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**The Humanitarian Activity of the International Committee of the Red Cross in the Conflict in Ukraine State of Law State of Fact**

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**Abstract:** It can be easily observed that, nowadays, we are witnessing a humanitarian discourse, increasingly focused on the introduction, application and observance of humanitarian principles both in conflict zones and behind the front. There is an increasing interest in the bureaucratization and professionalization of humanitarian actions, along with the increasingly active involvement of companies, international non-governmental organizations, the state and, not least, public opinion. That is precisely why it was considered that a greater number of international law subjects, or of actors involved in humanitarian activities, damages the activity of non-governmental organizations both from the point of view of results and from the point of view of international law.

**Keywords:** non-governmental organizations; international humanitarian law; civilian refugees; prisoners of war; international conventions

**Introduction**

The two world wars fully contributed to the erosion of international public opinion's trust in the system of international relations, built on the Wilsonian principles that envisioned good cooperation between the states of the world, and the smoothing of any differences between the states through negotiations. Moreover, the phenomenon of decolonization will attract a significant number of inhabitants of the planet, who were desirous of a better life and obtaining some political and civil rights, on the side of the revolutionary, independent, protest movements, contributing to the degradation of the security climate in multiple areas around the globe. At the local, regional, internal or external level, military and civil conflicts have been triggered that have resulted in horrors and destruction, causing immeasurable suffering and destruction to the population. The Red Cross Movement also had to face this new wave of suffering, in the complicated context of the existence of an ideological conflict between the two superpowers, the United States and the Union of Soviet Socialist Republics, and their allies. The experience accumulated during the Cold War when non-governmental organizations involved in humanitarian actions were involved in conflicts that far exceeded their zonal character brought into question the principles of neutrality and impartiality perceived in a wider context, fidelity to humanitarian principles being put into question when the activists of the red cross movement, and not only, were in danger on the ground.

Globalization (Stglitz, 2003, p. 33) has also brought positive effects, namely, the organization of humanitarian aid actions, worldwide, with a high number of volunteers and benefiting from the

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organized support of the international community through related institutions. The complexity of the situations occurring on the stage of international relations has developed a heated debate among all those interested regarding the non-discrimination of combatants, non-combatants or whose rights are violated among the victims of the war and who need the support and intervention of organizations with a humanitarian profile. The dilemmas consist of the inertia and hostile reaction that the colonial authorities showed in the direction of granting rights and freedoms to the native population, to what extent the compromise with these authorities was reprehensible and what were the chances of success of some humanitarian actions of the National Red Cross Societies in the territories colonial when they acted against their own governments and authorities. An important moment, in the defense of the rights and freedoms of the population in the conflict zones, subject to the decolonization process, was the adoption of resolution<sup>1</sup> 1514 of the United Nations, on December 14, 1960, which provided clear and precise explanations in favor of respecting and implementing human rights and providing humanitarian social assistance to all victims without discrimination. With the 21st century, conflict management has acquired a new dimension, considering the observance not only of the international laws of war by the parties in conflict, on the contrary, the increasing number of international actors involved in humanitarian activities leads to the appearance of suspicions in the application and respecting humanitarian principles in the field, as was the case with Amnesty International vis a vis the conflict in Ukraine<sup>2</sup>.

