

A. Yugoslavia/Croatia, Memorandum of Understanding of November 27, 1991

[Source: Merder, M., *Without Punishment, Humanitarian Action in Former Yugoslavia*, Appendix: Document IV, London, East Haven, 1996, pp.196-198.]

MEMORANDUM OF UNDERSTANDING

We the undersigned,

H.E. Mr. Radisa Gacic, Federal Secretary for Labour, Health, Veteran Affairs and Social Policy

Lt. General Vladimir Vojvodic, Director General, Medical Service of the Yugoslav People's Army

Mr. Sergej Morsan, Assistant to the Minister of Foreign Affairs, Republic of Croatia

Prim. Dr. I. Prodan, Commander of Medical Headquarters of Ministry of Health, Republic of Croatia

Prof. Dr. Ivica Kostovic, Head of Division for information of Medical Headquarters, Ministry of Health, Republic of Croatia

Dr. N. Mitrovic, Minister of Health, Republic of Serbia

taking into consideration the Hague statement of 5 November 1991 undertaking to respect and ensure respect of international humanitarian law signed by the Presidents of the six Republics; having had discussions in Geneva under the auspices of the International Committee of the Red Cross (ICRC) on 26 and 27 November 1991 and with the participation of:

Mr. Claudio Caratsch, Vice-President of the ICRC

Mr. Jean de Courten, Director of Operations, Member of the Executive Board of the ICRC

Mr. Thierry Germond, Delegate General for Europe (Chairman of the above mentioned meeting)

Mr. Francis Amar, Deputy Delegate General for Europe

Mr. François Bugnion, Deputy Director of Principles, Law and Relations with Movement

Mr. Thierry Meyrat, Head of Mission, ICRC Belgrade

Mr. Pierre-André Conod, Deputy Head of Mission, ICRC Zagreb

Mr. Jean-François Berger, Taskforce Yugoslavia

Mr. Vincent Lusser, Taskforce Yugoslavia

Mr. Marco Sassoli, Member of the Legal Division

Mrs. Cristina Piazza, Member of the Legal Division

Dr. Rémy Russbach, Head of the Medical Division

Dr. Jean-Claude Mulli, Deputy Head of the Medical Division

Mr. Jean-David Chappuis, Head of the Central Tracing Agency

have agreed to the following:

(1) Wounded and sick

All wounded and sick on land shall be treated in accordance with the provisions of the First Geneva Convention of August 12, 1949

(2) Wounded, sick and shipwrecked at sea

All wounded, sick and shipwrecked at sea shall be treated in accordance with the provisions of the Second Geneva Convention of August 12, 1949.

(3) *Captured combatants*

Captured combatants shall enjoy the treatment provided for by the Third Geneva Convention of August 12, 1949.

(4) *Civilians in the power of the adverse party*

[1] Civilians who are in the power of the adverse party and who are deprived of their liberty for reasons related to the armed conflict shall benefit from the rules relating to the treatment of internees laid down in the Fourth Geneva Convention of August 12, 1949 (Articles 79 to 149).

[2] All civilians shall be treated in accordance with Articles 72 to 79 of Additional Protocol I.

(5) *Protection of the civilian population against certain consequences of hostilities*

The civilian population is protected by Articles 13 to 26 of the Fourth Geneva Convention of August 12, 1949.

(6) *Conduct of hostilities*

Hostilities shall be conducted in accordance with Article 35 to 42 and Articles 48 to 58 of Additional Protocol I, and the Protocol on Prohibition or Restrictions on the Use of Mines, Booby Traps and Other Devices annexed to the 1980 Weapons Convention.

(7) *Establishment of protected zones*

The parties agree that for the establishment of protected zones, the annexed standard draft agreement shall be used as a basis for negotiations.

(8) *Tracing of missing persons*

The parties agree to set up a Joint Commission to trace missing persons; the Joint Commission will be made up of representatives of the parties concerned, all Red Cross organizations concerned and in particular the Yugoslav Red Cross, the Croatian Red Cross and the Serbian Red Cross with ICRC participation.

(9) *Assistance to the civilian population*

[1] The parties shall allow the free passage of all consignments of medicines and medical supplies, essential foodstuffs and clothing which are destined exclusively for the other party's civilian population, it being understood that both parties are entitled to verify that the consignments are not diverted from their destination.

[2] They shall consent to and cooperate with operations to provide the civilian population with exclusively humanitarian, impartial and non-discriminatory assistance. All facilities will be given in particular to the ICRC.

(10) *Red Cross emblem*

- [1] The parties undertake to comply with the rules relating to the use of the Red Cross emblem. In particular, they shall ensure that these rules are observed by all persons under their authority.
- [2] The parties shall repress any misuse of the emblem and any attack on persons or property under its protection.

(11) *Forwarding of allegations*

- [1] The parties may forward to the ICRC any allegations of violations of international humanitarian law, with sufficient details to enable the party reportedly responsible to open an enquiry.
- [2] The ICRC will not inform the other party of such allegations if they are expressed in abusive terms or if they are made public. Each party undertakes, when it is officially informed of such an allegation made or forwarded by the ICRC, to open an enquiry promptly and pursue it conscientiously, and to take the necessary steps to put an end to the alleged violations or prevent their recurrence and to punish those responsible in accordance with the law in force.

(12) *Request for an enquiry*

- [1] Should the ICRC be asked to institute an enquiry, it may use its good offices to set up a commission of enquiry outside the institution and in accordance with its principles.
- [2] The ICRC will take part in the establishment of such a commission only by virtue of a general agreement or an ad hoc agreement with all the parties concerned.

(13) *Dissemination*

The parties undertake to spread knowledge of and promote respect for the principles and rules of international humanitarian law and the terms of the present agreement, especially among combatants. This shall be done in particular:

- by providing appropriate instruction on the rules of international humanitarian law to all units under their command, control or political influence, and to paramilitary or irregular units not formally under their command, control or political influence;
- by facilitating the dissemination of ICRC appeals urging respect for international humanitarian law;
- via articles in the press, and radio and television programmes prepared also in cooperation with the ICRC and broadcast simultaneously;
- by distributing ICRC publications.

(14) *General provisions*

- [1] The parties will respect the provisions of the Geneva Conventions and will ensure that any paramilitary or irregular units not formally under their command, control or political influence respect the present agreement.
- [2] The application of the preceding provisions shall not affect the legal status of the parties to the conflict.

(15) *Next meeting*

The next meeting will take place in Geneva on 19-20 December 1991.

[The signatures of the abovementioned persons follow.]

Geneva, November 27, 1991