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Prevention Good Practices – Workstream 1

Ladies and Gentlemen

I am very grateful to the International Committee of the Red Cross for their kind permission to address this distinguished audience with a few comments on the International Humanitarian Law compliance during armed conflicts and on preventing its violations by exploring new approaches.

I am representing here the International Humanitarian Fact-Finding Commission (in short IHFFC) and I am a member of the Polish IHL Commission established by the Polish Ministry of Foreign Affairs.

I am sure that the participants of these consultations are familiar with the International Humanitarian Fact-Finding Commission. However, just in case, let me introduce the IHFFC in a few words, in the framework of means and methods of ensuring respect for IHL, mainly by preventing its violations, thus mitigating challenges arising from armed conflicts, building confidence and thus bringing the parties to a conflict closer to a peaceful solution.

As discussed here today, IHL provides many preventive mechanisms, mainly at a national and also – to some extent – an international level, but only a few of them can be used during an ongoing armed conflict. Among them are good offices and enquiries (in other words fact-finding) carried out by the IHFFC.

The Commission is an agent of the universal treaty system of IHL, a permanent fact-finding body established under article 90 of the First Protocol Additional of 1977 to the Geneva Conventions of 1949. The philosophy behind the Commission's inception was that the familiarity with relevant facts is the necessary basis for a rational decision-making process by parties to any armed conflict. The clarification of facts is necessary for ensuring compliance with rules of IHL, for the prevention of the recurrence of breaches of IHL.

So it is not about enquiries closely related to accountability - investigations, collection of evidence or other similar activities, undertaken particularly in order to ensure responsibility of individuals or states, but about a mechanism of dispute resolution.

Apart from its fact-finding function, the Commission has another mandate, namely good offices, the purpose of which is to facilitate „the restoration of an attitude of respect“ for IHL during ongoing armed conflicts, as it is stated in Article 90.

In recent years the IHFFC carried out two good offices missions.

The first case of this kind was the mission undertaken upon the request of the Organization for Security and Co-operation in Europe (in short OSCE) in relation to the incident in Eastern Ukraine during which an armored vehicle, with members of the OSCE Special Monitoring Mission to Ukraine on board, was severely damaged as a result of an explosion. One paramedic was killed and two other members were injured. The main question was whether the Special Monitoring Mission was the object of the attack. If this was the case, the OSCE would consider withdrawing its mission from Eastern Ukraine for security reasons.

The second case was the mission undertaken by the IHFFC at the initiative of the Government of Poland, after three vehicles of World Central Kitchen, an international humanitarian NGO providing food relief, had been hit by missiles fired by Israeli Defense Forces in the Gaza Strip. The victims were seven aid workers, including a Polish citizen.

According to a concept paper, this workstream seeks to build on global experience in preventing IHL violations and to explore new approaches. The IHFFC offers a uniquely tailored instrument - grounded in IHL, shielded from politization, and designed to focus on the humanitarian imperative of ensuring respect for IHL, particularly protection of civilians. Both cases of good offices missions carried out by the Commission recently prove that implementation of IHL depends a lot on political goodwill. As a state-driven process the IHFFC provides an avenue for states to demonstrate their true commitment to ensuring better compliance with IHL.

Thank you for your attention.