## Contents

The generic term of the Red Cross under which the organization's activities are recognized, in the field of international humanitarian law, today, represents a structure formed by the International Committee of the Red Cross, the national Red Cross and Red Crescent Societies and the Federation of Red Cross and Red Crescent Societies. The coordinator of the activities is represented by the International Committee of the Red Cross, which is composed of a number of 25 members and meets approximately 10 times a year in order to maintain its role of *advocacy* in respect of international humanitarian law. No state, which has been in a conflict until now and which has benefited from the ICRC's support, has so far accused the organization of a lack of impartiality or neutrality towards the warring parties, its status being strengthened both by the existence of the headquarters in Geneva, by the origin Swiss, of the majority of its members but, above all, of the experience in the field and the actions carried out in the direction of respecting humanitarian law, applicable to the victims of war, anywhere in the world. The history and origins of the red cross movement have their origin, however, in the second half of the 19th century when, in Geneva, the foundations of the International Committee of the Red Cross<sup>3</sup> were laid on February 17, 1863, by Henry Durant together with others four collaborators, who proposed, impressed by the number and the sufferings endured by the victims of the battle of Solferino, to provide humanitarian support to the soldiers wounded in the battle. In the years that followed, the activity of the ICRC expanded, with humanitarian procurement also targeting the situation of prisoners of war, the civilian population in the occupied territories, refugees or medical and religious personnel from the emergency services. With the contribution of the National Red Cross Societies, the support and aid activities for the victims of war (Colin & War, 2010, p. 154) reached high levels during the two world

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<sup>1</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples>, accessed on 31.03.2023, hours 17.25.

<sup>2</sup> <https://www.politico.eu/article/ukraine-rejects-amnesty-international-report-accusing-troops-of-endangering-civilians/>, accessed on 4.05.2023, hours 13.17;

<sup>3</sup> <https://www.icrc.org/en>, accesat in data de 30.03.2023, orele 11.30.

conflicts and the experience gained contributed to the establishment of the League of Red Cross Societies, in the second half of the 20th century, for the purpose of more effective coordination of humanitarian activities around the globe.

The activity of the organization is directed in three main directions, each aiming at immediate or medium and long-term objectives and serving the purposes of the Red Cross and Red Crescent Movement. Thus, the ICRC<sup>1</sup> has acquired the role of supporting innovation in the field of humanitarian law, works together with experts in the field to successfully face the most difficult challenges that have arisen on an international scale, as well as assumes the role of facilitating the performance of neutral missions and independent in emergency situations.

The escalation of the conflict and the deterioration of the situation in Ukraine, starting with 22.02. 2022 generated an important flow of refugees from among the civilian population, which stormed the border crossing points of the Ukrainian state with Moldova, Romania<sup>2</sup>, Hungary and Poland. According to the statistics provided by the UN High Commissioner for Refugees, the number of Ukrainian refugees passed the threshold of 8 million, of which 4.8 million were integrated into various European social assistance and protection programs. At the same time, approximately 6.5 million civilian refugees were forced to be internally displaced due to the battles that the Ukrainian army is waging with Russian troops and pro-Russian separatists in eastern Ukraine, this representing the largest influx of civilian refugees in recent history<sup>3</sup>. The context represented a good opportunity for NGOs, governments and public authorities, mass media and volunteers from all countries to get involved in humanitarian actions regarding the protection of the victims of the war in Ukraine, and the International Committee of the Red Cross and the Federation of National Red Cross Societies they did not discount this rule.

The International Committee of the Red Cross has publicly announced, repeatedly, since the first days of the escalation of the conflict in Ukraine, that it is the target of unprecedented attacks aimed at disinformation and manipulation of international public opinion, with the aim of discrediting it, in the context of increasing intensity of the fighting between the Ukrainian and Russian sides. The campaign discredits and hinders the efforts undertaken by the organization to fulfill its humanitarian cause in a neutral and impartial way in the conflict. The accusations against the ICRC state that it would be involved in the forced evacuation of civilians in Ukraine or Russia, the opening of new refugee camps or their transfer against their will being unacceptable according to the organization's principles. The presence of ICRC humanitarian personnel in conflict zones aims to protect civilians, regardless of which side they are in the conflict, and this cannot be interpreted from a legal point of view, as a legitimization of any type of territorial claims, political or sovereignty<sup>4</sup>. Having the capacity to identify situations that fall under the provisions of the Geneva Conventions, the ICRC makes sustained efforts in the direction of making the belligerent parties aware of their obligations, according to international humanitarian law, namely, that of protecting the civilian population and to limit armed attacks in areas inhabited by civilians<sup>5</sup>. The parties in conflict must fulfill their obligations regarding the status of the Geneva

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<sup>1</sup> <https://www.icrc.org/en/who-we-are/foundation-icrc>, accessed on 31.03.2023, 12.50 p.m.; "Securing the future of humanitarian action is crucial. Our goal is to engage thought leaders to help support the ICRC's ability to fulfill its vital mission in a rapidly changing and increasingly polarized world. Together we can make a lasting difference", says Gilles Carbonnier, president of the foundation and vice-president of the ICRC.

