eastern Europe and the former Soviet Union
- relief and support,
- national information bureau according to the Geneva Conventions for tracing in armed conflicts, other events with political causes and natural disasters with the aim of restoring family links.

This authorisation has been repeated through an agreement of June 8, 2001. At the international level, the basis for the work of the tracing department of German Red Cross are the 1949 Geneva Conventions (Art. 16, 17 GC I, Art. 19 GC II, Art. 122, 123 GC III, Art. 140 GC IV), and the 1977 Additional Protocols (Art. 33 AP I) as well as the Statute of the International Committee of the Red Cross (Art. 4 lit. e) and the Statute of the Movement of Red Cross and Red Crescent Societies (Art. 5 lit. e). At the national level, the basis is sec. 2 paras. 2 and 3 of the Statute of the German Red Cross.

Through its tracing department and the International Tracing Service of the ICRC, as well as in co-operation with other RC / RC National Societies, the German Red Cross is able to operate world-wide. The tracing department of the German Red Cross has worked successfully in about 1,220,000 cases concerning missing persons since WW II, i.e., 1,300,000 cases are not finished, yet. In 2009 approx. 23,000 requests for missing persons since WW II were made. Furthermore, the Tracing Service in Germany gave qualified advice on family reunions in about 30,000 cases in 2009. However, due to the lack of financial support many requests for material and/or medical help cannot be fulfilled.

Other aspects of the work of the German Red Cross in tracing, including the component associations, are:

- advising people of German origin who want to immigrate to Germany, especially those coming from Eastern and South-eastern European countries as well as from the former Soviet Union, especially in the area of family reunification, and
- supporting the organisation of medical transports for these people from their country of residence to Germany,
- advising refugees about their rights as foreigners, especially in the area of family reunification.

25. Are there any provisions or case law regarding the entitlement of an individual victim of IHL violations to compensation?

There are no specific provisions regarding such entitlement so far.

Since 2003 there have been a small number of court decisions dealing with individual compensation claims for violations of IHL. So far, both the Federal Supreme Court (*Bundesgerichtshof*, decision from 2 Nov. 2006 – III ZR 190/05) and the Federal Constitutional Court (*Bundesverfassungsgericht*, decision from 15 Feb. 2006 - 2 BvR 1476/03) held that IHL does not grant individuals the right to claim compensation, dismissing the law suits. The courts ruled that the relevant provisions in IHL (in particular Art. 3 Hague Convention (IV), Art. 91 AP I) only provide a legal basis for compensation claims filed by states. However, so far, claims by individuals referring directly to IHL norms were always dismissed by German Courts.

On 23 Dec. 2008, Germany has instituted proceedings before the International Court of Justice against Italy for failing to respect its jurisdictional immunity as a sovereign state by allowing individual compensation claims against Germany rooting in World War II. The International Court of Justice (ICJ) released an order on 6 July 2010 on a counter-claim submitted by Italy in its Counter-Memorial in the case concerning Jurisdictional Immunities of the State (Germany v. Italy). By that Order, the Court, by thirteen votes to one, “[f]inds that the counter-claim presented by Italy ...

is inadmissible as such and does not form part of the current proceedings” and, unanimously, authorizes Germany to submit a Reply and Italy to submit a Rejoinder and fixes 14 October 2010 and 14 January 2011, respectively, as the time-limits for the filing of those pleadings. On 03 February 2012 the judgment in the case Germany v Italy held that Italy has violated its obligation to respect the immunity which the Federal Republic of Germany enjoys under international law. (ICJ, decision from 3 February 2012 - Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening) General List No 143)

The question whether an individual victim of an IHL violation committed by state organs could, as a matter of principle, claim compensation from Germany before a civil court on the basis of liability of the State for illegal conduct of its organs according to Art. 34 GG in conjunction with sec. 839 *Bürgerliches Gesetzbuch* (BGB, German Civil Code) (*Amtshaftungsanspruch*) is yet largely unresolved. In its latest decision on this issue, the Federal Constitutional Court denied the right of an individual to claim compensation for an alleged violation of IHL. (*Bundesverfassungsgericht*, decision of 13 August 2013 – 2 BvR 2660/06 and 2 BvR 487/07) The District Court Bonn, however, announced that an individual claim against Germany might be possible. The hearing of evidence starts on 30 October 2013.⁶