<sup>2</sup> <https://igi.mai.gov.ro/informatii-generale/>, accessed on 06.04.2023, hours 18.45.

<sup>3</sup> <https://www.agerpres.ro/politica-externa/2023/02/02/unhcr-numarul-refugiatorilor-din-ucraina-in-alte-tari-din-europa-a-depasit-pragul-de-8-milioane--1053061>, accessed on 06.04.2023, hours, 18.40.

<sup>4</sup> <https://www.france24.com/en/live-news/20220329-disinformation-endangering-red-cross-work-in-ukraine-icrc>, accessed on 07.04.2023, hours 14.53.

<sup>5</sup> <https://www.justsecurity.org/80882/neutralty-in-humanitarian-actions-means-talking-to-all-parties-to-a-conflict/>, accessed on 07.04.2023, hours 15.05.

Conventions, and inform the ICRC about the prisoners of war held and convey the way of carrying out their visits.

Until the organization of a flow of humanitarian aid from the institutions of the European Union, the structures of the U.N.U. or the government authorities from neighboring states, the main role in streamlining the refugee traffic was played by the volunteers and the staff of the Red Cross Societies<sup>1</sup> from the neighboring countries. The dramatic situation in the conflict areas, especially Mariupol<sup>2</sup>, required the involvement of the international humanitarian staff of the Red Cross from the beginning of the invasion, both for helping civilians<sup>3</sup> and for the recovery of wounded or killed soldiers from both belligerent sides. The repeated calls of the Ukrainian authorities determined the involvement of the ICRC in mediation with the Russian side in the issue of opening and maintaining humanitarian corridors, for the protection of refugees as well as for the repatriation of the bodies of the killed soldiers, the wounded, prisoners<sup>4</sup>, etc. In the opinion of the Ukrainian side, cooperation with the ICRC is absolutely essential for solving these problems, repeated calls being made publicly. Ukrainian Deputy Prime Minister Iryna Vereshchuk repeatedly noted on March 31, 2022 the importance of the ICRC's involvement in humanitarian assistance in Ukraine, in the form of about 500 tons of aid, but the situation requires a completely different approach and involvement of the Red Cross Movement.

In the first months of the conflict, the activity of the International Committee of the Red Cross, in the conflict in Ukraine, was not without criticism, especially from the Ukrainian political dignitaries. The extent of the Russian invasion, the attack on civilian targets throughout the country, the use of cluster munitions, caused numerous victims, especially among civilians. The cooperation of the Ukrainian authorities with the ICRC did not bring the expected results, the same Ukrainian official claimed on March 2, 2023, especially in the issues related to humanitarian corridors, civilian refugees, civilian hostages, prisoners of war, the missing or dead, situations that are under the competence exclusive, assumed by the organization worldwide<sup>5</sup>.

The ineffectiveness of the actions of the International Red Cross, in the opinion of the Ukrainian government, was perhaps due, first of all, to the logistical deficiencies that appeared in the first days of the conflict, but many other non-governmental organizations, along with civil volunteers and local authorities, were involved in solving the situations with humanitarian risk from conflict zones. The ICRC also responded to the criticism of the Ukrainian<sup>6</sup> president on October 14, 2022 with reference to the lack of access to civilian<sup>7</sup> and military prison camps, claiming *free and unfettered access* to all prisoners of war, after previously being accused of inactivity in the case of the prisoners from eastern Ukraine at Olevnika, where dozens of Ukrainian prisoners died in an explosion at the end of July 2023.