An individual victim could take legal action for compensation in a criminal trial against a soldier or the State through a special procedure according to sec. 403 ff. *Strafprozeßordnung* (StPO, German Criminal Procedure Code) (*Adhäsionsverfahren*). This procedure enables a victim of a criminal act or his/her relatives to obtain compensation directly through the criminal court, as an annex to the criminal trial, without having to take an additional legal action before a civil court. The object of such a procedure would not be an IHL violation as such, but an IHL violation as an ordinary crime, such as for example murder (sec. 211 StGB).

26. Does a National Committee for the implementation of IHL exist and what is its role?

A German IHL Committee was established according to sec. 22 Statute of the German Red Cross in order

- to discuss questions of IHL
- to advise the Governing Board of the German Red Cross on such issues and
- to give recommendations to the Governing Board of the German Red Cross.

The approach of the German IHL Committee is to discuss issues of the development and implementation of IHL with the representatives of Federal Ministries and other authorities concerned who are members of the Committee and to jointly look into possible solutions to problems. Thus, the effect of the work of the Committee is rather of an informal nature. However, recommendations have been adopted, for example concerning anti-personnel landmines, protection of children and protection of the emblem, and discussions with the Federal Ministries have in general contributed to the formulation of positions of the Federal Government in IHL issues. In particular, the German IHL Committee has played a very active role with regard to the ratification by Germany of the 1977 Additional Protocols and the 1997 Ottawa Convention. It has also contributed to the work of the competent ministries of the

⁶ Cf. http://www.lg-bonn.nrw.de/presse/430_arch/430_arch1/Pressemitteilung-12-2013-vom-28_08_2013.pdf.

Federal Government concerning specific questions arising in connection with the ICC Statute, for instance the “elements of crime” and the requirement of an implementing legislation. Furthermore, the Committee was involved in the debate regarding the VStGB.

27. Please indicate factors and difficulties, if any, affecting the implementation of IHL as well as (overall) progress achieved.

Dissemination work and raising public awareness are crucial factors. On a more specific level, recent legal developments, in particular the Rome Statute and VStGB have focussed attention on IHL. Altogether, a considerable progress with regard to implementing International Humanitarian Law has been achieved over the last decade. Public opinion and the media, political, military and diplomatic people are very well aware of the relevance of IHL for reducing the horrors of war and for creating a more peaceful and humane environment. Especially the striking developments in the field of international criminal law and jurisdiction have added much weight to arguments countering the (former) perception of international (humanitarian) law as something weak. Thus, a favourable climate and a useful scheme have been established for ongoing political debates and steps still to be taken.

So far the Federal Public Prosecutor (FPP) competent to conduct the investigations concerning crimes under the VStGB is dealing with a double-digit number of cases, and partly bringing charges against alleged perpetrators. In October 2010, the judicial reasons for the dismissal of criminal proceedings by the FPP in a prominent case (Kunduz-Affairs) were launched publicly. In July 2013, the FPP dismissed the investigation in the case of Bünyamin E. who was killed in Pakistan by an US drone. As Bünyamin E. was directly participating in the hostilities during an ongoing non-international armed conflict, he lost his protection as civilian and, thus, the attack did not violate IHL and the VStGB respectively.

Furthermore, in cases where charges are pressed on behalf of victims against alleged perpetrators of crimes under the VStGB, the FPP has the possibility to dismiss the criminal proceedings pursuant to sec. 153 f StPO; further investigations should not be conducted as there is neither a connection to German nationals nor is the alleged person present or expected to be on German territory.

28. Please add, as appropriate, any further relevant information or references, possibly in terms of annexes.

- Annex “National Implementation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and Its two (1954 and 1999) Protocols – Reply Submitted [to UNESCO] by the Federal Republic of Germany 2013-09-16”