The ICRC's mobilization of logistical, material and human resources without precedent allowed that, as the conflict spread in Ukraine and humanitarian assistance both inside the country and outside it was

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<sup>1</sup> <https://romania.europalibera.org/a/31720871.htm>, accessed on 06.04.2023, at 18.50; Thus, the Romanian Red Cross can receive, in the first days, 1,000 people from Ukraine. The Director of Emergencies and Disasters at the Romanian Red Cross, Daniel MODOACĂ, says that on Thursday morning he made a plan for refugees coming from Ukraine and informed the organization's volunteers about the involvement in receiving Ukrainian refugees.

<sup>2</sup> <https://www.bbc.com/news/world-europe-60938429>, accessed on 07.04.2023, hours 12.15.

<sup>3</sup> <https://www.theguardian.com/world/2022/mar/31/ukraine-in-fresh-effort-to-evacuate-mariupol-after-red-cross-warnings>, accessed on 7.04.2023, hours 12.10.

<sup>4</sup> <https://minre.gov.ua/en/2022/03/31/iryna-vereshchuk-cooperation-with-the-red-cross-must-be-constructive-and-effective/>, accessed on 07.04.2023, hours 12.46.

<sup>5</sup> <https://odessa-journal.com/vereshchuk-criticized-the-red-cross-for-inaction-in-organizing-green-corridors/>, accessed on 07.04.2023, hours 13.10.

<sup>6</sup> <https://odessa-journal.com/vereshchuk-criticized-the-red-cross-for-inaction-in-organizing-green-corridors/>, accessed on 07.04.2023, hours 13.10.

<sup>7</sup> <https://www.icrc.org/en/war-and-law/protected-persons/prisoners-war-detainees>, accessed on 07.04.2023, hours 16.10.

increasing, the efforts of the National Red Cross Societies from the neighboring states also became more and more visible. Thus, the cooperation between the ICRC and the national red cross societies materialized through a visit to Tulcea on February 9, 2022 by a delegation of representatives of the Romanian Red Cross, the American Red Cross, the Swedish Red Cross and the International Cross Federation Rosie and Rosie Crescent, to take an interest in the situation of Ukrainian civilian refugees, and to plan support and support actions<sup>1</sup>.

Taking into account the fact that, a balance sheet made six months after the escalation of the conflict, recorded an approximate number of 6 million refugees inside Ukraine, more than 10 million left the country and about 15 million were in need of assistance and humanitarian support, currently, the Romanian Red Cross, as part of the international campaign, "United for Ukraine", succeeded in sending 470,000 tons of food to Ukraine, with the help of the American Red Cross. The general director of the Romanian Red Cross declared on this occasion: "In the last month, thanks to the support offered by the American Red Cross, we managed to send a significant amount of food to Ukraine. It is a message of solidarity and hope that we took across the border to Ukrainian civilians living in tragic conditions. The needs of these people grow from day to day in proportion to their desperation, and we want to convey to them that they are not alone in the face of this drama and that we will continue to be with them".

The generalization of the conflict between the two parties, and the large number of open conflict zones forced the International Committee of the Red Cross, on 10.10 2022, to officially announce that it is temporarily suspending its activity in Ukraine for security reasons of personnel involved in humanitarian actions, due to the escalation of the conflict throughout the Ukrainian territory, Russian forces attacking numerous communities with missiles and causing significant losses among the population and the energy infrastructure<sup>2</sup>.

The organization currently states that although it has been present in Ukraine since 2014, through humanitarian actions, in the conflict zones in the east of the country, after February 24, 2022 the activity of the ICRC has diversified so much, currently being supported by a number of 700 volunteers, from approximately 10 localities, where they are involved in providing aid to civilian refugees, supplying hospitals with medicines, saving human lives or facilitating access to vital resources, water, etc<sup>3</sup>.

Recently, the president of the International Committee of the Red Cross participated in the second edition of the European Humanitarian Forum<sup>4</sup>, organized on March 20 and 21, 2023, in Brussels, Belgium. On this occasion, the message of Mrs. Mirjana Spoljaric, the president of the ICRC, was to support the efforts made in order to support the humanitarian needs and dynamics that are growing due to the difficult international context, stressing the importance of the implementation of international humanitarian law. Today, no less than 80 million people are involved in the activity of helping those who are affected by military conflicts, natural disasters, serious social and civil situations, or disease, all over the world, and the efforts made by the ICRC in Ukraine are, by far, the biggest done so far by a non-governmental organization.

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<sup>1</sup> <https://tl.prefectura.mai.gov.ro/vizita-delegatiei-mixte-a-crucii-rosii-romane-crucii-rosii-americane-crucii-rosii-suedeze-si-a-federatiei-internationale-a-societatilor-de-cruce-rosie-si-semiluna-rosie/>, accessed on 07.04.2023, hours 14.10.

<sup>2</sup> <https://www.mediafax.ro/externe/crucea-rosie-isi-intrepuce-operatiunile-in-ucraina-din-motive-de-securitate-21229467>, accessed on 07.04.2023, hours 13.25.

<sup>3</sup> <https://www.icrc.org/en/where-we-work/europe-central-asia/ukraine>, accessed on 06.04.2023, hours 19.02.

<sup>4</sup> <https://www.icrc.org/en/document/european-humanitarian-forum-2023>, accessed on 31.03.2023, 1.21 p.m.; The conference was organized under the auspices of the European Commission, the Directorate for Civil Protection and Humanitarian Aid Operations in cooperation with the government of Sweden, which currently holds the presidency of the Council of Europe.

**Conclusions**

The risks that the volunteers and the humanitarian staff find today, in the field, not only of the ICRC, is now another, having valences also in the sphere of the political fact, which can cause major confusion among the belligerents, the victims of the conflict or even the humanitarian staff, suggesting - it is said that the principles of neutrality and impartiality claimed by the International Committee of the Red Cross are exceeded. The safety and security of humanitarian personnel is the main objective of humanitarian actions, currently. Historically speaking, the questions and answers are slightly different from those that the founders of the red cross movement initially had. The states of the world are also rushing, under the impact of the images transmitted by the mass media or social channels, to intervene humanitarily for one or the other of the camps, increasing the risk of overlapping the two domains, political or humanitarian.

Regarding the situation in Ukraine, the efforts made in the direction of protecting civilians are related to the provisions of the Geneva Conventions of August 12, 1949 and of the second protocol of June 10, 1977 and stipulate that persons in detention, due to the escalation of conflicts, must be treated correctly from the point of view of humanitarian law in any situation. Abuses of any kind are condemned and those targeted by these accusations will be held accountable if they are guilty of humiliating, harsh, cruel or degrading treatments applied to those in detention. In the situation where those detained are found guilty, from a criminal point of view, according to the legislation in force, they can be found guilty if during their participation in the conflict they are guilty of some acts that fall under the criminal law. Regarding the rules regarding the treatment and the situation in the detention centers of civilian prisoners, the provisions are relative, similar to those of prisoners of war, according to international humanitarian law. In no way can the civilian population from the conflict zones be interned by any of the belligerent parties, as a form of punishment, the internment of civilians must be a measure of their safety and protection.

Both the ICRC and the governmental authorities, Ukrainian and Russian, together with civilians and non-governmental organizations, as well as domestic and international public institutions, conduct investigations regarding the discovery of large-scale criminal acts, such as genocide, but not only. The International Criminal Court and the International Criminal Tribunal are conducting their own investigation. Such international criminal tribunals contribute fully to the correct implementation of human rights, in general and humanitarian law in particular. The courts in question represent, in most cases, a factor of deterrence, in the case of future conflicts, to abuse the victims of the war and to restore the truth and contribute to a reconciliation of the relations between the belligerents. The examples from Kosovo, Bosnia Herzegovina, Cambodia, East Timor, represent today, for the situation in Ukraine, a well-founded reason that, in the future, those responsible for abuses on the victims of the conflict in Ukraine will be held accountable.

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